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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. BYRD).

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Stephen Einstein, Rabbi of Congregation B'Nai Tzedek from Fountain Valley, California.

PRAYER

The guest Chaplain offered the following prayer:

This is the day that God has made. Let us be joyous and be gladdened. Eternal God, we thank You for so many gifts. You have bestowed upon us talent and abilities that enable us to excel, a universe of wonder that inspires us to create, and a reflected spirit that moves us to appreciate. We appreciate the gift of time. You have allotted to us minutes and hours, and presented us with the challenge. Use this time for good.

In this Chamber, we acknowledge that there is so much good that needs to be done. We are humbled by the tasks that await us. May we face them with renewed vigor and purpose. We are particularly grateful, then, for this day, and for the opportunity for service it provides. Let us prove our gratitude by the manner in which we utilize each moment. And so with thankfulness, we ask for Your blessings upon every Senator. May each be a blessing to those whose lives are touched by their work. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader.

THE GUEST CHAPLAIN

Mr. DASCHLE. Mr. President, I welcome Rabbi Einstein and compliment him for his prayer. I also want to thank him for the outstanding representation he has here in the Senate. California is well represented. We are glad he is here.

The PRESIDENT pro tempore. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, may I ask unanimous consent to speak for about 2 minutes as if in morning business to welcome the Rabbi from California?

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

Mrs. FEINSTEIN. Thank you very much, Mr. President.

Mr. President, this morning's prayer was delivered by Stephen Einstein. He is an accomplished religious scholar. He is the Rabbi of congregation B'Nai Tzedek in Fountain Valley, CA. He is a spiritual leader of a synagogue with 435 members. But he is also the chaplain of the Fountain Valley Police Department, a board member of the American Cancer Society, and a member of the Religious Outreach Advisory Board of the Alzheimer's Association of Orange County.

He has written two scholarly books on Judaism. He has also served as a member of the Fountain Valley Board of Education, and has served twice as school board president.

He is a distinguished Californian, a religious leader. As the senior Senator from California, I welcome him to the Senate.

I thank you, Mr. President, and the Senate for receiving him so graciously.

I thank the Chair. I yield the floor.

PROGRAM

Mr. DASCHLE. Mr. President, today we resume the education reform bill. The current order will require 1 hour of additional debate on the Dodd testing amendment, 1 hour of debate on the Carnahan-Nelson amendment regarding assessments, and a rollcall vote on the Carnahan-Nelson amendment is scheduled at approximately 11:30 under a previous order. There will be additional rollcall votes throughout the day.

I yield the floor.

RESERVATION OF LEADER TIME

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

MEASURES PLACED ON THE CALENDAR—H.R. 6, H.R. 10, H.R. 586, and H.R. 622

Mr. REID. Mr. President, on behalf of the majority leader, I understand that there are several bills at the desk due for second reading. Therefore, I ask unanimous consent that it be in order for the bills to be read a second time en bloc.

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

Mr. REID. I object en bloc to further action on these bills.

The PRESIDENT pro tempore. Objection is heard.

The bills will be placed on the Calendar.

BETTER EDUCATION FOR STUDENTS AND TEACHERS ACT—Resumed

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965.

Pending:

Jeffords amendment No. 358, in the nature of a substitute.

Kennedy (for Dodd) amendment No. 382 (to amendment No. 358), to remove the 21st century community learning center program

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

from the list of programs covered by performance agreements.

Biden amendment No. 386 (to amendment No. 358), to establish school-based partnerships between local law enforcement agencies and local school systems, by providing school resource officers who operate in and around elementary and secondary schools.

Leahy (for Hatch) amendment No. 424 (to amendment No. 358), to provide for the establishment of additional Boys and Girls Clubs of America.

Helms amendment No. 574 (to amendment No. 358), to prohibit the use of Federal funds by any State or local educational agency or school that discriminates against the Boy Scouts of America in providing equal access to school premises or facilities.

Helms amendment No. 648 (to amendment No. 574), in the nature of a substitute.

Dorgan amendment No. 640 (to amendment No. 358), expressing the sense of the Senate that there should be established a joint committee of the Senate and House of Representatives to investigate the rapidly increasing energy prices across the country and to determine what is causing the increases.

Hutchinson modified amendment No. 555 (to amendment No. 358), to express the sense of the Senate regarding the Department of Education program to promote access of Armed Forces recruiters to student directory information.

Bond modified amendment No. 476 (to amendment No. 358), to strengthen early childhood parent education programs.

Feinstein modified amendment No. 369 (to amendment No. 358), to specify the purposes for which funds provided under subpart 1 of part A of title I may be used.

Reed amendment No. 431 (to amendment No. 358), to provide for greater parental involvement.

Dodd/Biden modified amendment No. 459 (to amendment No. 358), to provide for the comparability of educational services available to elementary and secondary students within States.

AMENDMENT NO. 459

The PRESIDENT pro tempore. Under the previous order, there will now be 1 hour of debate on the Dodd amendment No. 459 as modified, equally divided and controlled.

Who seeks recognition?

The Senator from Connecticut, Mr. DODD.

Mr. DODD. Thank you, Mr. President,

Mr. President, as I understand it, there is 1 hour of debate equally divided on this amendment.

The PRESIDENT pro tempore. There is.

Mr. DODD. I thank the President. I am somewhat disappointed that we have not scheduled a vote on this amendment. But I am told that on the expiration of an hour that I will have to set this amendment aside, and that the minority floor leader of this bill is opposed to a vote occurring on this amendment. I hope that we will have an opportunity to cast a vote in this body on the amendment that I have offered on behalf of myself, Senator BIDEN of Delaware, and Senator REED of Rhode Island.

There is at least one other Member, or maybe two, who want to be heard in support of this amendment. I ask the Chair on the expiration of 10 minutes that I be notified to make sure I reserve time for others who want to be heard on this amendment.

The PRESIDENT pro tempore. The Senator will be so notified.

Mr. DODD. I thank the Chair.

Let me explain this amendment once again. I explained it when I offered it yesterday afternoon, and again early last evening.

This is a very straight forward, simple amendment. I said yesterday that if there is one word that could be used to describe the underlying bill, it is the word ''accountability''—we want greater accountability. I would add ''responsibility''—''accountability and responsibility.'' Students, parents, school principals, teachers, superintendents, and boards of education all have to be more accountable and more responsible if we are going to improve the quality of public education in our country.

There is no doubt in my mind that, while there has been improvement in recent years in classrooms, there is room for more improvement. We need to raise the next generation of young people to be prepared to meet the challenges of the 21st century and be competitive in a global economy.

In years past, a child raised in Connecticut, West Virginia, Massachusetts, or New Hampshire, competed, if you will, with children in the neighboring town or the neighboring county, maybe the neighboring State.

Today, our children compete with children all over the world. So we need to prepare a generation like no other in the history of this Nation. Therefore, the issue of a sound, firm, good elementary and secondary education is critical.

This bill mandates a number of things. We, will mandate, for the very first time, that every child be tested every year from third grade through eighth grade. That is a Federal mandate in this bill.

Mr. GREGG. Will the Senator yield?

Mr. DODD. I am happy to yield.

Mr. GREGG. I will note—and the Senator is familiar with this—just to make it clear, the Federal Government already mandates that children take a test in three grades. This just adds three more grades.

Mr. DODD. I accept that point. We do. My point being, my amendment has been called intrusive. Because I have suggested that the States be accountable and responsible, it is said that I am proposing a new Federal intrusion into what has historically been a local and State decisionmaking process. Yet, as my colleague from New Hampshire has pointed out, we already mandate tests. And, this bill mandates even more tests.

We also mandate standards for teachers at the local level. We are going to tell school districts that if schools do not perform at a certain level, we, the Federal Government, will require them to close the school. We require the States to establish statewide content and performance standards, and tests that are the same for all children in the State.

The point is, we are mandating decisions at the local level. Down to the level of detail of telling third graders, and their parents, when they will be taking tests.

My amendment says that if we are going to ask for accountability and responsibility from students, parents, school principals, teachers, and school boards, is it unreasonable to ask States to be accountable? Since 1965, we have mandated comparable educational opportunity for students within school districts. This amendment simply says that there should be comparable educational opportunity throughout the State.

Why do I say that? Of the total education dollar spent in our public schools, 6 cents comes from the Federal Government, 94 cents comes from State and local governments. In this bill, we are mandating that schools and school districts do a better job. If they do not, there are consequences. It is a Federal mandate. But the resource allocations are not really there, nor are we insisting at a local or State level that they meet their obligations.

My amendment says States must take on responsibility. If we are asking students, and parents, and teachers, and schools, and school districts to do better, why not the States?

Many States are working hard at this. But, nevertheless, many children, simply by the accident of their birth, have a disparate level of educational opportunity. They are born or raised in a school district where the resources are not there. A child born in a more affluent school district has an educational opportunity that is vastly different.

I see it in my own State. I represent the most affluent State in America on a per capita income basis, the State of Connecticut. I also have communities in my State that are some of the poorest in America. Hartford, our capital, was just rated as the eighth poorest city in America.

So, even in my small State, there are children who attend some of the best schools in America because we support education through a local property tax, and others, just a few miles away, who have much less educational opportunity, for the same reason.

Just as we are going to test children, and schools, and districts, should we not also test States? It doesn't seem to

me that providing comparable opportunity to all children is too much to ask.

As I pointed out earlier, there are a number of Federal mandates that we already include in law. We withhold funds from States or school districts if they do not pass certain laws concerning children and guns, for example, in addition to the mandates I discussed earlier. I am not drawing judgments, but pointing out that this law is full of mandates, supported by both sides.

We bear a responsibility at the Federal level to do a good job to see to it that dollars taxpayers have sent to us go back to support education in the ways in which title I and the rest of ESEA. In this bill, we say that school districts should do a better job, that parents and teachers and school superintendents should do a better job. Shouldn't States be included in that community of accountability and responsibility? That is all I am suggesting with this amendment.

We leave it to the discretion of the Secretary of Education to determine to what extent administrative funds would be withheld. We give these States 6 years to at least demonstrate they are moving in the direction of offering ''comparable'' educational opportunity. The words I have chosen have been in the law for 36 years.

I see I have used 10 minutes.

The PRESIDENT pro tempore. The Chair notifies the Senator from Connecticut 10 minutes have expired.

Mr. DODD. I thank the Chair very much for that notice. I could have gone on. As you can see, I was building up a head of steam.

I see my friend from New Hampshire is in the Chamber. There are several colleagues—at least one I know of—who want to be heard on this subject. I want to reserve some time for them.

Would my colleague from New Hampshire like to be heard at this time? I know he wanted to respond to some of these very thoughtful and persuasive arguments I am making.

Mr. GREGG. Mr. President, at this time I reserve my time because last night I was so eloquent, I am just at a loss for words today.

Mr. DODD. So I have heard.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged to both sides.

The PRESIDENT pro tempore. Is there objection? The Chair hears none. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDENT pro tempore. There being no objection, the quorum call is rescinded.

The Senator from Connecticut.

Mr. DODD. While I am waiting for one of my colleagues to enter the Chamber, I will just take few more minutes to share some additional thoughts on why I believe this amendment is worthwhile. And I will anticipate some of the arguments my good friend from New Hampshire will raise in his eloquent opposition to this amendment so that my colleagues may have the benefit of these thoughts.

I am confident my colleague is going to call this a cookie-cutter approach, that I want to establish, at a Federal level, what every classroom in America is going to look like. Nothing could be further from the truth. What this amendment requires is that every child in a State have a comparable educational opportunity with other children in that same State. Last evening, I cited the supreme court decision in the State of New Hampshire, which makes the case more eloquently than I could, saying that in the State of New Hampshire children, regardless of the community in which they are raised, ought to have an equal opportunity. I stress the word ''opportunity.'' I do not believe any of us has an obligation to guarantee any person in America success. That has never been the American way.

What we have always believed, since the founding days of our Republic, is that equal opportunity has been the magnet which has drawn the world to our shores. Where people had been denied opportunities for a variety of reasons—religious, ethnic, gender, whatever—America has been the place where they get judged on their abilities.

There are countless stories of people, coming from the most humble of origins, who have risen to the very heights in their chosen field of endeavor. I could cite the example of the Presiding Officer as a case in point, if he wouldn't mind my making personal reference to it. Providing an equal opportunity to everybody, that is all this is. What better key to a success than an education? If you don't have a good educational opportunity, it is very difficult to achieve your full potential.

My great-grandmother, when she came to this country with my great-grandfather, was about 16 years old. They were married. They came from a small community on the western coast of Ireland. The first thing she did—she couldn't read or write—was to get herself elected to the local school board in the 19th century because she understood that education was going to be the key. She had been raised in a country where she couldn't go to school because of her religion. She understood that an opportunity for herself and her family—her nine children, my grandfather being the ninth child—was going to be education.

Educational opportunity is what I am focusing on. As we have been saying to school districts across America for 36 years, you must provide comparable educational opportunity for each child within that school district. I am expanding that equation to say in each State because the States really bear the responsibility for funding education through decisions made by the legislatures. How do they fund education? It is a State decision and a local decision. We are mandating things at the local level and we are leaving out the States.

I am suggesting that States also have a responsibility to meet their obligations. If we are going to mandate performance and not provide the funding for it and exclude the States from being accountable, then we are going to be back here a few years from now asserting that the Federal Government mandated something, but did not fund it.

I see my friend from Maine, Senator COLLINS, on the floor who believes passionately in our responsibility for funding special education. I agree with her. In fact, we have all fought hard to see that we meet that obligation.

The underlying bill we are considering mandates that children do better in schools. We set standards that are going to have to be met. We are going to have to provide resources for this. Some communities do not have the resources; others do. To mandate a level of performance and not provide the resources for children to achieve that level of performance is dangerous.

I see my colleague from New Jersey. How much time remains on the proponents' side of the amendment?

The PRESIDENT pro tempore. The proponents have 14 minutes remaining.

Mr. DODD. I yield 10 minutes to my colleague from New Jersey.

The PRESIDENT pro tempore. The Senator from New Jersey is recognized for 10 minutes.

Mr. CORZINE. Mr. President, I am honored that the President pro tempore is in the chair. It is great to see him there.

I also am pleased that I have this opportunity to stand in support of the Dodd-Biden amendment, which is designed to make sure that every child in America has access and the equal promise of a quality education. The Dodd-Biden amendment on school service comparability is a terrific initiative. This amendment is structured so all children have access to comparable quality education—not identical, but quality comparable education.

It is a goal that all of us surely have to believe is as important as equal test results. Equal opportunity is just as important as equal outcomes as measured by standardized tests.

This amendment is more than common sense, too. It actually fulfills the promise that we as a nation make to all of our children—that we will provide every child in America with access to a quality education and the American promise that flows from that, regardless of race, the family's income, or where they live.

Title I kids should have access to every opportunity every other child in America has. It should not be a function of where they are born or where they live. As my colleagues have already described, this amendment would

encourage States to ensure that all students receive a comparable education in several critical areas: class size, teacher qualifications, curriculum, access to technology, and school safety. These are just commonsense areas where we ought to be providing for every child a similar educational experience.

They allow for the full potential of all of our children. Every child has a right to a qualified teacher. All of us believe that. Every child has a right to a challenging curriculum. Every child has a right to go to school in a safe and quality school building. In my State of New Jersey, there are many schools 100 years old, with an average age of 57 years. In our urban areas, it is a serious problem.

A ZIP Code should not determine the quality of a child's education. I hope this is a basic premise on which we can all agree. Unfortunately, in my State and around the country ZIP Codes often do determine the quality of education a child receives. Children in one town where there is a serious tax base for them to operate under receive a high-quality education. In other towns, adjacent to those very same communities, they receive a dramatically lower quality education because they don't have the resources to provide for those quality teachers, the quality schools, the kinds of curricula that will make a difference.

The reality is that property taxes in this country often determine who gets a quality education and the resources available to provide those services. This amendment strikes at the heart of that to try to bring equality, comparability, not identical results and services, but comparable ones.

Inequality by geography, race, and class is close to a national disgrace. If you see the difference from one place to another in schools across the country, it is hard to understand how we can tolerate it. It robs children of equal access to the American promise. Unless we address this problem, as the Dodd amendment would begin to do, that inequality in our educational system will grow wider and wider through time, perpetuating a sense of unfairness in our society. We need to address it up front. This amendment does that.

Title I was designed to be the engine of change for low-income school districts. This amendment would add fuel to that engine, requiring States to ensure that all students receive a comparable education—again, not identical, comparable—regardless of where they live or their family's income, race, or nationality.

In my State of New Jersey, we have been struggling with this promise for the better part of 30 years, providing equal access to a quality education. Thirty years ago we had a case before our State supreme court, Abbott v. Burke, that found the education offered to urban students to be ''tragically inadequate'' and ''severely inferior.'' This was a landmark case. The court ordered the most comprehensive set of educational rights for urban schoolchildren in the Nation.

In New Jersey, we are proud of this ruling. Under Abbott, urban students have a right to school funding at spending levels of successful suburban school districts what they call ''parity funding''—this is what the Dodd-Biden amendment is working towards; educationally adequate school facilities; and intensive preschool and other supplemental programs to wipe out the disadvantages. These are the basic educational services that every child should expect to have access to and that every child needs to succeed in our society.

Fortunately, Abbott has been a success. It is not perfect. We haven't made all of those transitions to comparable outcomes, but New Jersey has made real progress in equalizing the education provided to students in our communities. The Federal Government must also play an active role in ensuring that the children who need the most, get the most. Title I has gone a long way. What this amendment is doing is asking States on a national basis to do what New Jersey has already done.

A substantial portion of the debate on this education bill has been about accountability. We demand accountability from students, teachers, schools, everybody under the sun, but we also need to demand accountability from the States with regard to providing comparable funding, comparable services for our kids so they can get to those equal outcomes. For example, starting in third grade, we will begin testing all students, with drastic measures for failing scores. We require equal outcomes on test scores, but we will not provide equal resources. I find that hard to believe. That is not consistent with America's sense of fairness. We demand accountability of students, teachers, and schools, but we do not address the glaring disparity built into the system of how we provide resources to those schools.

I support high standards. I support accountability, but accountability measures alone are not sufficient to provide an adequate education. We must ensure that every school and every child has the level of resources necessary for a rigorous education and necessary to meet those standards.

It is in this light that I strongly support the Dodd-Biden amendment, because it goes right at that equality of opportunity, through resources, that is critical to ensuring equality of outcomes.

I thank the Chair.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Connecticut.

Mr. DODD. I thank my colleague from New Jersey for his very eloquent statement. In my State of Connecticut a real effort has been made to address this issue, as in New Jersey. In Minnesota as well. Many of our States are working hard at this but, as the Senator from New Jersey said, there is still a huge gap in terms of educational opportunity.

Mr. President, I yield 3 minutes to my colleague from Minnesota.

The PRESIDING OFFICER. The distinguished Senator from Minnesota.

Mr. WELLSTONE. I thank the Senator from New Jersey.

Let me just in 3 minutes lend my support to this very important amendment. I will try to do this a little differently. I think this amendment that is offered by Senator DODD, joined by Senator BIDEN, is, at least to me, obvious. This is an amendment offered by a Senator who spends a lot of time in schools. Not every Senator does. Senator DODD is in schools all the time in Connecticut and probably around the country.

What Senator DODD is saying is this comparability amendment has to do with making sure we deal with—and I am sure that the most noted author of children's education, Jonathan Kozol, is smiling. This is all about his book ''Savage Inequality.'' What the Senator is saying is let us have some comparability when it comes to class size, access to technology, safe schools, curriculum, and teachers.

I would just say to Senator DODD that as we have gone forward with this bill, I have had all of these e-mails from around the country from all of these teachers, sometimes parents, sometimes students, but these teachers are the ones who know, these are the teachers who are—I think the Senator's sister is a teacher in fact—in the inner-city schools. They are in the trenches. They have stayed with it. They are totally committed. They are saying: For God's sake, please, also in the Senate, above and beyond talking about annual testing, give us the tools to make sure the children can achieve. Please talk about the importance of good teachers, qualified teachers. Please talk about the importance of access to technology. Please talk about the importance of good curriculum, of small class size. Please talk about the importance of dividing school buildings. Please talk about the importance that schools should be safe. Please talk about all of the resources that will make it possible for all the children in America to have the same opportunity to learn.

That is what this amendment is about. That is why this amendment is so important.

Mr. DODD. Mr. President, I reserve the remainder of my time, if I may.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, we discussed this amendment a little bit yesterday—in fact, considerably yesterday—and I presented most of my thoughts. I know some other Members on my side are going to come down and talk about it. This amendment is an incredibly pervasive amendment and will have a fundamental effect on the Federal role in education. It will, in my

opinion, create an atmosphere where the Federal Government is essentially nationalizing the standards throughout the country for what education will be.

The way it does this is as follows: It says that every school district in a State must be comparable, and it is up to the State to decide that comparability. But if the State doesn't decide the comparability, then the Federal Government starts to withdraw the funds. And it also sets up the standards for what must be comparable. It is a Federal standard—what must be comparable under this amendment. The standard includes class size, qualifications of teachers by category of assignments, curriculum, range of courses offered, instructional material, instructional resources.

You essentially are saying the Federal Government is going to require comparability—comparability meaning that everybody does it essentially the same way—throughout the country, or at least throughout every State, within every State. Logically, the next step is to do it across the country from State to State.

As I mentioned last night, why should the State of Connecticut be allowed to spend more on its children than the State of Mississippi? Should it not all be comparable? Under the logic of this amendment, that is the next step. Connecticut should send money to Mississippi. The same amount you spend per child in Connecticut should be spent on the child in Mississippi.

But more importantly than that, or equally important to that, this goes to the heart of what I think is the essential of quality education which is the uniqueness and creativity of the local community to control how their children are educated. One town in a State is going to have a certain set of ideas on how education should be provided versus another town in that State.

Granted, they are all going to have to get their children to a certain level of ability in the core subject matter—English, math, science—in order that the children be competitive. But how they get their children up to that level of competency is left up to the school district under our bill. The local school district has the flexibility. And then the ancillary aspects of the school system are left up to the school districts—ancillary being integral in the sense of foreign languages, for example, computer science teaching, sports programs, community outreach programs.

But under this amendment, that would no longer be the case. There would have to be comparability. Every town and community within the State would have to do it the same way in all these different areas of discipline.

So in one part of the State you might have a community that believes, because of the ethnic makeup of the city or the community, they need special reading instruction in one language—say, Spanish or Greek—because they have a large community of immigrants, of people who have immigrated to our country, and in another part of the State they may not have that issue but they may have an issue of wanting to get their children up to speed in the area of the industry which dominates that region—say, forestry. For example, they might want to have a special program in how to do proper silviculture. You could not do that anymore. You could not have those different approaches to education within the school system. They would all have to be comparable under this amendment.

It makes absolutely no sense that we as the Federal Government should set that sort of standard on the States and on the local communities.

Then there are a couple of very specific issues where this amendment clearly creates a huge threat. The first is charter schools. This amendment essentially eliminates the capacity to have charter schools because charter schools, by definition, differ. That is why charter schools are created. They are different. That is what you have with a charter school. You get together a group of parents, teachers, and kids and say: We are going to teach differently than local schools. We are going to do it with public money. We are talking about public charter schools here. But we are going to do it differently. Those schools would be wiped out because you could not be different. You would have to be comparable. And the magnet schools would be wiped out, schools that are designed specifically to educate in special subject matters such as science.

You have these famous science high schools across this country. I think they have one in New York City called Stuyvesant. They have one in North Carolina which has been hugely successful. And they have one right here in the Washington region called Thomas Jefferson. Magnet schools would be wiped out because they are different. You are not allowed to be different under the amendment. That is the theme of this amendment. If you do not have sameness, you do not have fairness.

I have to say I do not believe that is true at all. I think you get fairness by producing results. You get fairness by producing results, not by controlling the input but by controlling the output.

If a child goes through the system and learns effectively, then you have fairness. If a child does not go through the system and learn effectively, then you do not have fairness.

What this underlying bill does and what the President proposes is to require that children learn effectively, not require that all children be taught exactly the same way, because one does not necessarily learn that way. There are a lot of school systems that feel that way.

Then we have another major issue which is called the collective bargaining system. In one part of a State, for example, they might have an agreement with their local teachers union that says: We are going to have 20 kids in a classroom, but we are going to pay our teachers a lot more because we think our teachers are able to handle 20 kids and are good teachers.

In another part of the State, they might have 15 kids in the classroom and pay their teachers less, or they might work on a different day schedule, might work on a different structure of their day, or might work on a different responsibility from area to area within a State as to what teachers do.

They may have a program where teachers are required to, under their contract, be involved in extracurricular activities, and in other parts of the State that might not be the case.

There are different retirement standards from community to community. Some communities may want their teachers to retire at an earlier age, and some communities may not. It all depends on the collective bargaining agreement.

Collective bargaining agreements would be inconsistent with this amendment. In fact, it would be a Catch-22 for a State that does not collectively bargain its teachers statewide. I do not know too many States that do collectively bargain their teachers statewide. Most States bargain community by community, not State by State. So this becomes a totally—I do not know if it becomes unenforceable; maybe it overrides the collective bargaining agreement.

I do not know how the sponsor of the amendment intends to handle that very significant problem, but it is a big problem because comparability clearly cannot work if there is a collective bargaining agreement in one part of the State which presents one significantly different approach than another part of the State. They then cannot be comparable and consistent with the collective bargaining agreement.

This amendment is first, obviously, a philosophical anathema to my view of how to educate in this country, which is we should maintain and promote local control; we should not undermine local control by requiring everybody to do everything the same.

That is the key problem with the amendment, but it also has huge technical implications for the creativity of local communities in the area of charter schools, magnet schools, different curricular activity that might be appropriate to one region over another region or different fiscal activity, structure.

For example, I suspect a school in southern California does not need the same heating system as a school in northern California, and yet under this amendment they have to have the same heating system. They would have to actually have the same heating system because they would have to have the same resources, the same buildings.

That is the way it is written. It says it has to be comparable. It says the

physical facilities have to be comparable. Institutional resources have to be comparable.

Mr. DODD. Will my colleague yield on this point?

Mr. GREGG. I will be happy to yield.

Mr. DODD. I thank my colleague. This is an important point. Again, I have great affection for my friend from New Hampshire.

Mr. GREGG. I am yielding for a question.

Mr. DODD. Yielding for a question. As my colleague must be aware—and this is in the form of a question, Mr. President—we have had the word ''comparable'' on the books regarding school districts for 36 years. The law has said that within school districts, educational opportunity must be comparable.

Is it not true, I ask my friend from New Hampshire, that magnet schools, charter schools, and science schools have all functioned within school districts with a Federal law that has required or mandated comparable educational opportunity?

I am not changing that. I am just extending the geography from school districts to States. I am not applying any new standards from those that have existed in the law for more than three decades.

Mr. GREGG. Mr. President, I appreciate the Senator from Connecticut raising that issue because the fact is he has taken the term ''comparability,'' which is today used in an extremely narrow application and in a very loose enforcement application—in other words, it applies simply to communities and it applies to teachers essentially and to curriculum within the teaching community—it has been extremely loosely applied to communities, and the Senator from Connecticut has taken that word and has expanded it radically to essentially the whole State.

The Senator from Connecticut uses as an example, for example, the New Hampshire Supreme Court decision in this area which did exactly that. It expanded the issue of funding and equality of funding radically throughout the whole State so everybody had to do it the same way, changing the whole system of education within the State of New Hampshire.

Senator DODD is suggesting doing the same thing with the word ''comparable'' on a statewide basis and having the Federal Government come in and set what the term ''comparability'' means now in a much more precise and mandatory way.

When he uses terms in his amendment such as ''comparability,'' among other things, shall include:

(i) class size and qualifications of teachers (by category of assignment, such as regular education, special education, and bilingual education) and professional staff;

(ii) curriculum, the range of courses offered (including the opportunity to participate in rigorous courses such as advanced placement courses), and instructional materials and instructional resources to ensure that participating children have the opportunity to achieve to the highest student performance levels under the State's challenging content and student performance standards;

(iii) accessibility to technology; and

(iv) the safety of school facilities. . . .

That is getting pretty specific and inclusive and much different from the way comparability is used in present law. That is a fact.

Mr. DODD. Mr. President, if my colleague will yield further, he has just recited very accurately the provision on page 2 of the amendment of things under ''Written Assurances'':

A State shall be considered to have met the requirements [of this amendment] if such State has filed with the Secretary a written assurance that such State has established and implemented policies to ensure comparability of services in certain areas.

If my colleague reads further down to ''class size,'' we do not say what class size, what qualifications. We all know, and I ask my colleague this in the form of a question, is there anywhere in this language where it sets class size, where it sets the standard by the Federal Government, other than saying the State should have comparability of those standards without setting the standard?

Mr. GREGG. Absolutely. That is the whole point. If I may reclaim my time. That is exactly what this does. It says that a State must have a comparable class size across that State, which means a State such as California, which is a huge State and which may have variations in class size depending on what communities have decided is best, both by negotiating with their teachers union and working with their students, their parents, and their teachers those States now are not going to be able to do that any longer, those communities are not going to be able to do that any longer. They are going to have to set one class size for the entire State, comparable across the State.

Curriculum: For example, I cannot imagine anything more intrusive than having the States say unilaterally you have to have a comparable curriculum on all the different categories of curriculum. There may be some communities that do not believe they need a curriculum that deals with some of these core issues. Obviously, on core issues such as math, science, and English, they are going to have comparable curriculums. Hopefully, you will not. Maybe they will not. Maybe some States will let some type of American history be taught in one section and another type of American history be taught in a different section. American history should be consistent.

There are other issues. What about languages? They might want to teach Japanese in San Francisco, but maybe in San Diego they want to teach Chinese or Spanish.

The comparability language is so pervasive that it basically takes everything and makes oneness, which was the point of the argument of the Senator from Connecticut to begin with. I do not see how he can argue against his own position, which is he believes that in order for people to be tested and to be held to a standard, then everybody has to have equal access to the same opportunities of curriculum, class size, and structure—everything has to be essentially at the same level. That was his argument, was it not?

Mr. DODD. Will my colleague let me respond without asking a question?

Mr. GREGG. On the Senator's time I will be happy to.

Mr. DODD. I think I am out of time.

Mr. GREGG. Reserving my time, Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from New Hampshire has 14 minutes, and the Senator from Connecticut has 3 minutes.

Mr. DODD. Mr. President, on my time, the point I am making —in fact, we debated this yesterday—Is that the words ''comparable'' and ''identical'' are not synonymous. ''Comparable'' allows for great latitude. We have mandated comparability within school districts.

If you take the school districts of Los Angeles and New York, there are more students in each of those school districts than in 27 different States. They have found it very workable to have reached comparable levels of educational opportunity within a very diverse student population, in the city of New York and the city of Los Angeles, to cite two examples.

There are plenty of other school districts that have student populations vastly in excess of the entire student populations of States that have dealt with this requirement for years.

My point is, States bear a responsibility in educating children. This bill, and legislation preceding it over the years, has mandated that teachers, parents, students, school boards, and school superintendents be accountable and responsible. We are asking it of ourselves at the Federal Government. My amendment merely says, should we not also ask our States to be accountable for the equal educational opportunity of all children? That is all.

We have laid out some basic commonsense standards without mandating what the standard should specifically. For example, individual science schools exist in Los Angeles and New York. My colleague mentioned Stuyvesant High School. When the Federal Government said ''comparable'' in the school district of New York, it did not wipe out Bedford Stuyvesant High School. That school has done well under a Federal mandate of comparability.

We are mandating there be better performance, but if we don't say to States, as much as we are saying to school districts, that there has to be a comparable educational opportunity, we are setting a standard that poor communities, rural and urban, will not meet.

In New Hampshire, the supreme court decision was most eloquent in

pointing out it was wrong to mandate that a small, poor community be required to increase its property tax fourfold to meet those responsibilities without the State stepping forward.

The court said that ''[T]o hold otherwise would be to . . . conclude that it is reasonable, in discharging a State obligation, to tax property owners in one town or city as much as four times the amount taxed to others similarly situated in other towns or cities.''

It is an eloquent statement.

In closing, I thank my colleagues from New Jersey and Minnesota for their support and ask all my colleagues to join me, Senator BIDEN, and Senator REED, in supporting this amendment to provide equal educational opportunity for all children in a State. This amendment is supported by the National PTA, the National Education Association, the Council of the Great City Schools, which represents the largest 50 school districts in the country, and the Leadership Conference for Civil Rights, which includes 180 prominent organizations, such as the AARP, the American Association of University Women, the AFL-CIO, the American Federation of Teachers, the American Veterans Committee, Catholic Charities USA, the NAACP, the National Council of Jewish Women, the National Council of La Raza, the National Urban League, the YMCA, the YWCA, and others.

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

Mr. GREGG. I yield the Senator 30 seconds.

Mr. DODD. I am hopeful we can vote on this amendment. We debated yesterday afternoon, we debated yesterday evening, and this morning. I am fully prepared to have a vote and go to the next amendment and get the education bill done. The President wants the education bill to be passed.

I know my colleague, the chairman of the committee, is anxious to move this along. I am confident the Republican leader is as well. I am hopeful this amendment can be considered and voted up or down and that we move to the next order of business.

I ask the question, Can we vote? We have debated the issue. I am prepared to debate longer, but I made my case on why I think accountability and responsibility belong to everyone, including the State.

I ask my colleague and friend from New Hampshire, is there any chance we might have a vote on this amendment some time soon?

Mr. GREGG. No.

Mr. DODD. I appreciate the candor of that answer. People from New Hampshire are noted for their brevity in coming right to the point. He does not gussy it up with trappings and garnishes.

I thank my colleague.

Mr. GREGG. I thank the Senator from Connecticut for his description.

This amendment goes to the heart of this bill. I don't think the impact this amendment will have on changing the focus of the President's proposals on education as negotiated between a variety of parties involved in the negotiation can be understated.

There was an agreed to set of principles laid down. The basic philosophy of those principles was that we were going to look at how the child did, whether the child actually learned more, whether the low-income child was in a better competitive position relative to peers and educational success. We were going to allow flexibility of the local school systems, subject to assuring through assessment standards and accountability standards that the children were improving.

That was the flow: Focus on the child, flexibility, expect academic achievement, and subject it to accountability so we knew it was working. A lot of work went into this concept. The President's ideas are aggressive and creative and they will take the Federal Government in a different direction. We will go away from command and control and go toward output. We will go away from trying to find out how many books are in a classroom, how big the classroom should be, and how many teachers are in the classroom to seeing how much a child is learning and making sure when that child learns they are learning something relative to them and that they are staying with their peers. We will give parents more authority and flexibility and capacity to participate in the education of their children and to have some say when their children are stuck in schools that are failing.

These are themes that are critical to improving Federal education. This amendment goes in the exact opposite direction. I used the term ''nationalization'' yesterday. I don't think that is too strong. This is an attempt to assert a national policy essentially on all school districts in this country. That is extremely pervasive and requires a cookie-cutter approach to education and takes away local control. Therefore, the amendment essentially does fundamental harm which is irreparable to this bill, in my opinion. That is why we have such severe reservations.

I yield such time remaining to the Senator from Tennessee.

Mr. FRIST. How much time remains?

The PRESIDING OFFICER. There are 9 minutes remaining.

Mr. FRIST. I will speak and give the floor to the Senator from Maine when she arrives.

I believe this amendment is one that we absolutely must defeat if we stick with the principles of flexibility of local control, of shifting the power of review locally instead of federally. The underlying principle that is critically important to the BEST bill which the President has set out in his agenda, discussed often in this bill, is leaving no child behind.

There are basically two issues that bother me most about this amendment. No. 1, as I mentioned, the power of review has shifted to the Federal Government, the Department of Education, to Washington, DC, and, No. 2, this amendment would broaden the intrusiveness of local control. Those principles are exactly opposite of what President Bush has put forward, what most Americans believe, and that is local control, less Government intrusiveness, and more accountability.

In terms of intent, the amendment is clearly positive. It is honorable. The intent is that every student receives an equal education. The problem is the specifics of how that intent is accomplished—again, more Federal oversight instead of local, and more intrusiveness.

What does it mean? It means in a State such as Tennessee, if there is a rural school that has no limited-English-proficient students, they will still have to have as many bilingual education teachers as a school, say, in Nashville, TN. That sort of vagueness about what comparability means ultimately is translated down into something very specific which simply does not make sense to me when you look within a State—for example, Tennessee.

How will a State measure comparability of teacher qualifications, of seniority, of level of education? I ask, regarding the services identified—teachers, instruction materials, technology service, the school safety services, the bilingual education services—how do we know those are the absolute answers to all students? We simply do not. I believe the only strings attached to Federal dollars should be those that insist on demonstrable results.

I see the Senator from Maine has arrived. We only have about 4 minutes left, so I will yield to her. But let me just close and say instead of funding institutions, instead of concentrating on services and inputs, instead of monitoring progress versus regulations, we absolutely must focus on student achievement—something which this amendment does not do. It aggravates the situation and moves in the opposite direction.

I yield the floor.

Mr. KENNEDY. Mr. President, I am happy to ask consent for 10 minutes evenly divided, if that is agreeable. This is a very important amendment. Would that be sufficient time? I ask for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Maine.

Ms. COLLINS. Mr. President, the Senator from Connecticut is such a strong advocate for our Nation's children. I have enjoyed working with him on so many issues. But as much as I admire him and share his commitment, I do rise in opposition to the amendment of Senator DODD.

This amendment, although it is very well intentioned, is contrary to the goal of this education reform bill which is to give more flexibility to local schools and to States while holding them accountable for what really

counts, and that is student achievement, ensuring that every child is learning, that no child is left behind.

Comparability of services is a concept that was created to make sure that title I schools get services comparable to those received in nontitle I schools. But the amendment of the Senator from Connecticut simply goes too far. It would, for example, require States to ensure comparability among schools in class size, in qualifications of teachers by category of assignments such as regular education, special education, bilingual education. It would mandate the same courses be offered, the range of courses, and how rigorous they are. It is extraordinarily prescriptive. It really turns on its head the whole idea of leaving to States and local communities the issues of curriculum design and teacher qualifications.

For example, we know very well the needs of schools vary from community to community. My brother, Sam Collins, is chair of the school board in Caribou, ME, my hometown. Through his efforts and efforts of other local leaders, the school system has established a bilingual education program in the elementary schools. It is a wonderful program. But under the Dodd amendment, that program would have to exist in every school in Maine. That is just not practical.

Similarly, in Portland, ME, we have a large number of students with limited English proficiency. That means there is a great need for ESL teachers and bilingual teachers in that school system. But in other more rural parts of Maine that need simply doesn't exist.

This amendment simply is impractical. It is just not workable, in addition to being contrary to the concept of allowing those who know our students best—our local school boards, our teachers, our parents, our principals, our superintendents of schools—to design the curriculum and provide the courses and other needs for a local school.

Schools differ. One school may need a gifted and talented program; another may need to improve its library; still another may need to establish an ESL program. In short, one size does not fit all. Yet that is the implication and the premise of the amendment of the Senator from Connecticut.

This amendment would shift the power away from local communities and local school boards to Washington. We want to, instead, empower local communities to make the right decisions and then, very importantly, hold them accountable for results. We want to change the focus from paperwork and process and regulation and, instead, focus on what really matters, and that is ensuring that every child in America gets the very best education possible.

We want to do that by holding schools and States accountable, not by telling them what courses they need to have, not by prescribing every rule, every regulation. Let's trust our teachers and our local school board members. Let's trust the local teachers and superintendents. They know best what is needed.

I urge opposition to the amendment of my colleague, Senator DODD. Again, he is a strong advocate for our Nation's schools, and I have enjoyed working with him, but I believe his amendment goes too far and is misguided.

I retain the remainder of our time for our side, and I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as we return to debate on the Dodd-Biden amendment, I want to clarify for Members just what the amendment does and add two points that were not made yesterday.

The amendment conditions title I state administration funds—1 percent of total state funds—on a written assurance that ''comparable,'' not identical, essential education services, such as teacher quality and access to technology, are provided across districts. States have up to four years to comply. If a state fails to send a simple written assurance to the Secretary, their administrative funds are withheld. Once a state sends a written assurance, any previously withheld funds are returned. All a state has to do is file a piece of paper. I think the amendment is too modest frankly in not allowing the Secretary to engage in a more searching inquiry into whether the written assurance actually reflects a comparable education being offered.

This amendment is still groundbreaking, however. Since 1965, we have required individual school districts to provide a written assurance that they are offering a comparable regular education in title I and nontitle I schools. We have never asked states to assure that comparable services are provided among schools in different school districts. This amendment does. Whereas all title I program funds are conditioned on local compliance currently, only title I state administration are conditioned under the Dodd-Biden amendment.

There are two additional points, which were not raised yesterday, that I would like to add. First, state after state repeatedly has found itself back in state court because of its failure to provide a comparable educational opportunity across districts. A State Supreme Court orders improvement. Some improvement is made. But then progress quickly erodes. And the parents of poor children have to go back to court. Since 1968, there have been five iterations of the Serrano case in California, six of the Abbott case in New Jersey, and five of the Edgewood case in Texas.

This amendment is significant in not just requiring states to provide a comparable opportunity, but in actually reaching into the state's federal pocketbook if it resists. Maybe when there are federal financial consequences for state resistance to State supreme courts, states will do a better job of complying with judicial orders.

Second, the Senator from New Hampshire yesterday repeated an old and outdated argument that ''education is not a formula where more dollars equal better results.'' We have known for a long time though that money well spend does make a difference. In fact, the last time we reauthorized ESEA, we had a series of hearings on this issue.

We heard as far back as 1993, that increased education spending targeted to critical areas like teacher quality have a profound effect on student achievement. This is what we heard from Dr. Ronald Ferguson of Harvard University after studying teacher quality and student assessment results in every Texas school district.

> A measure of teachers' literacy skills explains roughly 25 percent of the variation among Texas school districts in students' average reading and math scores on statewide standardized exams. . . . Better literacy skills among teachers, fewer large classes, and more teachers with five or more years experience all predict better [test] scores.

Deep down every United States Senator knows what every parent and teacher knows—that resources matter in education. If resources didn't matter, we wouldn't mind sending our children and grandchildren to the poorest schools. If resources didn't matter, people wouldn't fight ''Robin Hood'' plans that equalize spending by taking from the wealthy districts to give to the poor. Now I don't think we should equalize spending down by taking money from some communities and giving it to others. I think we should equalize up by sending more targeted education resources to the communities that are deprived. I hope the President and the other side will join us in that effort to boost education spending overall.

Every child deserves a fair chance.

I am rather amazed at these statements that are made on the floor about how this undermines the President's initiatives, because to the contrary, this does not interfere with any of the President's initiatives. I think it gives much more life to the President's initiative, because Senator DODD's amendment is going to encourage States to provide additional focus and attention to the most needy students in the State. That is completely consistent with what the President has stated.

I am rather surprised, frankly, by the reaction of our Republican friends because this has been on a list of amendments to be considered for 3 weeks. This is the first amendment about which I have heard our Republican friends indicate we will not get a vote on it. I do not know what kind of signal that sends. It has been on the list for 3 weeks, and 5 minutes ago I heard for the first time the spokesperson for the Republican Party say we are not going to vote on it.

I do not know what kind of message that sends in our attempt to try to move this legislation, but it certainly is not a useful one or a constructive one.

I ask my friends on the other side to reread the language of the amendment. It says:

A State shall be considered to have met the requirements . . . if such State has filed with the Secretary a written assurance that such State has established and implemented policies to ensure comparability among schools . . . .

All they have to do is file the statement. This is not like the existing legislation that requires the Secretary to have approval on State tests. That is real power. Or that the Secretary has to approve the State's findings in terms of standards. That is real power. Or the fact the Secretary will make a judgment on a State's application for Straight A's authority. That is real power. Those are decisions that will be made here in Washington.

But to confuse that kind of authority and power with the language here is most unfortunate. Why are they so excited about this? I can't understand why they are so excited so early in the morning about this language? All this amendment says is that States have to file a written assurance. That's it. That's compliance.

I reiterate that we have had hearings on this issue in the past. We had days of hearings on school finance. The record of those hearings is printed in Senate 103–254. This is not a new concept. This is not a new idea. We have accepted the concept of comparability at the local levels. All this is doing is saying what I think the President wants to do; that is, he wants accountability statewide.

We want accountability for the children so they are going to work hard and study hard. We want accountability for the teachers to make sure we are going to have teachers who are going to get professional development. We want accountability for States in developing standards, and accountability that the States are going to develop tests that are going to be high-quality tests.

We have accountability here in the Congress to try to afford the resources to be able to help these children.

All the Senator from Connecticut is saying is let's have accountability. Let's have accountability for the States as well to be a part of a team. Most parents would want their children to learn. Learning should be a partnership with the local, State, and the Federal response in areas of the neediest children in this country.

I think this enhances the President's initiative. This carries it to an additional level. I hope he would be on the phone calling our friends and saying let's have a unanimous, favorable vote for this particular provision.

I yield the remaining time to the Senator from Connecticut.

AMENDMENT NO. 459, AS FURTHER MODIFIED

Mr. DODD. Mr. President, first of all, I send a modification of my amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. Is there objection? The amendment is so modified.

The amendment (No. 459), as further modified, is as follows:

On page 135, between lines 9 and 10, insert the following:

(d) Section 1120A (20 U.S.C. 6322) is amended by inserting the following after subsection (d):

''(e) COMPARABILITY OF SERVICES.—

''(1) IN GENERAL.—(A) A State that receives funds under this part shall provide services in schools receiving funds under this part that, taken as a whole, are at least comparable to services in schools that are not receiving funds under this part.

''(B) A State shall meet the requirements of subparagraph (A) on a school-by-school basis.

''(2) WRITTEN ASSURANCE.—(A) A State shall be considered to have met the requirements of paragraph (1) if such State has filed with the Secretary a written assurance that such State has established and implemented policies to ensure comparability among schools.

''(B) A State need not include unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year in determining comparability of services under this subsection.

''(3) CONSTRUCTION.—Nothing in this subsection shall be construed to require a jurisdiction to increase its property tax or other tax rates.

''(4) EFFECTIVE DATE.—A State shall comply with the requirements of this subsection by not later than the beginning of the 2005-2006 school year.

''(5) WAIVERS.—

''(A) IN GENERAL.—A State may request, and the Secretary may grant, a waiver of the requirements of this subsection for a period of up to 2 years for exceptional circumstances, such as a precipitous decrease in State revenues or other circumstances that the Secretary deems exceptional that prevent a State from complying with the requirements of this paragraph.

''(B) CONTENTS OF WAIVER REQUEST.—A State that requests a waiver under subparagraph (A) shall include in the request—

''(i) a description of the exceptional circumstances that prevent the State from complying with the requirements of this subsection; and

''(ii) a plan that details the manner in which the State will comply with such requirements by the end of the waiver period.

''(6) TECHNICAL ASSISTANCE.—The Secretary shall, upon the request of a State and regardless of whether the State has requested a waiver under paragraph (5), provide technical assistance to the State concerning compliance with the requirements of this subsection.

''(7) SANCTIONS.—If a State fails to comply with the requirements of this subsection, the Secretary shall withhold funds for State administration until such time as the Secretary determines that the State is in compliance with this subsection.''

Mr. DODD. Mr. President, I discussed the amendment with my good friend from New Hampshire. The way I have dealt with the modification is to take out the section that speaks to the specific kinds of comparability issues such as class size, teachers, and the like. My intention was not to suggest we ought to have identical class size standards set by the Federal Government or to mandate how States should provide equal educational opportunity, but rather to ensure that they do provide it. Therefore, I have left the language basically as it has been for 36 years when dealing with school districts; that is, achieve comparability of educational opportunities, except to apply it to States, as well.

As I pointed out, we have school districts in this country that have student populations in excess of the population of 27 States, and they have been able to deal with comparability, without, to use the example that concerned my friend from New Hampshire, infringing upon charter schools or magnet schools.

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

Mr. DODD. Mr. President, I ask unanimous consent for 1 additional minute.

Mr. GREGG. Mr. President, I ask unanimous consent that the request be modified to add 1 additional minute on our side.

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

Mr. DODD. Mr. President, I appreciate the comments of my friend and colleague from Massachusetts on this issue. He makes the point very clearly. This is not radical. We are asking for accountability and responsibility by everybody when it comes to education. We are assuming it here at the Federal level with the underlying bill. We are requiring it of young children in the third grade and on, their parents, teachers, schools, and school boards. I am only saying that States must be part of this equation. That is all this is—to provide for comparable educational opportunity at the State level as we have required for 36 years at a district level. We leave to the Secretary the discretion about how much to withhold administrative funds—not funds to children—if necessary. For States to provide assurances that they are moving to achieve comparability is not radical. That is common sense. We are asking to test everybody in America. We ought to ask the States to take a little test as well.

I thank my colleagues.

I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill 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. DODD. Mr. President, I withdraw my request for the nays and yeas.

Mr. GREGG. Mr. President, let me summarize the problem. I appreciate the fact that the Senator from Connecticut has modified his amendment.

I appreciate him doing that and taking out some of the language that is most onerous in the amendment. But the amendment still accomplishes essentially the same thing, which is creating a Federal standard requiring every State to set up comparability standards. There are a lot of States in this country and a lot of communities in this country which do not agree that comparability is appropriate; that believe the States should have flexibility from community to community to decide how they operate their school system. Local control is the essence of education. If a State decides it wants comparability, or its supreme court decides that, or the State legislature decides that, fine. That is certainly their responsibility and their right. They operate school systems. They pay for 97 percent of the school systems, and they should be able to do that. They do that. The Supreme Court did that in the area of funding. But it is not the role of the Federal Government to come in after paying 6 percent of the cost of the school system and say to States that every State has to have comparability within their State. It is a huge intrusion of the Federal role in the role of education.

For that reason, it goes, as I mentioned earlier, directly in the opposite direction from what the theme of this bill is. I am not going to reiterate that because I just said it 10 or 15 minutes ago. But that is the problem of the amendment. It is incredibly intrusive, and it goes in the direct opposite direction from where this bill is going.

That is why we on our side strongly oppose it and believe it is inconsistent with the agreement that was reached. We need to think about it a little bit longer before we decide how we are going to dispose of it.

I appreciate the Senator from Connecticut withdrawing his request for the yeas and nays. Maybe as we move down the road, we can figure out a way to more appropriately handle this amendment.

I yield the remainder of our time on this amendment.

AMENDMENT NOS. 356, 401, 434, 513 AS MODIFIED, 642, 643 AS MODIFIED, 363 AS MODIFIED, 638 AS MODIFIED, 354 AS MODIFIED, 418 AS MODIFIED, AND 633 AS MODIFIED EN BLOC, TO AMENDMENT NO. 358

Mr. KENNEDY. Mr. President, we are now going to go to the Nelson-Carnahan amendment. But today I am happy to report that we have another package of cleared amendments. Therefore, I ask unanimous consent that it be in order for these amendments to be considered en bloc, and any modification, where applicable, be agreed to, the amendments be agreed to, en bloc, and the motions to reconsider be laid upon the table, en bloc.

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

The amendments (Nos. 356, 401, 434, 513 as modified, 642, 643 as modified, 363 as modified, 638 as modified, 354 as modified, 418 as modified, and 633 as modified) were agreed to en bloc as follows:

AMENDMENT NO. 356

(Purpose: To promote financial education)

On page 619, line 6, strike ''and''.

On page 619, line 7, strike the period and insert ''; and''.

On page 619, between lines 7 and 8, insert the following:

''(O) activities to promote consumer, economic, and personal finance education, such as disseminating and encouraging the use of the best practices for teaching the basic principles of economics and promoting the concept of achieving financial literacy through the teaching of personal financial management skills (including the basic principles involved in earning, spending, saving, and investing).

AMENDMENT NO. 401

(Purpose: To assist parents in becoming active participants in the education of their children)

On page 479, strike line 8 and insert the following:

for limited English proficient students, and to assist parents to become active participants in the education of their children.

AMENDMENT NO. 513, AS MODIFIED

(Purpose: To expand the permissible uses of funds)

On page 318, strike lines 22 through 25, and insert the following:

''(5) Developing and implementing effective mechanisms to assist local education agencies and schools in effectively recruiting and retaining highly qualified teachers and principals, and in cases in which a State deems appropriate, pupil services personnel.

On page 319, between lines 19 and 20, insert the following:

''(12) Providing professional development for teachers and pupil services personnel.

On page 326, strike lines 9 through 11 and insert the following:

''(3) Providing teachers, principals, and, in cases in which a local education agency deems appropriate, pupil services personnel with opportunities for professional development through institutions of higher education.

On page 327, between lines 10 and 11, insert the following:

''(7) Developing and implementing mechanisms to assist schools in effectively recruiting and retaining highly qualified teachers and principals, and, in cases in which a local education agency deems appropriate, pupil services personnel.

On page 370, strike lines 12 through 18, and insert the following:

''(3) acquiring connectivity linkages, resources, and services, including the acquisition of hardware and software, for use by teachers, students, academic counselors, and school library media personnel in the classroom, in academic and college counseling centers, or in school library media centers, in order to improve student academic achievement and student performance;''.

AMENDMENT NO. 642

(Purpose: To provide for Indian education)

On page 178, between lines 19 and 20, insert the following:

''(4) RESERVATION FROM APPROPRIATIONS.—From the amounts appropriated under section 1002(b)(2) to carry out this subpart for a fiscal year, the Secretary shall—

''(A) reserve ½ of 1 percent for allotments for the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands, to be distributed among these outlying areas on the basis of their relative need, as determined by the Secretary in accordance with the purposes of this subpart; and

''(B) reserve ½ of 1 percent for allotments for the Secretary of the Interior for programs under this subpart in schools operated or funded by the Bureau of Indian Affairs.

On page 272, line 10, strike ''and the Republic of Palau'' and insert ''Republic of Palau, and Bureau of Indian Affairs for purposes of serving schools funded by the Bureau''.

On page 776, line 10, insert before the semicolon the following: ''or, in the case of a Bureau of Indian Affairs funded school, by the Secretary of the Interior''

On page 807, strike lines 1 through 18.

On page 808, strike lines 15 and 16.

AMENDMENT NO. 434 TO AMENDMENT NO. 358

(Purpose: To revise the definition of parental involvement)

On page 12, strike lines 23 through 24.

On page 13 strike lines 1 through 2, and insert the following:

''(23) PARENTAL INVOLVEMENT.—The term 'parental involvement' means the participation of parents in regular, two-way, and meaningful communication, including ensuring—

''(A) that parenting skills are promoted and supported:

''(B) that parents play an integral role in assisting student learning;

''(C) that parents are welcome in the schools;

''(D) that parents are included in decision-making and advisory committees; and

''(E) the carrying out of other activities described in section 1118.

AMENDMENT NO. 643, AS MODIFIED

(Purpose: To provide rural schools with options during the reconstitution process)

On page 99, between line 22 and 23, Title I, Sec. 1116 (8)(B), is amended by inserting:

(1) SPECIAL RULE.—Rural local educational agencies, as described in Sec. 5231(b) may apply to the Secretary for a waiver of the requirements under this sub-paragraph provided that they submit to the Secretary an alternative plan for making significant changes to improve student performance in the school, such as an academically-focused after school programs for all students, changing school administration or implementing a research-based, proven-effective, whole-school reform program. The Secretary shall approve or reject an application for a waiver submitted under this rule within 30 days of the submission of information required by the Secretary to apply for the waiver. If the Secretary fails to make a determination with respect to the waiver application within 30 days, the application shall be treated as having been accepted by the Secretary.

AMENDMENT NO. 363, AS MODIFIED

(Purpose: To enable local educational agencies to extend the amount of educational time spent in schools, including enabling the agencies to extend the length of the school year to 210 days)

On page 67, line 18, strike ''and''.

On page 67, line 21, strike all after ''1118'' and insert ''; and''.

On page 67, between lines 21 and 22, insert the following:

''(11) where appropriate, a description of how the local educational agency will use funds under this part to support school year extension programs under section 1120C for low-performing schools.'';

On page 161, between lines 9 and 10, insert the following:

SEC. 120D. SCHOOL YEAR EXTENSION ACTIVITIES.

Subpart 1 of part A of title I (20 U.S.C. 6311 et seq.) is amended by adding at the end the following:

"SEC. 1120C. SCHOOL YEAR EXTENSION ACTIVITIES.

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—A local educational agency may use funds received under this part to—

''(A) to extend the length of the school year to 210 days;

''(C) conduct outreach to and consult with community members, including parents, students, and other stakeholders to develop a plan to extend learning time within or beyond the school day or year; and

''(D) research, develop, and implement strategies, including changes in curriculum and instruction.

''(c) APPLICATION.—A local educational agency desiring to use funds under this section shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the agency may require. Each application shall describe—

''(1) the activities to be carried out under this section;

''(2) any study or other information-gathering project for which funds will be used;

''(3) the strategies and methods the applicant will use to enrich and extend learning time for all students and to maximize high quality instruction in the core academic areas during the school day, such as block scheduling, team teaching, longer school days or years, and extending learning time through new distance-learning technologies;

''(4) the strategies and methods the applicant will use, including changes in curriculum and instruction, to challenge and engage students and to maximize the productiveness of common core learning time, as well as the total time students spend in school and in school-related enrichment activities;

''(5) the strategies and methods the applicant intends to employ to provide continuing financial support for the implementation of any extended school day or school year;

''(6) with respect to any application to carry out activities described in subsection (b)(1)(A), a description of any feasibility or other studies demonstrating the sustainability of a longer school year;

''(7) the extent of involvement of teachers and other school personnel in investigating, designing, implementing and sustaining the activities assisted under this section;

''(8) the process to be used for involving parents and other stakeholders in the development and implementation of the activities assistance under this section;

''(9) any cooperation or collaboration among public housing authorities, libraries, businesses, museums, community-based organizations, and other community groups and organizations to extend engaging, high-quality, standards-based learning time outside of the school day or year, at the school or at some other site;

''(10) the training and professional development activities that will be offered to teachers and others involved in the activities assisted under this section;

''(11) the goals and objectives of the activities assisted under this section, including a description of how such activities will assist all students to reach State standards;

''(12) the methods by which the applicant will assess progress in meeting such goals and objectives; and

''(13) how the applicant will use funds provided under this section in coordination with funds provided under other Federal laws.''

AMENDMENT NO. 638, AS MODIFIED

(Purpose: To provide for an annual report to Congress)

On page 69, between lines 9 and 10, insert the following:

''(6) REPORT TO CONGRESS.—The Secretary shall report annually to Congress—

''(A) beginning with school year 2001–2002, information on the State's progress in developing and implementing the assessments described in subsection (b)(3);

''(B) beginning not later than school year 2004–2005, information on the achievement of students on the assessments described in subsection (b)(3), including the disaggregated results for the categories of students described in subsection (b)(2)(B)(v)(II); and

''(D) in any year before the States begin to provide the information described in paragraph (B) to the Secretary, information on the results of student assessments (including disaggregated results) required under this section.

AMENDMENT NO. 354 AS MODIFIED

(Purpose: To establish a study on finance disparities and the effects of equalization on student performance)

On page 173, between lines 4 and 5, insert the following:

(f) STUDY, EVALUATION AND REPORT OF SCHOOL FINANCE EQUALIZATION.—The Secretary shall conduct a study to evaluate and report to the Congress on the degree of disparity in expenditures per pupil among LEAs within and across each of the fifty states and the District of Columbia. The Secretary shall also analyze the trends in State school finance legislation and judicial action requiring that states equalize resources. The Secretary shall evaluate and report to the Congress whether or not it can be determined if these actions have resulted in an improvement in student performance.

In preparing this report, the Secretary may also consider the following: various measures of determining disparity; the relationship between education expenditures and student performance; the effect of Federal education assistance programs on the equalization of school finance resources; and the effects of school finance equalization on local and state tax burdens.

Such report shall be submitted to the Congress not later than one year after the date of enactment of the Better Education for Students and Teachers Act.

AMENDMENT NO. 418 AS MODIFIED

(Purpose: Protection of Pupil Rights)

On page 64, between lines 2 and 3, insert the following:

''(F) PROTECTION OF PUPIL RIGHTS.—In meeting the requirements of this section, States, local educational agencies, and schools shall comply with the provisions of Section 445 of the General Education Provisions Act.''

AMENDMENT NO. 633 AS MODIFIED

(Purpose: To ensure that grant funds are available for use to enhance educators' knowledge in the use of computer related technology to enhance student learning)

On page 328, line 21, insert before the semicolon the following: '', including the use of computer related technology to enhance student learning''.

Mr. KENNEDY. Mr. President, for the information of the Senate, these amendments are as follows: Corzine No. 356; Reed, 401; Reed, 434; Voinovich, 513; Enzi, 642; Enzi/Collings/Murray, 643; Torricelli, 363; Nelson of Florida, 638; Hatch, 354; Hatch, 418; and Levin, 633.

We are continuing to process these amendments. I am thankful and grateful to our friends and colleagues on the other side for their help and their good work in making all of this possible.

I yield the floor.

AMENDMENT NO. 385 TO AMENDMENT NO. 358

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of amendment No. 385, on which there will be 60 minutes of debate to be equally divided and controlled.

The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Missouri [Mrs. CARNAHAN], for herself and Mr. NELSON of Nebraska, proposes an amendment numbered 385.

Mrs. CARNAHAN. 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:

AMENDMENT NO. 385

(Purpose: To limit the application of assessment requirements based on the costs to the State in administering such assessments)

On page 51, between lines 15 and 16, insert the following:

''(4) ASSESSMENTS NOT REQUIRED.—

''(A) IN GENERAL.—A State shall not be required to conduct any assessments under paragraph (3) in any school year if—

''(i) the assessments are not otherwise required under Federal law on the day preceding the date of enactment of the Better Education for Students and Teachers Act; and

''(ii) the amount made available to the State under section 6403(a) for use in the school year involved for such assessments is less than 100 percent of the costs to the State of administering such assessments in the previous school year, or if such assessments were not administered in the previous school year (in accordance with this subparagraph), in the most recent school year in which such assessments were administered.

''(B) DETERMINATION OF TOTAL COSTS.—For purposes of making the determination required under subparagraph (A)(ii), the Secretary shall, not later than March 15 of each year, publish in the Federal Register a description of the total costs of developing and implementing the assessments required under the amendments made by the Better Education for Students and Teachers Act for the school year involved based on information submitted by the States, as required by the Secretary. Such total costs may include costs related to field testing, administration (including the printing of testing materials and reporting processes), and staff time. The Secretary shall include in any such publication a justification with respect to any category of costs submitted by a State that is excluded by the Secretary from the estimated total cost.

''(C) 2005–2006 SCHOOL YEAR.—Not later than March 15, 2005, the Secretary shall make the publication required under subparagraph (B) with respect to the 2005–2006 school year.

''(D) REPORT.—The Secretary annually report the information published under subparagraph (B) to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Education and the Workforce and Committee on Appropriations of the House of Representatives.

On page 59, line 21, after the period add the following: ''No funds shall be withheld under this subsection for any school year in which the Secretary determines that a State has received, under section 6403(a), less than 100 percent of the costs to the State of designing standards and developing and administering assessments for measuring and monitoring adequate yearly progress under this section. The Secretary shall determine the reasonable costs of designing, developing, and administering standards and assessments based on information submitted by the States, as required by the Secretary, except that the Secretary shall provide a written explanation of any category of costs that excluded from the Secretary's calculations.''.

On page 778, after line 21, add the following:

''(d) MISCELLANEOUS PROVISION.—Notwithstanding subsection (a)(3), there is authorized to be appropriated to carry out subsection (a)(1), such sums as may be necessary for fiscal year 2002 and for each of the 6 succeeding fiscal years.''.

Mrs. CARNAHAN. Mr. President, we must never let any of our children slip through the cracks of the education system. That's why a yardstick of performance is needed. It's why rigorous accountability and increased testing have become cornerstones of the education debate. I strongly support testing to help us measure the progress of our Nation's students.

Missouri is at the forefront of using testing to drive education reform. Since 1993, Missouri educators have worked hard to shape a testing structure called the Missouri Assessment Program.

These tests measure progress in math, communication arts, science, and social studies as well as a variety of skills. Each of the four core subject areas is tested in three grade levels. In each of these grade levels, every child is tested.

I commend Missouri educators on creating a superb testing instrument.

Each child's development is gauged on an individual, case-by-case basis as well as in relation to other students across the Nation.

By contrast, under President Bush's plan, States would be required to test every child annually in grades 3–8.

In Missouri, this would require tremendous cost.

In communication arts, for example—which tests reading, as well as writing ability, punctuation, spelling, and thought organization—Missouri currently tests kids in grades 3, 7, and 11. Under the new requirement, the State would have to develop new tests for grades 4, 5, 6, and 8. The Missouri Department of Elementary and Secondary Education estimates that initial development costs would be approximately $3.5 million and ongoing development costs would be an additional $1.2 million per year.

About another $5 million would be required to develop new math tests, and a new science test would be even more expensive. These estimates do not even include the costs of implementing, scoring, and analyzing these tests. In the end, the annual costs for Missouri may exceed $15 million per year.

The ESEA legislation that we are now debating, however, would provide for the entire Nation $400 million per year for developing and implementing the new tests. But the truth is that we don't know exactly how much the new tests will cost.

The National Association of State Boards of Education has estimated the total national costs to be between $2.7 billion and $7 billion over 7 years.

The reality is that when it comes to the cost of these new tests, we are looking at a huge question mark. And we face the possibility that there could be a tremendous gap between funding available for these new tests and funding needed. This uncertainty places an unfair burden on our local districts and schools.

Last month, I joined my Senate colleagues in supporting full funding for the Individuals with Disabilities Education Act, or IDEA.

As did my colleagues, I heeded the cry of local educators and parents who told us that Congress had not fulfilled its promise to fund 420 percent of IDEA. They told us that this failure had drained local districts of already scarce funds. They told us that these circumstances hurt the students in our schools. After years of delay, we raised our collective voice to recognize that Congress cannot place unfunded mandates on our schools.

Now, numerous letters have been pouring into my office from superintendents across Missouri, voicing concern about the cost of the new tests. Let me share some of them with you.

One is from David Legaard, the superintendent in Smithville, who wrote:

> The Smithville R–II School District supports your efforts. Our school district cannot afford to pay for mandated federal testing programs.

Don Lawrence, the superintendent in Savannah, MO, wrote:

> Rest assured the local school districts in the state of Missouri do not have access to additional funds to pay for national school testing.

We should not make the same mistake with testing as we did with IDEA. We simply cannot put our State and local governments in the position of draining local resources to pay for new, unfunded Federal requirements.

The amendment I am offering today with my colleague, Senator BEN NELSON, will ensure that our schools don't bear an unfair burden. The idea behind this amendment is straightforward: if new tests are required by the Federal Government, they should be paid for by the Federal Government. States would not be obligated to give the tests in any year that the Federal Government fails to provide 100 percent of the funding.

The Carnahan-Nelson amendment builds on the Jeffords amendment, which passed by a 93–7 margin. I was pleased to support that amendment, but in our view it did not provide sufficient protection to State governments and local educators.

The Jeffords amendment provides that States must conduct the new tests so long as the Federal Government provides $400 million for design and implementation costs. The problem is, what happens if the cost is twice that amount, or ten times that amount, as some groups are estimating? Who will pick up the additional costs?

The answer is that our local schools, supported by local tax dollars, will have to pick up the tab for the federally mandated tests. We think that is the wrong policy.

Some have argued that this is an ''antitesting'' amendment because it links a State's obligation to conduct the new tests with full Federal funding.

The bill before the Senate already links a State's obligation to test to Federal funding. Our amendment merely changes the amount of Federal funding required from the arbitrary figure of $400 million to 100 percent of the true cost of testing.

Our schools should not have to forego the purchase of textbooks, or increases in teachers' salaries, or the renovation of classrooms so that they can put in place the new tests. If the Federal Government is going to impose this new requirement, the Federal Government should provide the resources to do it.

In addition, our amendment covers science tests, which the current bill does not.

And, our amendment requires the Secretary of Education to calculate the total costs of complying with the testing mandate so legislators know whether the Federal Government is meeting its obligation to our local schools.

The Governor of Missouri, Bob Holden, has strongly endorsed the Eliminate Unfunded Mandates amendment. He comments:

> I feel strongly that implementing new testing requirements without the adequate funds in place would be a disservice to the children in Missouri and across the nation . . . If the Federal Government is going to require new testing measures, then the Federal Government should pay 100 percent of all costs.

Governor Holden's sentiment is echoed in an endorsement letter from the Democratic Governors' Association, which notes that the Carnahan-Nelson amendment would help ''fulfill [a] historic commitment to America's children.''

Many Senators have extolled the virtues of testing during this debate. Many have spoken in favor of local control over education funds. If you want to ensure that testing will take place and that our local schools can spend their own dollars on their own priorities, then you should vote for the Carnahan-Nelson amendment.

I am pleased that Senator BAUCUS and Senator HOLLINGS support this amendment. I ask unanimous consent that they be added as cosponsors.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
STATE OF MISSOURI,
Jefferson City, MO, May 20, 2001.

DEAR MEMBERS OF THE SENATE: I write in strong support of the Carnahan-Nelson amendment to the Elementary and Secondary Education Act (ESEA).

This amendment would ensure that the federal government meets its commitment to states by fully funding the cost of the new ESEA testing requirements. If the federal government did not meet this commitment, states would be released from the obligation to implement the new requirements. The amendment also would require the Secretary of Education to commission and annual report on testing costs.

I feel strongly that implementing new testing requirements without the adequate funds in place would be a disservice to the children in Missouri and across the nation. Under these circumstances, state and local governments would be forced to choose between implementing the new testing requirements and cutting costs in other vital education programs. We simply cannot place our schools in the position of choosing between hiring new teachers, purchasing new textbooks, renovating schools and implementing the new tests. If the federal government is going to require new testing measures, then the federal government should pay 100% of all additional costs.

This point is especially germane in states that have already implemented strong testing programs. I am proud to note that Missouri has already made great strides in relation to testing and accountability. The Missouri Assessment Program, which assesses students in six subject areas, is the result of painstaking efforts on the part of Missouri educators. I believe that this testing program makes Missouri a leader in the nation in terms of effective testing.

Thank you for your attention to this critical matter, and I encourage you to vote in favor of the Carnahan-Nelson amendment. I look forward to working hand-in-hand with Congress and the Administration to ensure that our state testing systems are as effective as possible and that we do our utmost to support the education of our nation's children.

Sincerely,

BOB HOLDEN,
Governor.

DEMOCRATIC GOVERNOR'S ASSOCIATION,
Washingotn, DC, May 22, 2001.

Hon. JEAN CARNAHAN,
U.S. Senate,
Washingotn, DC.

DEAR SENATOR CARNAHAN: On behalf of the nation's Democratic Governors, I am writing in support of the amendment being offered by Senators Carnahan and Nelson to S. 1, the Better Education for Students and Teachers Act (BEST). This amendment would ensure that the federal government meets its commitment to states by fully funding the cost of the new Elementary and Secondary Education Act (ESEA) testing requirements.

The amendment would replace the $400 million cap authorized for FY 2002 for developing and implementing tests, in the underlying bill, instead requiring the federal government to pay 100% of all state testing costs not currently required under federal law. If the federal government does not meet this commitment, states would be released from the obligation to implement the new testing requirements. The amendment would also require the Secretary of Education to annually calculate the total costs of testing.

In addition, the amendment would add a protection that would prohibit the federal government from sanctioning a state for falling behind schedule in designing and implementing tests if the federal government has not provided full funding.

While we are pleased to support the Carnahan/Nelson amendment, we are hopeful that any final version of legislation to reauthorize the ESEA will apply a funding trigger more broadly, specifically to include Title I. This is the main source of federal assistance for disadvantaged students and the federal government needs to back its efforts to strengthen accountability with adequate new investment.

We would also prefer that final legislation link federal funding accountability to consequences imposed on states and local schools unable to meet proposed annual performance measures, such as fiscal sanctions and school reorganization. Relieving states from the cost of implementing new tests does not alter the mandated levels of improvement in student performance.

Democratic Governors urge Congress to fulfill the historic commitment to America's children that the BEST Act represents by fully funding authorized levels of IDEA, Title I, and teacher quality, as well as for testing. We believe that the Carnahan-Nelson amendment helps to ensure this, and we urge that the Senate adopt the amendment.

Sincerely,

GOV. TOM VILSACK,
State of Iowa,
DGA Vice-Chair of Policy.

Mrs. CARNAHAN. I am happy to yield the floor for the Senator from Nebraska to make further comments.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, I rise today to ask the Senate's support for the Carnahan-Nelson amendment. As my colleague has stated, it is a simple, straightforward measure that would require the Federal Government to pay 100 percent of the costs of all new federally mandated tests that would be required by the pending bill.

In any year that the Government fails to provide funding to the States, the States simply would not have to administer the tests, and the States could not be sanctioned for falling behind schedule in developing their systems of assessment.

Six years ago, Congress passed, and the President signed, the Unfunded Mandates Reform Act. The bill passed the Senate by a vote of 98–1. This was cause for celebration among the Nation's Governors. We had been urging Congress for a long time to enact this kind of legislation. I took a great deal of personal satisfaction when the law was signed because as the Governor of Nebraska, I had invested years urging its passage.

As Governor, I testified before committees in both the House and the Senate on the problems that were caused by unfunded Federal mandates.

I became interested in curbing unfunded Federal mandates the very first year I sat down to work on my new State budget. As the years went by, I often wondered if I had actually been elected Governor of Nebraska or simply branch manager for the Federal Government. I cannot count the number of times that I had to cut my part of the budget, say no to a good project or turn down a group of Nebraskans with good ideas because all my available revenue was tied up complying with yet one more unfunded Federal mandate handed down by Washington.

When the bill passed, I breathed a sigh of relief. In the Senate—also at that time under new leadership—the unfunded Federal mandates bill was designated as S. 1, signifying the priority placed on the legislation. Coincidentally, S. 1 is the designation placed on the bill we are currently considering. Senators from both sides of the aisle at that time praised the unfunded mandates bill. One Senator said:

> The result of these mandates is that local governments are forced to abandon their own priorities, to offer fewer services to the public, and to ultimately charge higher taxes and utility rates . . . The solution to the problem of unfunded mandates is to require Congress to pay for any mandate it places on State and local governments.

Another Senator said:

> This legislation will increase accountability.

There has been a lot of talk about accountability during the current debate on this bill. We are asking teachers, parents, and schools for accountability. We are going to hold States accountable for the money the Federal Government will be spending. But where is the accountability from Congress and the White House for the dollars that States are going to have to spend for the testing requirements of this bill?

I commend Senator JEFFORDS for his efforts to provide at least partial funding for the testing that this bill will require, but I do not believe it will be enough.

This bill will require the States to administer 12 different tests for students in grades 3 through 8. It will also require each State to participate in the NAEP test annually in grades 4 and 8, which accounts for 4 more tests. That is a total of 16 tests per year. As we can see from this chart, not all States currently administer tests with that kind of frequency. Fewer than a third of the States administer reading and math tests at all six grade levels each year. Another four States conduct reading and math tests at five of those grade levels, three States at four levels, and nine States at three levels. The remaining 19 States test students annually in reading and math at two or fewer grade levels. If we don't count participation in NAEP, we are requiring States to develop and administer another 216 tests. If we add in NAEP, we are requiring the States to administer 316 tests per year. You get the idea of the magnitude of testing involved in this bill.

As the other Senator from Minnesota explained several days ago, if the goal of these tests is to improve education, then you can't give cut-rate tests. An inexpensive, off-the-shelf test will not be able to accurately tell us how well or how poorly our students are doing. Given the stakes involved, States are not going to be able to administer their

testing on the cheap. These tests are going to cost the States a great deal of money, and they should.

In Nebraska, early in my tenure as Governor, we explored the costs of testing students in four core curriculum subjects. We received an estimate that ranged from $305 million for a basic test, and up to $13 million for one that would meet the standards for a good assessment in a single test. That was almost 10 years ago.

Our own experts in Congress, the Congressional Research Service, have said that complete information on the costs associated with student testing is impossible to obtain. The National Governors' Association estimated that these testing requirements could cost States at least $900 million. The National Association of State Boards of Education has estimated that they could cost between, as my colleague from Missouri said, $2.7 and $7 billion, well above the $400 million provided for in the bill.

The chart behind me shows the estimated cost to each State. No one can for sure say how much this will cost the States, as the Senator from Maine acknowledged yesterday with her amendment. I am willing to wager that the roughly $400 million per year that is in the bill, despite the best efforts of the Senator from Vermont, simply will not be enough.

I understand that the administration has also circulated some numbers that show that the costs might be less than what is contained in the bill. If that is the case, I will be pleased. But if it isn't the case, I hope the Senate will in fact adopt the amendment Senator CARNAHAN and I have proposed.

Our amendment simply requires the Federal Government to pay 100 percent of the cost of all new federally mandated tests. If 100 percent of the cost is less than what is currently in the bill, then perhaps we can use the leftovers to hire and train more teachers, which many think might be a good answer to the problem in any event. If 100 percent of the cost is more than the $400 million in the bill, then we have a real dilemma.

As the bill now stands, States will be responsible for every additional penny that these tests cost. As we have seen, potential costs can be very high.

In my State of Nebraska right now, there is not a lot of extra money available. I am sure there is not a lot of money available in the State of Missouri or the State of Florida, but there is no shortage of critical needs in the education field in every State. We are facing a teacher shortage in Nebraska that is of crisis proportions. Forty percent of our teachers, more than 8,000 of them, are going to be eligible to retire in the next 10 years. Our State won't be able to replace the excellent teachers who are retiring if too much of our State's money for education will be used to give tests instead of raising teacher's pay and other educational priorities.

Nebraska won't be able to meet these critical needs because the extra money simply isn't there and won't be there. The only alternative in my State may be to shift the cost to the taxpayers through higher property taxes. I am here to tell my colleagues that isn't acceptable in Nebraska.

In talking with some of my colleagues about this amendment, I have heard some additional concerns that I will address. I would like to be clear that neither I nor the Senator from Missouri oppose testing or setting high standards for students. While I was Governor, I severed as chairman of the National Education Goals Panel, which is part of the Goals 2000 effort, which called for setting high and measurable standards for students. I led in the State, despite some determined opposition, for developing strong educational standards in Nebraska.

Nor do we have any desire to weaken the accountability provisions of this bill. Our amendment doesn't do that. If our schools aren't preparing every child to succeed in the 21st century, then we are obligated to fix them.

I have no doubt that Nebraska's teachers, students, and schools can compete with any of those in any State in our Nation. This amendment would only prevent the Federal Government from sanctioning a State for falling behind schedule if it doesn't receive full funding for the cost of testing.

I have also been told that some Senators are worried about writing a blank Federal check to the States. They are concerned about a race to the top in terms of cost.

As the bill is now written, the Senate doesn't seem to be concerned about writing a blank check on each of the State's bank accounts without their permission. I see the irony of that, and I hope others do, too. But to address the concerns of my colleagues, we have added provisions that require the Secretary of Education, as my colleague has pointed out, to provide a report every year to both the authorizing and appropriating committees that details the costs of testing. If States are somehow gaming the system, we will know about it the first time it happens, and then we can correct it if it is necessary.

As I said at the beginning of my remarks, this is a simple, straightforward amendment. It requires the Federal Government to pay the full cost of the tests mandated by the bill. Unless we commit to do so, States will have to sacrifice funding for their own identified priorities or be forced to once again shift the cost to taxpayers in the form of higher property taxes.

I opened my remarks with a quote from a Senator who was describing the Unfunded Mandates Reform Act that this body passed 6 years ago. I think it might be worth repeating, as I come to a close. The Senator said:

> The result of these mandates is that local governments are forced to abandon their own priorities, to offer fewer services to the public, and to ultimately charge higher taxes and utility rates . . . The solution to the problem of unfunded mandates is to require Congress to pay for any mandate it places on State and local governments.

I do not think I could say it better, and I may not have said it better today.

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

The PRESIDING OFFICER (Mr. NELSON of Florida). Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I commend Senator CARNAHAN and Senator NELSON for bringing this amendment to the attention of the Senate. What we are focusing on, which is enormously important, is the issue of testing and accountability.

Their amendment brings to focus whether we are going to give assistance to the States and local communities to develop good quality tests. We have had a good debate on the issue of quality of tests. The Senate has gone on record in a bipartisan way to make sure we are going to have good quality tests. The Senators rightfully raise the question of whether our testing requirements are affordable and how are we going to make sure the States are not going to be in the situation where they will be left holding the bag, so to speak. It is a very important policy issue.

Having said that, I do think we have made some progress on this issue. I know it is not sufficient for Senator CARNAHAN and Senator NELSON, but I want to briefly review how we reached the figures that are included in the legislation. We listened to the recommendation of the NASB, the National Association of School Boards.

They made the recommendation that the development of these tests were going to amount to anywhere from $25 to $125 a student. The legislation provides some $69 per student. NASB said that development costs could be anywhere from $25 to $50. In this legislation, we provide only $20 per student.

What have we done? We accepted the Jeffords amendment that says, unless we are going to have the funding for the testing program at NASB recommended levels, we will not expect the States to have to comply with that program. That is currently included in the Jeffords amendment, and there was very broad support for the Jeffords amendment.

Under the Wellstone amendment, we have also added additional resources of some $200 billion a year that will come to $2.8 billion to make sure we are going to get quality. It is a legitimate question of whether we are going to get the appropriations.

The two Senators are making a very important point that if we are going to do this right, we have to get the resources to do it right. There is no guarantee we will get those additional

funds, but there is a sufficient guarantee with the amendment of Senator JEFFORDS that we will get the figures which I referred to earlier.

We have accepted the Collins amendment which requires a GAO report by May of 2002. That will provide an estimate of test development costs, as well as administration costs, and we will still have 3 years before the requirements for these tests are actually implemented to use that information if we are finding we are going to fall further behind. That is an additional protection.

A final point I will make is in the development of this approach which puts us squarely in the middle of the NASB recommendations at $69, when they have estimated the range goes from $25 to $125—it is right in the middle—and it is at the low end of administrative costs, there is a recognition that there has to be involvement of the State because the evaluations are an important additional ingredient in the States interest in making sure the children learn and have productive results.

Therefore, their recommendation understands there is a considerable amount of State staffing and teachers' time which would normally be used that the Federal Government does not necessarily require under the administration's proposal.

I think we are addressing this issue. I commend the Senators because it is an enormously important issue, to make sure we are going to get this right. The last thing we want to do is discourage a lot of children and find out these tests are being used as punishment. There are instances currently where they are being used as punishment, rather than detecting what the children do not know and then using those tests to provide supplementary services and changes in the curriculum to help advance the children in education.

I am satisfied we have sufficient protections for the development of these tests. We have the stopgap protection of the GAO report that will come in a reasonable period of time, so if we are falling further behind, we will be able to take action.

I have in my hand the current annual spending on tests per student by the 50 States. Under this proposal, it is $69. There is not a single State that is even close to $20 today. There are some States as low as $1.37. I will not read the names of the States, but reading from the bottom of the page: $1.37, $2.93, $6.65, $17.16, $12, $14, $8.69, $2, $15, $12, $9, $15, $7, $5, and the list goes on. That reflects all 50 States.

We are at least quadrupling, maybe as much as quintupling financial support for quality testing with the guarantee under the Jeffords' amendment.

No matter how this vote comes out, I give assurance of our strong interest in this. We will continue to work with my two colleagues on this issue because it is incredibly important and it reaches the heart of this whole issue of accountability.

We want to get it right. We are going in a different direction, and we are going into uncharted waters. We do not want to have the children bear the burden of our mistakes. This is something we needed to address. I hope they feel we are addressing it. I know they prefer to have the absolute guarantee. I respect that position, but I hope our colleagues will feel that in the legislation, as we have developed it, we have responded to their concern.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I rise to speak in opposition to the underlying amendment and to support and reinforce many of the comments the Senator from Massachusetts made on this particular amendment.

I, too, applaud the authors for this amendment because it is clear that in our goal to leave no child behind, it is going to require more assessments, measurable standards. You have to examine to make the diagnosis, and to do that, and do it effectively, it is going to require a series of assessments that can be compared year to year in a longitudinal way to track. It can be used to compare whether it is school to school so we know what works and does not work, or State to State. Those tests are going to require something.

The concern of both Senate sponsors of this amendment is that those resources be available because they are mandates, and they are new mandates. They are mandates that we in a bipartisan way agree with in assessment, expectation, and accountability of leaving no child behind. That being the case, and that being the goal, the questions are twofold: No. 1, is there adequate funding proposed? And that is the essence of this bill; there is a fear that there is not. No. 2, have we been able to improve the bill, through the amendment process in the underlying bill, to such a degree that such funds are available? We clearly believe so.

The underlying amendment I speak in opposition to, says, ''a State shall not be required to conduct any assessments under paragraph 3 in any school year if''—and the provisions are listed after that. I will stop right there. ''A State shall not be required to conduct any assessment under paragraph 3 . . . if''—and I will stop there.

That brings to heart two arguments: No. 1, is testing important, is measuring results important, is assessment important? I believe very strongly they are important.

In a bipartisan way, we worked aggressively to underscore that these assessments are important and there should be no ''if'' after it.

No. 2, is the funding adequate itself? It comes back to their provision that 100 percent of the cost of the assessments must be guaranteed or you do not do the assessments. That comes to the question to which Senator KENNEDY spoke. We believe the bill has been improved and those funds are available.

The first point, we should do nothing in the amendment process in the bill that will in any way say we are anti-achievement, anti-measurable standards, anti-accountable, anti-high expectation. I believe this amendment is just that. The Carnahan-Nelson amendment potentially nullifies any new testing requirements for a State. These testing requirements, the measurable results have been arrived at through the Committee on Health, Education, Labor, and Pensions, through much debate and a bipartisan working group, debated regarding establishing importance and how these would be carried out and what sort of standards would be met. By potentially stripping away those provisions we are tearing out the heart of this bill, tearing out the heart of what President Bush feels so strongly about, that we leave no child behind.

Remember, the amendment says, a State shall not be required to conduct any assessments . . . if. That is enough for me to argue against this amendment.

Annual measurements are important. In the underlying bill, we start in the third grade. It is third through the eighth grade, giving an opportunity to make sure the money we invest in this bill is spent properly. Over the last several weeks we have invested huge, huge amounts of money through the authorization process, and we will see a lot more in appropriations. The President of the United States is committed to spending more in education this year than any President in the past if it is coupled with reform. Those accountability provisions cannot be gutted, cannot be torn out of this bill. There should be no ''if.''

Second, is the question of funding. Again, we should never put dollars in front of children. The Senator from Massachusetts mentioned the Jeffords amendment which passed on the second day the bill was brought to the floor. He mentioned the Wellstone amendment. He mentioned the Collins amendment which looks at a GAO study to look at the specific issue of testing what should be required in terms of those tests and the evaluation of those tests. In the Jeffords amendment and the Wellstone amendment, again, over $2.8 billion will be made available for this testing.

We have an amendment which addresses the fundamental concern, a legitimate concern, that this is a serious mandate, so serious that, first and foremost, there should be no ''if'' after the clause.

Second, the hypothetical that if Congress does not end up with appropriate funding as required by what we passed in the way of reform in the bill itself—I share concern with my colleagues, in the bill as amended, the States may delay, already, implementation of the tests, are not required to conduct any assessments because assessments have to be in there, but delay implementation of the tests until the appropriate funding is available, and this is already in the bill.

Every State is addressing this issue of funding and the requirement of having assessments in a different way. In my State of Tennessee, we already test students for math and reading in the third grade, the fourth grade, the fifth grade, the sixth grade, the seventh grade, and the eighth grade. At least $50 million will be coming to Tennessee for these assessments. Tennessee will have the flexibility today to use that $50 million. It could be more than that, but we can improve the test and make it longitudinal to compare a student and see how they progress over time. That flexibility is there.

Last, and I will close, I think we all agree on the importance of measurable results and the assessments so we will know how our children are doing. This amendment is unnecessary to my mind. The $2.8 billion added in the amendment process already addresses this issue.

Every State has the opportunity in the amendment to opt out of standards, measurable results, achievement, the high expectations that are the heart and soul of the bill.

I urge my colleagues to vote against this amendment when it comes to the floor.

Mr. GREGG. I yield myself such time as I may consume.

I associate myself with the Senator from Tennessee. It was an excellent statement summarizing the views I also hold. I associate myself with the statement of Senator KENNEDY.

We are ready to yield back our time and go to a vote if the other side is prepared. We yield back our time.

The PRESIDING OFFICER. The Senator from Missouri.

Mrs. CARNAHAN. Mr. President, I suggest to the Senator from Tennessee that he has already announced this was, in fact, a mandate. It is an inadequately funded mandate at that. I reiterate, what we have in cost is a best guess estimate. There is no certainty. The current bill provides protection only if $400 million is all that is needed. Beyond that, we have no guarantee. We have no guarantee that the Wellstone amendment or others will have money appropriated.

This amendment, I might also suggest, is not an anti-testing amendment. The only circumstances where States will be released from the testing requirement is if the Federal Government fails to provide full funding. Anyone who makes an anti-testing argument about this amendment is implicitly saying that the Federal Government is not going to pay the full cost of the tests. If you say the Federal Government is not going to pay the full costs of the tests, I ask in return, what part of local budgets do you plan to cut to make up the difference? Are you going to cut teachers' salaries or textbooks or other resources that are stretched too thin?

The PRESIDING OFFICER. All time is expired. The question is on agreeing to amendment No. 385. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Idaho (Mr. CRAPO) and the Senator from Utah (Mr. HATCH) are necessarily absent.

I further announce that if present and voting, the Senator from Utah (Mr. HATCH) would vote ''nay.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 55, as follows:

[Rollcall Vote No. 174 Leg.]

YEAS—43

Allard	Dayton	Miller
Allen	Dodd	Murray
Baucus	Durbin	Nelson (NE)
Bayh	Edwards	Reed
Biden	Feingold	Reid
Boxer	Graham	Rockefeller
Breaux	Harkin	Sarbanes
Cantwell	Hollings	Schumer
Carnahan	Kerry	Stabenow
Carper	Kohl	Torricelli
Cleland	Leahy	Voinovich
Clinton	Levin	Wellstone
Conrad	Lincoln	Wyden
Corzine	McCain	
Daschle	Mikulski	

NAYS—55

Akaka	Fitzgerald	McConnell
Bennett	Frist	Murkowski
Bingaman	Gramm	Nelson (FL)
Bond	Grassley	Nickles
Brownback	Gregg	Roberts
Bunning	Hagel	Santorum
Burns	Helms	Sessions
Byrd	Hutchinson	Shelby
Campbell	Hutchison	Smith (NH)
Chafee	Inhofe	Smith (OR)
Cochran	Inouye	Snowe
Collins	Jeffords	Specter
Craig	Johnson	Stevens
DeWine	Kennedy	Thomas
Domenici	Kyl	Thompson
Dorgan	Landrieu	Thurmond
Ensign	Lieberman	Warner
Enzi	Lott	
Feinstein	Lugar	

NOT VOTING—2

Crapo	Hatch

The amendment (No. 385) was rejected.

Mr. KENNEDY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mrs. LINCOLN). The Senator from Massachusetts.

Mr. KENNEDY. We have an amendment from the good Senator from New Hampshire, and then after we address that amendment and dispose of it, the Senator from Minnesota, Mr. WELLSTONE, has a very important amendment where he intends to address the Senate for a period of time.

So we are making some progress now. We have already included a number of amendments, about 15 amendments that were cleared earlier in the day. We are continuing to make progress. We are grateful for all the support we are receiving from all of our Members. We are going to continue to press ahead.

I look forward to the consideration of the amendment offered by the Senator from New Hampshire.

AMENDMENT NO. 487 TO AMENDMENT NO. 358

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire is recognized to call up amendment No. 487, on which there shall be 40 minutes of debate to be equally divided and controlled.

The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Madam President, I call up amendment No. 487.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] proposes an amendment numbered 487.

Mr. SMITH of New Hampshire. 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:

(Purpose: Expressing the sense of the Senate to urge that no less than 95 percent of Federal education dollars be spent in the classroom)

At the appropriate place, insert the following:

SEC. ___. SENSE OF SENATE ON THE PERCENTAGE OF FEDERAL EDUCATION FUNDING THAT IS SPENT IN THE CLASSROOM.

(a) FINDINGS.—The Senate makes the following findings:

(1) Effective and meaningful teaching begins by helping children master basic academics, holding children to high academic standards, using sound research based methods of instruction in the classroom, engaging and involving parents, establishing and maintaining safe and orderly classrooms, and getting funds to the classroom.

(2) America's children deserve an educational system that provides them with numerous opportunities to excel.

(3) States and localities spend a significant amount of education tax dollars on bureaucratic red tape by applying for and administering Federal education dollars.

(4) Several States have reported that although they receive less than 10 percent of their education funding from the Federal Government, more than 50 percent of their education paperwork and administration efforts are associated with those Federal funds.

(5) According to the Department of Education, in 1998, 84 percent of the funds allocated by the Department for elementary and secondary education were allocated to local educational agencies and used for instruction and instructional support.

(6) The remainder of the funds allocated by the Department of Education for elementary and secondary education in 1998 was allocated to States, universities, national programs, and other service providers.

(7) The total spent by the Department of Education for elementary and secondary education does not take into account what States spend to receive Federal funds and comply with Federal requirements for elementary and secondary education, nor does it reflect the percentage of Federal funds allocated to school districts that is spent on students in the classroom.

(8) American students are not performing up to their full academic potential, despite significant Federal education initiatives and funding from a variety of Federal agencies.

(9) According to the Digest of Education Statistics, only 54 percent of $278,965,657,000 spent on elementary and secondary education during the 1995–96 school year was spent on ''instruction''.

(10) According to the National Center for Education Statistics, only 52 percent of staff employed in public elementary and secondary school systems in 1996 were teachers, and, according to the General Accounting Office, Federal education dollars funded 13,397 full-time equivalent positions in State educational agencies in fiscal year 1993.

(11) In fiscal year 1998, the paperwork and data reporting requirements of the Department of Education amounted to 40,000,000 so-called ''burden hours'', which is equivalent to nearly 20,000 people working 40 hours a week for one full year, time and energy which would be better spent teaching children in the classroom.

(12) Too large a percentage of Federal education funds is spent on bureaucracy, special interests, and ineffective programs, and too little is effectively and efficiently spent on our America's youth.

(13) Requiring an allocation of 95 percent of all Federal elementary and secondary education funds to classrooms would provide substantial additional funding per classroom across the United States.

(14) More education funding should be put in the hands of someone in a classroom who knows the children personally and frequently interacts with the children.

(15) Burdensome regulations, requirements, and mandates should be refined, consolidated or removed so that school districts can devote more resources to educating children in classrooms.

(b) SENSE OF THE SENATE.—It is the sense of the Senate to urge the Department of Education, the States, and local educational agencies to work together to ensure that not less than 95 percent of all funds appropriated for carrying out elementary and secondary education programs administered by the Department be spent to improve the academic achievement of our children in their classrooms.

Mr. SMITH of New Hampshire. Madam President, I rise today to discuss my amendment, which is a sense-of-the-Senate amendment, but it has a very important point to make. It states that not less than 95 percent of all funds that are appropriated for carrying out elementary and secondary education, administered by the Department of Education, be spent to improve the academic achievement of our children in the classroom; in other words, 95 percent of the money in this bill should go to the classroom for our children, which is where it should go.

As a former teacher, I think I would understand perhaps as well as anyone in this body how important it is to get those funds directly into the classroom where the kids can benefit.

I thank Representative SAM GRAVES of Missouri for offering a similar amendment to the House education bill over there which ensures that 95 percent of education money is spent locally.

Congressman GRAVES' amendment was passed overwhelmingly in the House. I believe the Senate should go on record supporting local control of Federal education dollars as well.

It might sound like an anomaly—local control of Federal education dollars—but if the Federal education dollars are going to be sent to the State, then give the State the flexibility to spend them. Let the local people make the decisions wherever possible.

The other side of the aisle has been offering up amendment after amendment after amendment calling for more funding for numerous education programs. Many of these amendments have been adopted over the past several days and hours. But if we are going to allocate more money for education, then I think we need to make a statement, which I do in my amendment, that it is vital to ensure that the money be spent in the classroom for the children. That is the appropriate way to spend those dollars.

After all, if the Federal Government is going to spend billions of dollars on education, then those dollars should go not to some bureaucracy, not to establish some mechanism to send those dollars into the local schools, but, rather, getting the money directly to the local schools.

I think we all know the cost of getting dollars into the State from the Federal Government—what it costs you to send the money to the local community—is pretty high. In fact, in New Hampshire it is about 47 cents on the dollar, which is not a good return.

As a former New Hampshire teacher and school board chairman, I had the opportunity to see this on both sides, both as a board member and as a teacher—and also as a parent for 26-plus years. I am convinced that decisions regarding education are best executed at the local level and that we should not run our public schools from Washington, DC. We do not need a national school board.

Some will say: With all these Federal dollars, how do you do it? We can provide Federal dollars, if we must, but let's do it with as few strings as possible to allow the local boards and the local parents to make the decisions, the local communities.

Our public schools—and I say this as a former public school teacher—hold so much promise. I want to make sure the Senate goes on record today that a minimum of 95 cents of every education dollar should go directly to those classrooms.

We need to give 95 cents of every dollar. It is a shame we can't give 100 percent, a dollar for every dollar, to those teachers and students in New Hampshire and not to some bureaucrat or bureaucracy in Washington, DC.

We need to support education, not regulation, if we are going to spend the money. My amendment simply directs the Department of Education to join our States and local school districts in an all-out effort to direct 95 percent of our Federal education dollars to the place in which it belongs—the classroom. I don't think that is unreasonable.

It is important to understand that the Department of Education has not been entirely responsible with the billions of dollars in taxpayers' money we have been giving to them over the years. Some of it has been spent responsibly, but a lot of it has not. Let me give a few examples of some of the waste at the Department of Education.

I hate to bring it up, but it is important to understand that if you just continue to throw good money after bad, you never correct the problem. There were 21 cases where grant checks were issued twice to the same recipients, for a total cost to the taxpayers of America of $250 million. Auditors were able to recover the money eventually, but how much time and how much cost was involved in recovering the $250 million? That is the point. It should not have happened. We are careless.

We can eliminate a lot of these kinds of mistakes—and maybe some of it is deliberate; I don't know—by simply stipulating that it is the sense of the Congress and the Senate that 95 cents on every dollar go to the classroom, so when these kinds of things happen, these people know they are going to be held accountable, that we mean business, that the Senate means business, that 95 cents of every dollar is going to go to the classroom, not for this kind of nonsense with the duplication of grant checks.

Some will say that was just a mistake; 21 mistakes is not a big deal. Maybe it was a mistake, but it is a careless mistake. If the bureaucracy knows it can be held accountable, they will be a little more careful. What would happen if we hadn't found the mistakes? If we had not had an auditor finding that mistake, it would have cost the taxpayers $250 million.

I say to every American who is listening to me now, think of any school district, yours in particular, wherever you live in America, and think about the classroom, perhaps the one where your child is. Could you use a little bit of that $250 million in your classroom, if you are a teacher, or your child's classroom, if you are a parent? I can think of a lot of things I could have done with a few million dollars in my classroom when I was teaching, whether it was more textbooks, perhaps raising teachers' pay. It is better than throwing it away in mistakes made by a bureaucracy that has run roughshod over the whole educational system.

Let me cite another example of waste at the Department of Education. Twenty-one employees were allowed to write checks of up to $10,000 without supervision—no accountability—from May 1998 to September 2000; 19,000 checks totaling $23 million were written by these people. Who is checking on that? Who is making sure that those 21 employees who wrote checks of up to $10,000 without supervision—who is checking to find out whether that $23 million was the right amount of money?

We also have the example of 141 unapproved purchases in the Department of Education totaling more than $1 million— purchases that were made on Government credit cards for software, cell phones, Internet, computers. Even though DOD guidelines—Department of Defense guidelines—specifically say these things are not to be purchased on credit cards, you have $1 million worth

of purchases, 141 purchases totaling $1 million.

The point I make here is, the more rein and flexibility you give to the bureaucracy, the more dollars you throw away; without a firm accountability, the more it is going to be wasted. If we pass this amendment and we say the Senate has now spoken and has said that 95 cents will go to the classroom, when we hear about such things, people will be a little bit concerned about it. They will be more self-conscious. They will be more careful. It is going to be a win-win, a win for the kids in the classroom and a win for the taxpayers.

This year tax freedom day was May 3, 2001, according to the tax foundation. Tax freedom day is the average day that Americans start working for themselves as opposed to the Government. President Bush's tax cut package will certainly help in that regard, but as it stands now, from January 1, 2001, to May 11, 2001, Americans work for their respective local and State governments and the Federal Government. That is, from January 1 to May 11, every dollar you earn went to one of those governments, local, State, or Federal. You didn't earn anything for yourself. You started earning money for yourself on May 12.

I want every American to know that the money spent by the Federal Government should not be wasted, including the Department of Education. If we put this restriction on, we are making a very strong statement that we expect you to be accountable. We don't want to hear any more stories about 141 purchases totaling more than $1 million in unapproved credit card purchases or grant checks issued twice to the tune of $250 million. We don't want to hear about it. We are not going to tolerate it. That is what we are saying if we support this amendment.

If you don't care, if you don't want the bureaucracy to be accountable and you couldn't care less whether we waste $250 million, even though taxpayers work hard until May 11 just to pay their bills, then you should vote against my amendment. I encourage you to vote against my amendment if that is what you believe. If you think it is OK that taxpayers can work until May 11 and not get a dime for themselves and you don't care about waste, fraud, or any other abuse in the bureaucracy, then vote against my amendment. But if you care about taxpayers saving their hard-earned money and putting it to use for themselves and you care about getting money directly to the classroom, to the kids, then you should vote for my amendment.

That is exactly the way the amendment should be evaluated. You are either for kids getting the money and saving taxpayers money, or you are in favor of wasting taxpayer money and do not care whether the kids get the money in the classroom or not. It is pretty simple.

The American people work very hard for that money. The Federal Government should not squander one cent of it. Actually, too many of our tax dollars are spent on bureaucracies at all levels of government, not just the Department of Education. That waste is not going to end tomorrow. We must pledge to do better. We must tell the Department of Education to give the money to the localities. Let them spend it as they see fit. Don't spend it here in Washington, DC, with some bureaucracy to funnel the money.

Federal education dollars should not be spent to expand some bloated bureaucracy here in Washington. Lord knows, we have enough bloated bureaucracies here. Those precious dollars should go right to the educational opportunities of our kids. More education dollars should be spent directly in the classroom, and we need to shift the focus of our education system back to the students.

This is a great way to do it. It is a simple statement. It is a sense of the Senate. It is not binding, but it is a sense of the Senate that says: We want you to do that. We expect you to do that. If you don't do it at the Department of Education, then we may just have to come after you. We expect you to save the money for the taxpayers and get the money to the students.

My amendment supports the proposition that the best education is the education left to the local decisionmakers and that the best way to be accountable to our taxpayers is to eliminate the bureaucracy and the high cost of getting the money to the local community and getting it there quickly and cheaply.

The Heritage Foundation issued a report recently titled ''U.S. Department of Education Financing of Elementary and Secondary Education, Where the Money Goes.'' It is a very interesting report. It found that as the United States prepares to enter the 21st century, its educational system is in crisis, the public education system. I agree with that. We talk about the crisis in energy and in other matters. There is a very interesting finding in this report. I will just give a brief quote from it:

> The vast majority of all Federal education funds does not go to schools or school districts.

Think about that.

> The vast majority of all Federal education funds does not go to schools or school districts.

That seems to be a dichotomy if I ever heard one. Why wouldn't it? Where is it going?

> In 1995, 33 percent of the total $100 billion the federal government allocated for education was spent by the Department of Education . . . 40 percent of Department of Education funds went to local educational agencies, 13.1 percent of total federal education spending. Contrary to what many Americans believe, the Department of Education funds very few elementary and secondary education programs in their local communities.

That is an outrageous finding—they are funding very few elementary and secondary education programs. What is the purpose of the Federal Department of Education if it is not going to give money to local communities for elementary and secondary education?

How do we get it to the classroom? What actually makes it to the classroom? What gets to the classroom? Let's find out.

According to the Heritage Foundation:

> Audits around the country have found that as little as 26 percent of school district funds is being spent on classroom expenditures.

Classroom expenditures are defined as expenditures for teachers and materials for their students—26 percent.

If that is acceptable to my colleagues, vote against my amendment. Please vote against it because I want to be honest; I want to be straightforward. If my colleagues think it is OK to take a dollar from the taxpayer for education and 26 percent of that dollar goes to the kids and the rest does not, if that is OK with them, then please vote against my amendment. But if my colleagues really believe we ought to get the money to the kids, then vote for my amendment.

Do my colleagues want to increase the bureaucracy and have a lot of people sitting around making decisions they should not be making and wasting money and having all these findings we just discussed a few moments ago? Then vote against my amendment. If they want to eliminate that and get the money directly to the kids, then they should vote for it.

My amendment makes several findings to support the conclusion that 95 percent of all funds we are going to spend on the Elementary and Secondary Education Act be spent to improve the academic achievement of our children in their classrooms.

My amendment, in finding 4, states that:

> Several States have reported that although they receive less than 10 percent of their education funding from the Federal Government, more than 50 percent of their education paperwork and administration efforts are associated with those Federal funds.

Fifty percent of the paperwork is associated with the Federal funds. We always hear this talk about we are going to eliminate the bureaucracy, we are going to clear up the paperwork. It never happens. We are going to reinvent Government.

How many times have we heard all these phrases? It is very simple. Just accept this resolution that it is unacceptable for anything less than 95 percent to go to the classroom and then enforce it. When my colleagues see all those bureaucracies popping up, let's get rid of them and put the money into the classrooms.

We need to make sure that education money is not wasted on paperwork and administrative personnel. There always has to be a commission or a board or a bunch of people sitting around juggling papers to determine this requirement or that requirement, how much money goes here and who has to administer it,

and then another bureaucracy pops up to administer the previous bureaucracy.

Take a look at this. The Department of Education started less than 30 years ago at $2 billion, $3 billion. It is now in the tens of billions of dollars to run it. Unfortunately, only 26 cents on the dollar gets to the kids.

My amendment, in finding 11, states:

In fiscal year 1998 the paperwork and data reporting requirements of the Department of Education amounted to 40 million so-called—

Only in Government would we hear a phrase such as this—

burden hours, which is the equivalent of nearly 20,000 people working 40 hours a week for one full year. Time and energy which would be better spent teaching children in the classroom.

Burden hours, only in Washington. It is like getting on an elevator in Washington. Only in Washington does one get on an elevator to go up to the basement. If you do not believe me, get on the elevator anywhere around here and you find that to be true. Only in Washington, only in Government, do we have these kinds of phrases. It is nonsense. Burden hours, the equivalent of nearly 20,000 people working 40 hours a week for 1 full year.

The Federal Government needs to decrease paperwork requirements and data reporting. We have to stop talking about it and start doing it. Those Federal requirements may make for nice Government reports. There is a report right here. Here is the report on the bill. I am sure every Senator has read this word for word, sitting back in their offices at night. They read it before they go to bed. They get up in the morning and read every word of it. Look at this stuff. There are tens of thousands of pages of background that go into this report.

Here is another one. Here is the bill. That is the report. This is the bill. This is even bigger and larger. Look, page after page after page—more bureaucracy. The Department needs to look at reducing regulations and how Federal money is spent, reducing paperwork.

Madam President, I ask that the Senate go on record that not less than 95 cents of every Federal education dollar be spent or used in the classroom, and I do not think that is an unreasonable request.

Has my time expired?

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

Mr. SMITH of New Hampshire. I ask for the yeas and nays before I yield the floor.

Mr. REID. This side will be happy to yield back our time.

The PRESIDING OFFICER. The Senator has requested the yeas and nays.

Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. REID. If I may be heard briefly. Madam President, we are willing to take a voice vote after listening to the Senator's statement to the Senate. However, it appears he wants to have a recorded vote. We have no objection to that if the Senator wants a recorded vote. We happen to second his request.

Mr. SMITH of New Hampshire. The Senator is correct; I request a recorded vote. I yield the floor, Madam President.

Mr. REID. We yield back our time.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to amendment No. 487. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Idaho (Mr. CRAPO), the Senator from Utah (Mr. HATCH), and the Senator from Montana (Mr. BURNS) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) and the Senator from Montana (Mr. BURNS) would each vote ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 175 Leg.]

YEAS—96

Akaka	Durbin	McCain
Allard	Edwards	McConnell
Allen	Ensign	Mikulski
Baucus	Feingold	Miller
Bayh	Feinstein	Murkowski
Bennett	Fitzgerald	Murray
Biden	Frist	Nelson (FL)
Bingaman	Graham	Nelson (NE)
Bond	Gramm	Nickles
Boxer	Grassley	Reed
Breaux	Gregg	Reid
Brownback	Hagel	Roberts
Bunning	Harkin	Rockefeller
Byrd	Helms	Santorum
Campbell	Hollings	Sarbanes
Cantwell	Hutchinson	Schumer
Carnahan	Hutchison	Sessions
Carper	Inhofe	Shelby
Chafee	Inouye	Smith (NH)
Cleland	Jeffords	Smith (OR)
Clinton	Johnson	Snowe
Cochran	Kennedy	Specter
Collins	Kerry	Stabenow
Conrad	Kohl	Stevens
Corzine	Kyl	Thomas
Craig	Landrieu	Thompson
Daschle	Leahy	Thurmond
Dayton	Levin	Torricelli
DeWine	Lieberman	Voinovich
Dodd	Lincoln	Warner
Domenici	Lott	Wellstone
Dorgan	Lugar	Wyden

NAYS—1

Enzi

NOT VOTING—3

Burns	Crapo	Hatch

The amendment (No. 487) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NOS. 791 AS FURTHER MODIFIED, 363 AS FURTHER MODIFIED, AND 356, AS MODIFIED

Mr. KENNEDY. Madam President, I ask unanimous consent that the previously agreed to amendments, No. 791 by Mr. BINGAMAN, No. 363 by Mr. TORRICELLI, and No. 356 by Mr. CORZINE, be further modified with the changes at the desk in order to conform to the underlying Jeffords substitute amendment.

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

The amendments (Nos. 791 as further modified, 363 as further modified, and 356), as modified, are as follows:

AMENDMENT NO. 791, AS FURTHER MODIFIED.

On page 7, line 21, insert ''after consultation with the Governor'' after ''agency''.

On page 8, line 1, insert ''after consultation with the Governor'' after ''agency''.

On page 35, line 10, strike the end quotation mark and the second period.

On page 35, between lines 10 and 11, insert the following:

''(c) STATE PLAN.—Each State educational agency, in consultation with the Governor, shall prepare a plan to carry out the responsibilities of the State under 1116 and 1117, including carrying out the State educational agency's statewide system of technical assistance and support for local educational agencies.''.

On page 35, line 20, insert the following: ''prepared by the chief State school official, in consultation with the Governor,'' after ''a plan''.

On page 706, line 8, insert '', after consultation with the Governor,'' after ''which''.

On page 706, line 16, insert ''fter consultation with the Governor, a'' after ''A''.

On page 707, line 2, insert ''fter consultation with the Governor, a'' after ''A''.

AMENDMENT NO. 363, AS FURTHER MODIFIED

On page 71, line 24, strike ''and''.

On page 72, line 3, strike all after ''1118'' and insert ''; and''.

On page 72, between lines 3 and 4, insert the following:

''(11) where appropriate, a description of how the local educational agency will use funds under this part to support school year extension programs under section 1120C for low-performing schools.'';

On page 175, between lines 16 and 17, insert the following:

SEC. 120D. SCHOOL YEAR EXTENSION ACTIVITIES.

Subpart 1 of part A of title I (20 U.S.C. 6311 et seq.) is amended by adding at the end the following:

''SEC. 1120C. SCHOOL YEAR EXTENSION ACTIVITIES.

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—A local educational agency may use funds received under this part to—

''(A) to extend the length of the school year to 210 days;

''(C) conduct outreach to and consult with community members, including parents, students, and other stakeholders to develop a plan to extend learning time within or beyond the school day or year; and

''(D) research, develop, and implement strategies, including changes in curriculum and instruction.

''(c) APPLICATION.—A local educational agency desiring to use funds under this section shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the agency may require. Each application shall describe—

''(1) the activities to be carried out under this section;

''(2) any study or other information-gathering project for which funds will be used;

''(3) the strategies and methods the applicant will use to enrich and extend learning time for all students and to maximize high quality instruction in the core academic

areas during the school day, such as block scheduling, team teaching, longer school days or years, and extending learning time through new distance-learning technologies;

''(4) the strategies and methods the applicant will use, including changes in curriculum and instruction, to challenge and engage students and to maximize the productiveness of common core learning time, as well as the total time students spend in school and in school-related enrichment activities;

''(5) the strategies and methods the applicant intends to employ to provide continuing financial support for the implementation of any extended school day or school year;

''(6) with respect to any application to carry out activities described in subsection (b)(1)(A), a description of any feasibility or other studies demonstrating the sustainability of a longer school year;

''(7) the extent of involvement of teachers and other school personnel in investigating, designing, implementing and sustaining the activities assisted under this section;

''(8) the process to be used for involving parents and other stakeholders in the development and implementation of the activities assistance under this section;

''(9) any cooperation or collaboration among public housing authorities, libraries, businesses, museums, community-based organizations, and other community groups and organizations to extend engaging, high-quality, standards-based learning time outside of the school day or year, at the school or at some other site;

''(10) the training and professional development activities that will be offered to teachers and others involved in the activities assisted under this section;

''(11) the goals and objectives of the activities assisted under this section, including a description of how such activities will assist all students to reach State standards;

''(12) the methods by which the applicant will assess progress in meeting such goals and objectives; and

''(13) how the applicant will use funds provided under this section in coordination with funds provided under other Federal laws.

AMENDMENT NO. 356, AS MODIFIED

On page 684, line 6, strike ''and''.

On page 684, line 7, strike the period and insert ''; and''.

On page 684, between lines 7 and 8, insert the following:

''(O) activities to promote consumer, economic, and personal finance education, such as disseminating and encouraging the use of the best practices for teaching the basic principles of economics and promoting the concept of achieving financial literacy through the teaching of personal financial management skills (including the basic principles involved in earning, spending, saving, and investing).''.

Mr. KENNEDY. Madam President, we are moving along. I am very appreciative of the cooperation we are getting. We now have a very important amendment by Senator WELLSTONE which is one of the most important that we will have during this debate. We have some good time allocated for a very good discussion. Senator WELLSTONE will open and, obviously, respond to questions. It is our intention, following Senator WELLSTONE, to consider the amendment of the Senator from New York, Mrs. CLINTON, dealing with dilapidated schools, and Senator FEINSTEIN dealing with school construction. And Senator KERRY, my colleague, has two on principals and alternative placements. Those are listed in the list of amendments. I understand there may be amendments from the other side related to those. But we are trying to move this.

Obviously, if there are amendments related to it, we will deal with them the way we have in the past, but I wanted to at least give our Members an idea about what is coming up this afternoon. We are hopeful to continue to make good progress through the course of the afternoon.

Mr. GREGG. Madam President, I also believe Senator HUTCHISON has an amendment.

Mr. KENNEDY. I appreciate that. Senator HUTCHISON has a very important amendment. A number of our colleagues have been interested in that subject matter. That has been going on for a number of days. They have been very constructive resolutions. I hope perhaps after Senator CLINTON we might be able to consider that amendment. We will be in touch with the Republican leader, and we will give her as much notice as we can, but we will try to see if we can't dispose of it after the Clinton amendment.

Mr. REID. Madam President, Senator DASCHLE last night in the closing minutes of the Senate indicated that one of the things he wanted to do was hold the votes as close to 20 minutes as possible. Today we have done fairly well in that regard. The votes have run over. The first one was 25 minutes and this one was 26 or 27 minutes. We are trying to make the 20-minute mark that the majority leader has given us. I say to all the staff listening and Senators who are watching, I hope they understand the 20-minute rule Senator DASCHLE is going to try to get us trained to respond to. We have wasted so much time waiting for people to come. It is going to be necessary for some people to miss votes. I hope everyone will understand that this is the only way we can be considerate of others. There shouldn't be hard feelings. This will be applied as we are trying to do everything here on a bipartisan basis.

Mr. KENNEDY. Madam President, I know the Senator will be here momentarily. I will request the absence of a quorum until he is here to present his amendment. 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. WELLSTONE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

AMENDMENT NO. 466 TO AMENDMENT NO. 358

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota, Mr. WELLSTONE, is recognized to call up amendment No. 466, on which there shall be 4 hours to be equally divided and controlled.

Mr. WELLSTONE. Mr. President, I am going to send the amendment to the desk on behalf of myself and Senator DODD, along with Senators DAYTON, FEINGOLD, CLINTON, HOLLINGS, MURRAY, REED, and CORZINE.

The PRESIDING OFFICER. The amendment is currently at the desk. Are you modifying this?

Mr. WELLSTONE. The amendment is at the desk. I am sorry. I ask unanimous consent that the additional Senators be added as cosponsors.

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

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself, Mr. DODD, Mr. DAYTON, Mr. FEINGOLD, Mrs. CLINTON, Mr. Hollings, Mrs. MURRAY, Mr. REED, and Mr. CORZINE, proposes an amendment numbered 466.

Mr. WELLSTONE. 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:

(Purpose: To limit the conduct of certain assessments based on the provision of sufficient funding to carry out part A of title I of the Elementary and Secondary Education Act of 1965)

On page 48, between lines 14 and 15, insert the following:

''(iii) no State shall be required to conduct any assessments under this subparagraph in any school year if, by July 1, 2005, the amount appropriated to carry out this part for fiscal year 2005 does not equal or exceed $24,720,000,000;''.

Mr. WELLSTONE. Mr. President, this amendment, I think in a lot of ways, is kind of a test case of whether or not we are passing a reform bill. I will have a lot to say about this, and other Senators will as well. I am certainly hoping that colleagues on the other side—whether they are Republicans or Democrats—who disagree will come to this Chamber to express their dissent so that I can know what possible arguments can be made against this amendment.

There are many Senators who have said publicly in this Chamber, and back in their States, and in interviews with the media, that we have to have this testing for the accountability—we can talk more about that later—but that, in addition, we also have to have the resources to make sure that the children, the schools, and the teachers have the tools to do well.

The testing is supposed to assess the reform. The testing is not supposed to be the reform. I remember at the very beginning, a long time ago, I said: You cannot realize the goal of leaving no child behind or you cannot talk about an education reform program if it is on a tin cup budget; you have to have the resources.

I have heard many Senators say: We are for the testing for the accountability, but we are also going to invest in these children and make sure there are the resources. That is point 1.

Point 2: Senator DODD and Senator COLLINS came to this Chamber with a very important amendment which authorized a dramatic increase in resources for the title I program. It was a bipartisan amendment. There were, I believe, 79 Senators who voted for this amendment.

This amendment was a Paul Simon amendment. It turns out the Senator from Illinois is in the Senate Chamber. This amendment was an education amendment by Senator DODD and Senator COLLINS. I say to the best friend I ever had in the Senate—Senator Paul Simon of Illinois—who is here, that what I am now saying to every Senator is: 79 Senators voted for an authorization, but that is not money. That is fiction.

This amendment says that by 2005—we committed in that amendment that we would spend $24.72 billion for title I which would go to the benefit of children for extra reading help, for afterschool, for prekindergarten, all of which is critically important.

So what this amendment says is that the tests we are authorizing need not be implemented unless we, in fact, appropriate the money at the level we said we would. This was the amount the Dodd amendment authorized. We have been saying to our States: We are going to get you the resources. So what we are saying in this amendment is that States do not have to do this unless we make the commitment to the resources.

I have heard people talk about the need to walk our talk. I have heard Senator after Senator say that they are for accountability but they are for resources. I do not know how Senators can vote against this proposal. We said we were for authorizing this money. This amendment is a trigger amendment. It says that we make this commitment to $24.72 billion for title I. And this amendment says, if we do not do this, then the new tests need not be implemented.

If the States or school districts want to say we do not want to do this because you have not lived up to your commitment, they do not have to do it.

I look back because sometimes our staff do the best work. So I am looking back at Jill Morningstar to make sure I am right about this.

Now just a little bit about what this really is all about. This is the heart of the debate. Right now, title I is a program for children from disadvantaged backgrounds. It is the major Federal commitment. We are funding it at a 30-percent level. The title I money is used for extra reading help. It can be used for prekindergarten. It can be used to help these children do better.

What this amendment is saying is, it does not do a heck of a lot of good to test the children all across the country when we have not done anything to make sure they have the best teachers; that the classes are smaller; that the buildings are inviting; that they come to kindergarten ready to learn; that they get additional help for reading.

The testing is a snapshot. It is one piece of the picture. It does not tell us anything about what happened before or what happens after. What good does it do to have so many children in America right now who are crowded into dilapidated buildings, into huge classes, who have four teachers a year, who do not have the same resources and benefits as a lot of other children, who come to kindergarten way behind, and we are going to test them and show that they are not doing well, which we already know, but we are not going to have the resources to do anything to help them after they don't do well on the tests. Or even more importantly, we are not going to have the resources to help them to make sure that when we hold them accountable, they have the same opportunity as every other child in America to do well.

I am on fire about this amendment because this is the amendment that holds people accountable for the words they have been speaking. We must not separate the lives we live as legislators from the words we speak. We have been saying that we were going to have the resources, that we were going to get them to the teachers and the schools and the children. And that is what this amendment says. This amendment says: Don't fool people by just doing an authorization.

This was so important what Senator DODD did, so important what Senator COLLINS did, so important that 79 Senators voted for it, but really what makes a difference is if we go on record and make it crystal clear that unless we live up to what we already voted for and provide the money—this would be $24 billion plus in the year 2005—then in Rhode Island or Minnesota or other States, schools can say: You didn't provide the money you said you were going to provide. You didn't provide the resources you said you were going to provide. We choose not to do the testing.

They should have that option. Otherwise, this testing is an unfunded mandate. You are setting everybody up for failure.

I will quote a recent study by the Center for Education Policy. Here is the conclusion:

> Policymakers are being irresponsible if they lead the public into thinking that testing and accountability will close the gap.

They are right. Do you think by jamming a test down the throats of every school in every school district in every State in America—by the way, I am going to ask my conservative friends. I don't get this. Right now, I haven't made a final decision, but I lean pretty heavily in the direction that the Federal Government should not do this. I don't know where the Federal Government gets off telling school districts and schools they have to test every child age 8, age 9, age 10, age 11, age 12, and age 13. What a reach on the part of the Federal Government.

It is quite one thing to say all of us in America live in a national community and when it comes to discrimination, when it comes to human rights, when it comes to civil rights, when it comes to a basic diet that every child should have, no State, no community should be able to fall below that. That is one kind of argument. But now we are going to tell every school district they have to do this? It is absolutely amazing to me that we are doing so.

The point is, don't anybody believe that the test we make every child take means that child now is going to have a qualified teacher. It doesn't do anything about that. A test doesn't reduce class size. A test doesn't make sure the children come to kindergarten ready. Part of the crisis in education is the learning gap by age 5. Some children come to kindergarten, then they go on to first grade, second grade, third grade. Now we are going to test them, age 8.

One group of children, to be honest with you, actually has had 7 years of school. They came to kindergarten. Then they had the 3 years plus that. Now they are third graders. Before that, they had 3 years of enriched child care. They came to kindergarten having been widely read to. They know colors and shapes and sizes. They know how to spell their name. They know the alphabet. They are ready to learn. They have had the education. And then a lot of other children haven't. And they are behind, way behind. This is during the period of time of the development of the brain, the most critical time. Then they fall further behind.

Testing doesn't change any of that. Testing doesn't do anything about making sure there is the technology there. Testing doesn't do anything about whether or not you have 40 or 50 kids crowded into a classroom. But if we were to make a commitment to some title I funding, then we could get some additional help for reading; some additional help for after school; for teachers to have assistance helping them with children, one-on-one help; prekindergarten.

How can Senators possibly vote against this amendment? They can't, not if they have said they are committed to getting the resources to these schools.

The Association of American Test Publishers, the people who develop virtually every large standardized test used in our schools, say the same thing. I quote from the Association of American Test Publishers:

> In sum, assessments should follow, not lead, the movement to reform our schools.

What they are saying is that the testing is supposed to assess the reform. The testing isn't the reform. And the reform is whether or not we are going to have the resources to make sure these children have a chance to do well.

Senators, if we are going to say that it will be a national mandate that every child in America will be tested and we will hold the children and the schools and everyone else accountable,

then it should be a national mandate that every child should have the same opportunity to learn and do well in America. That is what this amendment is about.

I ask unanimous consent that a letter from the Democratic Governors' Association be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. WELLSTONE. They say:

> While we are pleased to support the Carnahan Nelson amendment, we are hopeful that any final version of legislation to reauthorize ESEA will apply a funding trigger more broadly, specifically to include title I. This is the main source of federal assistance for disadvantaged students and the federal government needs to back its efforts to strengthen accountability with adequate new investment.

These Governors are saying this is part of your major Federal commitment. With all due respect, you have to back accountability with new investment, and we support the idea of this trigger amendment.

They are absolutely right. For some reason, these Governors are a little worried that we are going to mandate all this testing and then not live up to our commitment of resources, for very good reason.

I would like to quote from an article given to me by my good friend from Florida, Senator GRAHAM. This is by a Walter R. Tschinkel. He discusses Florida's system of grading schools. The Presiding Officer is one of the people in the Senate most immersed in education. What does Mr. Tschinkel find is the single most important variable in determining how children do on test scores? Would anybody here be real surprised to hear that it is poverty? He found that for every percent that poverty increases, the school score drops by an average of 1.6 points. He showed that the level of poverty in a school in Florida predicted what the school's achievement score would be with 80-percent accuracy.

May I ask, what are we doing here with this bill that is called BEST?

What are we doing? We are not doing anything to reduce poverty. We have not made any commitment to title I money being there, which is what this amendment calls for. We are not doing anything when it comes to a commitment in prekindergarten and child care.

We are still funding Early Head Start at the 3-percent level and Head Start for 3- and 4-year-olds at the 50-percent level.

We are not doing anything about rebuilding crumbling schools. Shame on us.

We are not doing anything about reducing class size. Shame on us.

Now what we are going to do is test these children and show these children in America again how little we care about them.

I have to cool down. It would be better if we had some debate. I want to hear how people justify not providing resources.

I am not surprised by a recent study by the Education Trust Fund which shows the extent of the gap between low-income and high-income districts. There are not too many Senators who have children in low-income districts.

The study found that nationally low-poverty school districts spend an average of $1,139 more than high-poverty school districts. In 86 percent of the States, there is a spending gap favoring wealthier students. The widest gap is in New York where the wealthiest districts spend on average $2,794 more per student.

As the Center for Educational Policy concludes:

> Policymakers on the State and national levels should be wary of proposals that embrace the rhetoric of closing the gap but do not help build the capacity to accomplish this goal.

That is what this amendment is about. This testing is nothing but the rhetoric of closing the gap. We are not closing the gap because we are not providing the resources. This amendment says we go on record, we are committed, we are going to say to any State and school district: If we do not live up to our commitment and provide the resources in 2005, which we have gone on record in supporting, then you do not have to do the testing.

This amendment starts to take us in the direction of putting the money where our mouth is. Seventy-nine Senators agreed to authorize title I so that it would be fully funded in 10 years. Seventy-nine Senators should support this amendment.

By the way, I am being pragmatic. I do not even understand why we are not providing the funding now. Why 10 years? What good does it do a 7-year-old to provide funding in 10 years? She will be 17.

Childhood is only once. We should not steal their childhoods. In 10 years we are going to do it. How does that help the 7-year-old? We are going to test her when she is 8 and show her—surprise—that she is not doing well, but we may not be helping her for many years later.

I am just starting on this. This is 4 hours of debate now. Next week, there might be 36 hours of debate on another amendment.

Again, we went on record. We said we were for this authorization. This amendment just says let's do it. My colleagues say tests have their place. By the way, I want to also print in the RECORD—I hope every Senator will read this. This is a high stakes testing position statement. This is a statement by health care professionals which include people such as Robert Coles, a psychiatrist who has written probably 40 books about children in America. The man has won every award known to humankind; Alvin Poussaint, another talented African-American psychiatrist; Debbie Meyer who has done more good work in inner-city New York City than anybody in the country.

Do my colleagues want to know what they say in the statement? They say two things. One, which ties into this amendment, is that we must make sure we live up to the opportunity-to-learn standard; that every child has the same opportunity to learn.

What I want to point out is they say from a public health point of view: What are you doing to these kids? They are talking about the stress on 8-year-olds taking all these tests, and they point out what is happening to schools.

I do not know; there must be 30 people who have signed this. They are the best educators, the best child psychologists, award-winning authors, and they say: What in God's name are you doing to these children? That is another amendment about testing next week with Senator HOLLINGS. For right now, at the very minimum, what they are saying is we ought to at least make sure we provide these children with the opportunity to learn.

One hundred percent of major city schools use title I to provide professional development and new technology for students; 97 percent use title I funds to support afterschool activities; 90 percent use title I funds to support family literacy and summer school programs; 68 percent use title I funds to support preschool programs.

The Rand Corporation linked some of the largest gains of low- and moderate-income children doing better in education to investment in title I.

In my home State of Minnesota, the Brainerd Public School system has had a 70- to 80-percent success rate in accelerating students in the bottom 20 percent of their class to the average of their class following 1 year of intensive title I-supported reading programs.

My colleague, Senator HATCH from Utah, cited important research by the Aspen Institute:

> In the effort to raise the achievement of all American students, an extremely serious barrier is the huge disparity in resources for education across districts and States. It is not unusual for per student expenditure to be three times greater in affluent districts than poor districts in the same State.

Mr. President, do you know that in my State of Minnesota, in St. Paul, schools where we have less than 65 percent of the students who are eligible for the free or reduced school lunch program, receive no title I money. We have run out. I could not believe it. I heard the Secretary of Education and some of my colleagues saying we have spent all this title I money; we have thrown dollars at the problem.

First of all, we are not funding it but at a 30-percent level and, second, title I represents about one-half of 1 percent of all the education dollars that are spent, but it is key in terms of the Federal Government commitment. I am suggesting that it can make a huge difference.

The problem is, we have had a dramatic expansion in the number of children who need help. The GAO study said that, but a lot of States, such as

the State of Minnesota, in a school that has 64 percent of the children who are low income or who qualify for the reduced or free school lunch program get no help. Can my colleagues believe that?

I want to quote from Linda Garrett who is assistant director of title 1 programs in the St. Paul schools. This is the irony of what we are doing. We are pounding ourselves on the chest. This is bumper-sticker politics. It is called the BEST. Test every child, say we are for accountability, and we are not going to provide the resources for the children, all the children, to have the same opportunity to do well. It is unconscionable.

Linda Garrett says:

The title I entitlement from the Department of Children and Families Learning have remained level for the past 2 years, and we have been notified to expect the same for the next year. While the funding has remained level, the number of St. Paul schools entitled to receive title I funding increased and the number of eligible children increased. In 1998–1999 the per pupil title I funding was $720; 1999–2000, $540; 2000–2001, $515, 2001–2002, we are now going to $445 per pupil.

We have surpluses; we say we are for children; we say we are for education; and we are providing less money.

There are 79 Senators who voted for the Dodd-Collins amendment. If you voted for that amendment, you have to vote for this amendment. It is almost insulting. We are saying to these parents, we need to test your children every year so you can understand how they are doing and what is working and what is not.

We are saying to the teachers: Teachers, you are afraid to be held accountable, so now we will hold you accountable with these tests. Teachers are not afraid to be held accountable. And the teachers and the parents and the schools, especially the schools with low- and moderate-income children, already know what is working and what is not working. They already know they don't get the resources. They already know the children come to kindergarten way behind. They already know the buildings are dilapidated. They already know the classes are too large. They already know they don't have beautiful landscaping. They already know they don't have the support assistance they need from additional staff. They know all of that. They are just wondering when we will live up to our words and provide some assistance. That is what they wonder.

In my opinion, we are playing politics with children's lives. We all want to have our picture taken next to them; we all want to be in schools with them; we are all for them except when it comes to reaching in the pocket and investing in resources.

I believe what we are doing to poor children in America, unless we pass this amendment, is we are going to test children and show they are not doing as well. Why would anybody be surprised?

The children in the inner city of south Minneapolis or west St. Paul are not doing as well as the children in the affluent suburbs with a huge disparity of resources and a huge disparity of life chances. It is staring us in the face in terms of what we need to do. We have not made a commitment to them, and now we are going to club them over the head with tests and humiliate them. I want Senators to debate me.

I yield the floor and I reserve the remainder of my time.

EXHIBIT 1

DEMOCRATIC GOVERNORS' ASSOCIATION,
Washington, DC, May 22, 2001.

Hon. JEAN CARNAHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR CARNAHAN: On behalf of the nation's Democratic Governors, I am writing in support of the amendment being offered by Senators CARNAHAN and NELSON to S. 1, the Better Education for Students and Teachers Act (BEST). This amendment would ensure that the federal government meets its commitment to states by fully funding the cost of the new Elementary and Secondary Education Act (ESEA) testing requirements.

The amendment would replace the $400 million cap authorized for FY 2002 for developing and implementing tests, in the underlying bill, instead requiring the federal government to pay 100% of all state testing costs not currently required under federal law. If the federal government does not meet this commitment, states would be released from the obligation to implement the new testing requirements. The amendment would also require the Secretary of Education to annually calculate the total costs of testing.

In addition, the amendment would add a protection that would prohibit the federal government from sanctioning a state for falling behind schedule in designing and implementing tests if the federal government has not provided full funding.

While we are pleased to support the Carnahan/Nelson amendment, we are hopeful that any final version of legislation to reauthorize the ESEA will apply a funding trigger more broadly, specifically to include Title I. This is the main source of federal assistance for disadvantaged students and the federal government needs to back its efforts to strengthen accountability with adequate new investment.

We would also prefer that final legislation link federal funding accountability to consequences imposed on states and local schools unable to meet proposed annual performance measures, such as fiscal sanctions and school reorganization. Relieving states from the cost of implementing new tests does not alter the mandated levels of improvement in student performance.

Democratic Governors urge Congress to fulfill the historic commitment to America's children that the BEST Act represents by fully funding authorized levels for IDEA, Title I, and teacher quality, as well as for testing. We believe that the Carnahan-Nelson amendment helps to ensure this, and we urge that the Senate adopt the amendment.

Sincerely,

GOV. TOM VILSACK,
State of Iowa,
DGA Vice-Chair of Policy.

Mr. FRIST. How much time is under the agreement on either side?

The PRESIDING OFFICER. There are 2 hours under the control of each side.

Mr. FRIST. Mr. President, I rise in opposition to the Wellstone amendment. I look forward to the debate over the next several hours. I think the amendment comes back to some of the fundamental questions asked about this bill. It will give Members on both sides of the aisle the opportunity to address the fundamental concept of the bill, the structure of the bill, the why of the bill.

It comes down to accountability, to flexibility, being able to figure out what the problems are. We all recognize there is a problem with education in this country. After diagnosing it, we need to intervene in a way that we can truly leave no child behind.

This amendment addresses two issues: the whole concept of accountability using assessments and dollars and cents. The amendment states that no State shall be required to conduct any assessments in any school year by 2005 if the amount appropriated to carry out this part for fiscal year 2005 is not equal to or exceeds $24 billion.

That summarizes the amendment. It can be broken into two arguments. One is money and how important money is, and is money the answer. The other is assessment and the testing. It is a useful component of what is proposed by President Bush and what is in the underlying bill today, as amended, accountability and assessment—that measuring success or failure is important if you want to intervene and make a difference.

The Senator from Minnesota asked essentially the question, as he addressed those issues, why test if we already know children won't do well? There is not much disagreement today over whether we are leaving children behind. That has been the thrust of what President Bush campaigned on, the thrust of the principles for education reform he has given to this body, and the thrust of the underlying BEST bill. I thought, as a body of Congress, we generally agreed it is important to make a diagnosis if we are going to improve our student's education.

The comment of the Senator from Minnesota is, why test somebody if you know they are not doing well? The implied corollary is, forget the test, dump more money and make that cure the system—as if throwing more money will make sure we leave no child behind.

On the first part of that argument, I think testing is important. I say that as somebody who has a certain parallel, and the parallel of my life, obviously, is medicine. The symptoms are there. The symptoms today are, we are failing, by every objective measurement we use today, versus our counterparts in other countries internationally. Whether we look at the 4th grade or the 8th grade or the 12th grade, we are failing as a society in educating our children. I suppose that is what the Senator from Minnesota meant when he said we know we are leaving children behind.

As a physician, when someone comes to your office and complains of fatigue,

they do not feel quite right, perhaps shortness of breath, as a physician and as a nation, it is hard for you to know how to address the symptoms of a problem until a diagnosis is made.

We know children are being left behind. By any measure, there is a huge achievement gap, which is getting worse in spite of more money, in spite of good intentions, in spite of additional programs. That gap is getting worse, and we are leaving the underserved behind.

How do we correct that? Our side of the aisle worked with the other side of the aisle in a bipartisan way, to pass a bill through the Health, Education, Labor, and Pensions Committee, that injects strong accountability into the bill.

I thought we had gone long beyond the accountability argument. Apparently we have not. I think it is important to go through this diagnosing, the assessments, so we can intervene and improve the education of our children. We need to be able to determine through assessments how well each child progresses, or, unfortunately, does not progress and falls behind—from the third to the fourth grade; from the fourth to the fifth grade; from the fifth to the sixth grade; from the sixth to the seventh; from the seventh to the eighth.

We all know those early years are important. We used to think maybe you could catch up in college, or in high school you could catch up in math or in science. I think now there is pretty much agreement if we need to intervene, we need to intervene early so no child is left behind.

Why do we need more assessments? If you assess a student in the seventh grade—say a young girl in the seventh grade—and that test shows she is not only last in the class, but last in the community. You find out in the seventh grade that she cannot read because she has been last in the class, and because she has been ushered along and advanced from year to year. Or you find she cannot add and subtract in the seventh grade.

People say: Come on, everybody can read and everybody can do fundamental math in the seventh grade. But we know from the national statistics, in the fourth and eighth grade a significant number of our children are falling behind, both as we compare them to each other and as we compare them to other people globally, internationally, other developed nations.

Therefore, I argue it does make sense to have these tests on a yearly basis from third to eighth grade because you need the continuity. Also you need tests designed in such a way that they are comparative—you need to be able to compare what a child has learned in the third grade with what he or she has learned in the fifth grade versus the seventh grade versus the eighth grade.

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

Mr. FRIST. Let me just finish for a few minutes and then I will be happy to yield. I want to walk through several of these concepts.

As a physician what is it similar to? I mention somebody coming through that door to see, not Senator FRIST, Dr. FRIST; they come in and have these vague complaints. If I don't do tests—I can take a pretty careful history. But until I do the physical exam, until I do some tests—noninvasive tests, very simple tests—EKG, a scan called a MUGA scan, fairly simple tests today—I am not going to be able to specifically know whether the problem is with the lungs or with the heart or whether that the problem is due to lack of conditioning or if it is due to general fatigue.

So if I have the seventh grade girl there, not only should we have made the diagnosis earlier, but we need a test that can sufficiently make the diagnosis: Is it mathematics? Is it reading? Is it lack of resources? Is it lack of an ability to use a computer or type on a keyboard? We have to make the assessment. Then once, with that patient coming in, I identify the heart, I know how to intervene. I have taken the blood pressure, I find it is high blood pressure, there is something I can do to intervene. But if it is just fatigue, until I know their blood pressure is up, how can I give a pill to bring the blood pressure down?

You can argue there is not enough money in the world to treat everybody's hypertension, and you can argue you cannot give everybody the full battery of tests and give everybody a heart transplant or everything they need. But that is not an argument to me, or it defies common sense to say you should not come back and do the tests in the first place and ask the question and make the specific diagnosis. In fact, I argue if you have dollars, or a pool of dollars—it doesn't even have to be a fixed sum—if you want the best value for that dollar, instead of taking all that money and throwing it at the fatigue of the patient with a whole bunch of potential treatments that may make you feel good, or invent programs to put them in, why not step back, invest that $1 in making the diagnosis, in figuring out the problem, because that will set you, I believe, in a much more efficient way to determine treatment over time.

It means you make the diagnosis early enough so it might prevent that heart disease from progressing, that fatigue, maybe a little bit of chest. Maybe, if you diagnose it at age 40 and you find the blood pressure because you have done the test and you intervene, that stops the progression of the heart disease and that patient will live longer because of early intervention. It is therapeutic but also it is preventive medicine.

I say there is absolutely no difference with how we should address our education system today—if we look at accountability, we want better results, we want better value, we are failing, today, to say assessments are important, measurable results that can be looked at, that can be used and thrown into our own individual database at a local level in order to decide how to address that specific problem, whether it is the seventh grade girl or whether it is a school we see is failing miserably year after year, in spite of putting more resources in and getting more teachers and smaller class size and better books and more technology—that is the only way to get the answer.

Then you start drawing this linkage between dollars. We always hear from the other side of the aisle—this is a good example. I looked at this. I don't know if it is $24 million or $24 billion or $24 trillion. To me, it doesn't matter. But it really drives home the point that there is a perception that you can throw money at a problem without making a diagnosis, without figuring out what the fundamental disease is—not the symptoms, we know what the symptoms are—but without figuring out what the disease is you will never have enough money.

Although you can always argue for more money and, boy, I tell you, we have really seen it in this bill. If there is one very valid criticism of this bill it is that every amendment that comes down here, we come down to vote on, every amendment coming from the other side requires more money. It is more money for programs, more money for technology, more money for teachers, more money for assessments.

Focusing on money as the only response takes the target off what the American people care about. It takes the spotlight off what the President of the United States cares about, what the President of the United States has demonstrated the leadership at the highest levels about, and that is the child. That is the seventh grade girl who is sitting in that classroom who is failing and we are not willing to come in and do the reform.

Reform is a scary word. Reform means change to some people. But we have to recognize when you say improve accountability, or reform, or measurable results—all of that basically says we have to change what we are doing, figure out what is wrong, and fix it. And you cannot just say throw money at the problem. You have to have the reform. That is where the assessment, accountability, measurable results, the figuring out what the problem is, is so critically important.

So to be honest with you, I am not surprised but, as I said earlier, I thought we had gotten beyond the fact that you have to have strong accountability in order to know how to improve a situation that we all know is miserable. It is miserable. Today we are not addressing each child. Today we are leaving people behind. It is going to take doing something different. It is going to take bringing true reform to the table and that is why the assessment comes in.

We cannot argue with what is underlying this amendment, that you don't

do the test because somebody has the symptoms. I argue you have to do the test. That is first and foremost in order to figure out what the disease is, to treat it, to get the best value for the dollar that we put in, that we make available. When we hear the rhetoric on the floor of playing politics with children's lives, they have to be very careful, again, because the debate is so much further along than where it was 6 months ago, I think in large part because of President Bush and his leadership, putting this issue out front.

Let's not use that language of playing politics with children, but get reform and improvement in the system by putting additional resources in as we go forward, which this President and this Congress clearly have shown a willingness to do. But let's not just put more money in and then do away with tests, which in essence is what this amendment does.

The latest results of the National Assessment of Educational Progress have shown—they show it again and again—that money is not the answer and that new programs are not the answer.

One of the great benefits and advantages and, I think, very good parts of this bill is that it has an element of consolidation and streamlining to reduce the regulatory burden, the inefficiencies, and the sort of deadweight of having hundreds and hundreds of programs out there—that there is an element of consolidation in the underlying bill.

We have heard it on the floor again and again. We spent $150 billion on literally hundreds of Federal elementary and secondary education programs over the last 35 years. In terms of progress compared to others, we have not seen it.

That is why this bill is on the floor. That is why it is critical that we address it in a way that recognizes not just the money but the modernization, the demanding of accountability, the raising of expectations for all children, for all schools, and for all teachers. The answer is not just more dollars.

President Bush really led the debate or led the issue so that now we are back here debating accountability again and how important that accountability is. He called for strengthened accountability based on high State standards. Yes, it is annual testing of all students. And, yes, it starts with the third grade and goes through the eighth grade.

In the bill, there are also rigorous corrective actions for schools that fail to meet those standards. Again, Senators have worked very hard in a bipartisan way to make sure that accountability is fashioned in such a way that you just do not make the diagnosis but you set up a system in which there can be early intervention and treatment.

We have several formulas on yearly progress, and indeed in a bipartisan way the initial formulas we used showed that we needed to focus a little bit more on the underserved and on the less advantaged. We changed those formulas just enough, I believe, to appropriately refocus where it wasn't quite right in this initial underlying bill.

Yes, it is the State that sets the standards. Again, one of the big fundamental arguments that will come out again and again —and it has over the last several weeks—is whether it should be Washington, DC, or the Federal Government running it out of Washington, or whether it be should at the State, or local, district, or individual level. Again and again, you can have Republicans saying it should be at the local level, and on the other side of the aisle—I don't want to overly generalize, but if you look at the amendments and the way the voting is going, it is more the answer, here in Washington, A, for more regulations and programs; and, B, more money—the flip side of where this bill is moving, and maybe not quite as far as some of us would like. But that is local control, flexibility at the local level, trusting people back in counties all across Tennessee and in the State of Tennessee to be making decisions rather than here in Washington, DC.

Luckily, much of the debate has gone back to that individual child. That is important because it involves parents. All of us know how important it is to have parents involved in children's education and that ultimately nobody cares more about that child than the parent. We are going to have opportunities later to talk about choice and, if a child is either failing or if the child is locked in a failing school, or if a child is locked in a disadvantaged or unsafe school, whether the parents be given the opportunity to participate in the welfare of their child by giving them an option to move that child to a safer school.

We will have an opportunity to come back and debate that either later this week or next week.

In the same way, when we come to this underlying question of measuring what one is learning or not learning, I would argue that it is necessary. We haven't been doing it in the past. We have to make the diagnosis. Again, it comes back to the individual child. It comes back to the parent. That is why we need to step in. That is why, when people use the word ''mandate,'' I think it is important for us to say at least the value of testing is agreed upon, and the individual child or that individual parent will know where the deficiencies are and how they can improve. Is it math—adding or subtracting? Is it science? Is it how to use a computer? We don't know today.

How we can we intervene and help? How can parents help? Again, I will bet that will happen, once these assessments have been made available, that the first people to look at them will be that parent, that school, and that community. Why? Because the value is there. They will know that.

Annual testing is simply the only way to get away from the symptoms of things not going quite right. To be specific, fortunately we know what can be done.

If you have $1—whatever it is, a Federal, or a local dollar, or a dollar at school—you know how best to invest that dollar, and not just throw a dollar at the symptoms. But you will know how to invest that dollar, and it can be accomplished through this legislation. It is already in the legislation.

I want to make sure we don't, with this particular amendment, allow the opportunity to strip away all accountability in the bill. That is the heart of this bill.

We are going to talk flexibility and local control and decisionmaking at the local level involving the parents. But the heart of this bill comes back to accountability.

This amendment basically gives the opportunity to say, let's just cut the heart out of this bill; let's cut out the accountability provisions; get rid of it, and we can feel good; and let's in fact throw a lot more money at it. That is simply not the approach of the President of the United States, which says spend more money but link it to modern situations and accountability.

These assessments we talked about before. We allow individual States to participate. It is not a Federal test.

As I go across the country to talk to people, they ask, Are you doing a standardized test out of Washington, DC? No. It is coming down at the local level. These tests are at the State level.

I believe these accountability provisions increase choice for students. They increase the opportunity to empower people to make decisions that will benefit their education, again from the standpoint of the parents, and the education of a family as we go forward so that we can truly leave no child behind.

Let me simply close by saying that money is not the answer. That is what we come back to. We talk a lot about the accountability. Money is important. But as we look to the past, and Federal education, State education, and local education, spending has increased dramatically. Total national spending on elementary and secondary education has increased by about 30 percent over the last 10 years. Federal spending on secondary and elementary education has increased by 180 percent. Federal spending is only 6 percent of the overall pie. The Federal role has increased by 180 percent over the last decade. Over the past 5 years, Federal funding for elementary and secondary programs has increased by 52 percent.

Yet in spite of all of those increases—people can say that is not near enough, or maybe some people would say that is way too much—over time, test scores have been national. The achievement gap between the served and the underserved, the rich, the poor—however, you want to measure it—has gotten greater in spite of this increased spending.

I, for one, believe we are going to have to inject—I agree with the President of the United States, we are in the short term going to have to put more into public education K–12 than we have at any time in the past. I am confident we will do that. The President has said that. This Congress has said it.

The authorization levels the Senator from Minnesota talked about have gone sky high, and it looks as if next week they will go higher and higher. There is no way. There is not enough money around to be able to fulfill all the pledges that are being made. That is what an authorization is. But when it comes back to the appropriation process that works pretty well in this body, I am confident that under the leadership of this President and the commitment that has been made, we will put more into education than has been put in in the past.

Again, the debate, I am sure, will go on for several hours. It is a good amendment to have a debate on because it does link the importance of accountability with money. It focuses, I believe, on the fact that, yes, it is going to take some more money, but I do not want to have this element of—not bribery; that is too strong of a term—but basically saying, if you cannot meet this figure of $24 billion, we are going to cut the heart out of the education bill that the American people believe in, that clearly a group of bipartisan Senators, who put these accountability provisions in the bill, believe in, and that this President believes in.

I believe that is a disservice to the underlying bill and to the intent of what this Congress and this President has in mind; and that is, to leave no child behind.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I know my colleague from Nevada needs to speak, too, so I will just take a couple minutes to respond.

First of all, the Senator from Tennessee talks about the importance of accountability. I was an educator, a college teacher for 20 years. I do not give any ground on accountability. The point is not to confuse accountability, testing, and standardized tests as being one in the same thing.

We have had two amendments that have been adopted which I think will at least make the testing, and hopefully the assessment, accurate and done in a better way.

This amendment does not say that you do not do the testing. I may have an amendment next week that goes right to the heart of that question with Senator HOLLINGS, and others, but that is not what this amendment is about.

Everybody in this Chamber has been saying they are for accountability and that we are also going to get the resources to the kids. We have to do both. You can't do this on a tin-cup budget. We have to walk our talk. Seventy-nine Senators voted for this authorization. But that is a fiction. It does not mean anything in terms of real dollars.

This amendment says that with the accountability comes the resources. We make a commitment that, unless we live up to what we said we would do by way of title I money for our school districts and our children, then those school districts and States do not have to do the testing. That is all it says.

That is my first point. So the argument that somehow this is an amendment that declares null and void testing is just not accurate. I am just trying to get us to live up to our words.

The second point I want to make is that my colleague said—and I have to smile—somehow this is all about decentralization, whereas Democrats tend to look to the Federal Government. I have to tell you one more time, I do not know where the conservatives are, or whether the whole political world is being turned upside down, but I seem to find myself being a Senator who—I have not resolved this question, but at the moment I do not think it is appropriate that the Federal Government mandate, tell, insist, require that every school district in America test every child every year.

This is radical. It is amazing to me. I am surprised others have not raised this question. Human rights, civil rights, antidiscrimination, yes, but this? I think we are going to rue the day we did this.

There is a rebellion right now in the country that is developing. People are going to say: You voted to make us do this? Where did you get off thinking you were the ones who had the authority to do that? I think this is a real Federal reach.

My third point is, this is a real disagreement we have with my colleague from Tennessee. My colleague is a very gifted doctor, and everybody gives him full credit, of which he richly deserves, but this is not trying to find out if a child has a heart problem.

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

Mr. WELLSTONE. I will be pleased to yield for a question. But with all due respect, we already know—I have been in a school every 2 weeks for the last 10½ years. We know what is not working and what needs to be done. It is absolutely no secret.

We know that children, when they come to kindergarten, are way behind. We know children who have had no prekindergarten education. We know of the dilapidated buildings. We know of the overcrowded classrooms. We know of kids having three or four teachers in 1 year. We know of kids who are taught by teachers who aren't certified. We know kids go without afterschool care. We know of the disparity of resources from one school district to another. We know what the affluent children have going for them versus what the poor children have going for them. We know all that. We know we fund Early Head Start at 2 percent, 3 percent. And we fund Head Start at only 50 percent for 4-year-olds. We know we fund affordable child care for low-income children where only 10 percent can participate. We know all that.

What do we need to know? Why do we need the test? I ask my colleague from Tennessee, what I just said, are these not realities? Is there one thing that I have said that is not a fact, that is not empirical, that is not a reality in the lives of children in America? If you can tell me, Paul, there is something you just said that is not accurate, then you can argue against this amendment. If you cannot, then you cannot. This amendment does not say no to testing. It just says with the testing and accountability come resources.

Mr. FRIST. Mr. President, will the Senator yield for a very brief question?

Mr. WELLSTONE. I am pleased to yield.

Mr. FRIST. Mr. President, the question I want to address to my colleague from Minnesota has to do with the testing. I think it is worth talking about because I have done the very best I could to make the case that for the individual child it is important to make the diagnosis. Just throwing money at it is not going to do it.

The question I would like the Senator to respond to is, having children assessed from the third to the eighth grade, what is wrong with that? I will argue you have to do it. And that is my side of the argument, which I tried to make. But what is wrong with it? Why will we rue the day that we give the opportunity for a third grader or a fifth grader or a seventh grader the opportunity to figure out why they are not being served well? Why do you object to having third, fourth, fifth, sixth, or seventh graders assessed?

Mr. WELLSTONE. I thank my colleague for the question because then I think Senators can have a clear picture of the amendment on which we are going to vote.

This amendment does not say it is wrong to do that. This amendment does not say it is wrong to do the testing. This amendment does not say it is wrong to do the testing every year. This amendment says, if you are going to have a Federal mandate that every child is going to be tested every year, you better also have a Federal mandate that every child is going to have the same opportunity to do well.

One of the major commitments we have not made is the title I money. That is why the Governors in their letter said we favor this trigger amendment. We want to make sure that they also, with the tests, get the resources. That is all this amendment says.

Mr. FRIST. Mr. President, will the Senator yield for another brief question?

Mr. WELLSTONE. I am pleased to yield.

Mr. FRIST. First, the Senator from Minnesota just said he thinks we will rue the day we decided to assess the

students. My assumption was that he feels all students should not be tested, that we already know what the problem is. I thought that was what he said. And I asked him was he against the assessment because there was not enough money going for it, but that he agrees assessments are the right way to go? If so, that is very important. I do not believe that is what he implied in his earlier comments.

Mr. WELLSTONE. I say to my colleague, fair enough. I will say to my colleague publicly, I have a couple different views.

First, the amendment. First, let's be clear about the amendment. The amendment, you will be pleased to know, does not say no to testing at all—not at all. It simply says we ought to live up to our commitment on the resources. That is all. That is all it says. That is it. If we do not, it says to States: Look, if you do not want to do it, you do not have to. That is the amendment.

Above and beyond that, I will say two other things to my colleague from Tennessee, who I know has shown a very strong interest in education over the years. In our State—I am sure it is the case in Tennessee—we are doing the testing. In fact, by the way, by what we passed for title I several years ago, we are just starting to get the results of that testing, for which I voted. We are doing the testing. The only thing I am telling you is that there is a difference between our school districts and our States deciding they want to do it because it is the right thing to do and the Federal Government telling them they have to do it. I just think it is an important distinction. I do not know where I come down on that final question yet. I just think it raises an important philosophical question.

Then the second point I make is that there is also a distinction between what we did several years ago with title I, which is a Federal program, saying we also want to see the testing and the accountability versus telling every school district in Tennessee and every school district in Minnesota you will test every child every year—not every other year—but every year. That is sweeping.

My amendment is not about that question. I just raised that question. I haven't resolved that question. I will tell you one thing I have resolved, which is what this amendment is about. The worst thing we can do is to pretend we don't know what the problems are and not make the commitment with both the IDEA program and title I, which are two of our major program resources, so that we basically set everybody up for failure. That is the worst thing we can do.

If you want to argue that money is not a sufficient condition, I agree. I think it is a necessary addition. We can go through the Rand Corporation assessment of title I and other assessments of title I programs. I can talk about Minnesota. You can talk about Tennessee. A lot of these resources are key to prekindergarten, key to extra reading help, key to afterschool programs. This is really important. That is all this amendment says.

Did I answer my colleague's question?

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Tennessee.

Mr. FRIST. Madam President, I would like to ask the Senator to clarify again. The amendment is set up such that if $24 billion is not appropriated—for people not in the Senate, that is where much of the action really is, and I agree with the Senator in terms of the importance of appropriations and authorization—this President has basically said he is going to put more money into education than any other President has in the past. I think that is important.

But from the assessment end, the ransom for the assessments is that if $24 billion is not appropriated, the amendment cuts the heart out of the education reform bill, which means we will not be able to determine with assessments whether that seventh grade girl has learned how to read.

I am asking, if it is really just the money, why is he linking it to the heart and soul of the bill?

Mr. WELLSTONE. We have a letter from the Democratic Governors that says:

> [Above and beyond] the Carnahan/Nelson amendment, we are hopeful the final version of the legislation to reauthorize ESEA will apply a funding trigger more broadly, specifically to include title I. This is the main source of federal assistance for disadvantaged students, and the Federal Government needs to back its efforts to strengthen accountability with adequate new investment.

The reason they are tied together is that they go together, for God's sake. You can't test every child without also making sure these children have an opportunity to do well on the tests. Of course, they go together. This amendment simply says that the tests authorized need not be implemented until after the title I appropriation has reached the level we said.

We said, 79 of us, we are going to appropriate this money; we are going to make sure that with the accountability comes the resources for the kids to do well. We went on record.

Now I have this amendment that says we make the commitment to Minnesota, Michigan, Tennessee, and everywhere else, if we don't live up to our end of the bargain and you decide you don't want to do the test, you don't have to. By the way, many States are doing it. It is up to them.

I am becoming a decentralist. I am becoming the conservative Republican in this debate, apparently.

Mr. FRIST. My great fear is, if this amendment passes, let's say we put $22 billion in, you have destroyed the accountability, the heart and soul of this bill, the opportunity to give that seventh grader the opportunity to have the diagnosis made of why she is failing.

I don't understand the relationship. Why would you punish the child and eliminate the opportunity to diagnose her problems based on funding? Again, why would one hold this ransom for, again, huge amounts of money, if you are not trying to link the two directly? Unless you are trying to bring down the whole bill.

Mr. WELLSTONE. Madam President, if I wanted to try to bring down the whole bill, I would have an amendment out here to bring down the whole bill. Maybe I will, and it won't be successful. I am still trying to actually improve the bill, just as we did on testing. I say to my colleague, we already have accountability with title I. That is law right now that is on going.

My second point is, this is an honest difference. My colleague's concern is that we won't have a test, that somehow that will be nixed. My concern is that if we just do the tests and make every school, every school district, every child take the test every year, 8, 9, 10, 11, 12, and 13, but we do not live up to our end of the bargain of providing the resources so that the children can do well on the test—extra help for reading, prekindergarten, after school—then the only thing we have done is we have set them up for failure. I don't want to do that. I think that is cruelty.

I cite again the study from Senator GRAHAM which showed that poverty predicts 80 percent of the students' scores right now. I am not surprised. I have been to school every 2 weeks for the last 10½ years. I know that. So far, I haven't heard any compelling reasons against this.

For Democrats, our party, we have been out publicly saying that we are committed to the resources that go with the testing. It is time to walk the talk.

I know there are going to be some other Senators who will speak. I want to go on to another aspect of this. I have spent some time on this, but this is a little different. This has to do with why testing actually can do more harm than good if we don't give the schools the resources to do better. I have not made that argument yet.

I will start out quoting the Committee for Economic Development, which is a strong protesting coalition of business leaders who warn against test-based accountability systems that lead to narrow test-based coaching rather than rich instruction. I will tell you what happens. We don't give the schools the resources. In this particular case, I am talking about title I. That is a real commitment on our part. They are going and you are going to do the testing, and the testing is also going to determine consequences for those schools, whether they are sanctioned, whether principals are removed.

Do you know what happens when they don't have the resources and this is what you do? It leads, I say as a teacher—I am not a doctor; my colleague is a doctor—it leads to the

worst kind of education. Do you know what they are going to do? It is what they are doing right now. You drop social studies. You drop poetry. You don't take the kids to the art museum. And you have drilled education where the teachers are teaching to the tests because they are under such duress. That is exactly what happens.

For example, in Washington State, a recent analysis by the Rand Corporation showed that fourth grade teachers shifted significant time away from arts, science, health and fitness, social studies, communication and listening skills because they were not measured by the test.

I do not know if I am making the case the way I want to make the case, but the schools that are going to be under duress are the ones where the children have not had the same opportunity to learn. They came to kindergarten way behind, and we are not making a commitment to early childhood.

Now what happens is because of this—and I see my colleague from New Jersey, and I will finish in 3 minutes so he can speak; I thank him for being here—now because of this duress, what we have is these schools are dropping social studies, art, trips to museums because they are not tested and the teachers are being asked to be drill instructors.

Guess what. Some beautiful, talented teachers are leaving teaching today because of this. This is crazy. We better give them the resources.

I say to my colleague from New Jersey, this is a classic example. The Stevens Elementary School in Houston pays as much as $10,000 a year to hire Stanley Kaplan to teach teachers how to teach kids to take tests. According to the San Jose Mercury, schools in East Palo Alto, which is one of the poorest districts in California, paid Stanley Kaplan $10,000 each to consult with them on test-taking strategies.

According to the same articles, schools across California are spending thousands to buy computer programs, hire consultants, and purchase workbooks and materials. They are redesigning spelling tests and math tests all to enable students to be better test takers.

Forget sense of irony. Forget childhood. Forget 8-year-olds experiencing all the unnamed magic of the world before them. Forget teaching that fires the imagination of children. Drill education to taking tests: it is educationally deadening. That is another reason why without the resources this is not a big step forward. This is a huge leap backwards.

Madam President, I yield the floor and reserve the remainder of my time. My colleague may want to respond.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. If I can take 2 or 3 minutes. Madam President, as I spelled out earlier, this amendment is the heart of what President Bush put on the table: strong accountability to ensure that we do not leave any child behind.

If this amendment is adopted, we are in a significant way putting at risk the entire bill because accountability is the heart and soul of the bill. This is where I think the real progress will be made; that is, making the diagnosis so we know how to invest education dollars and resources. This is the spirit of reform.

All of it depends on knowing where students are and being able to follow their progress over time so we can intervene at an appropriate time.

It is interesting. We talk about dollars. We will be talking about assessments and dollars, and in the amendment they are linked together. I do not think some sort of ransom should be placed over this bill. We have the appropriations process that is going to deal with the reforms we put into place.

If we go back to 1994, the Democrats passed a law which required States to develop broad comprehensive reforms in content, curriculum, and performance standards. To align those reforms with all of the new assessments, much more would need to be added to the bill we are debating today.

Immediately after passage of that law, the President's request in 1994 for discretionary education funding included a $484 million spending cut. The Democratic President's request to cut spending was coupled with those new reforms. In the end, the Democratic Congress passed an appropriations bill that contained a tiny 0.012-percent increase. That is tiny. That is essentially flat, and therefore provided no new funding for those new reforms.

I say all of that because they established new reforms in assessments and testing but did not match investment with assessments. This is the issue we have been talking about the last couple of hours.

The provisions in this bill are more modest. I favor what is in the bill now. I favor the principles the President put on the table, and I think we are going to benefit children greatly with it. We have the commitment of the President of the United States and at least this side of the aisle to increase education funding by 11 percent. It may be a little bit less; it may be a little bit more, but it will be about 11 percent.

It is ironic to me as we talk about assessments and measurements, that the broad reforms in 1994 under different leadership had essentially flat funding. Yet under this President, we have reforms which are not quite as ambitious in terms of testing, but we have an increase in education funding of over 11 percent. People ought to remember this historic perspective as we continue this debate.

I am thankful for the opportunity to talk about the assessments, the heart of this bill. Again, money is not the answer. We have tried it for the last 35 years, and we are failing. We are failing our students; we are failing the next generation. We have to couple reform with a significant increase in spending to which we have agreed.

I yield the floor.

Mr. WELLSTONE. Madam President, 2 minutes.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. First, for my colleague to say if Senators vote for this, the testing might not take place is as much as saying, therefore, we are not going to live up to our word. If my colleagues vote for this amendment, the testing will take place because I assume we are going to live up to our word. Seventy-nine of us already voted for this.

All this amendment says is we are going to be clear to States and school districts that we are going to live up to our commitment of resources. That is the first point.

The second point—my colleague from Tennessee left—to say this is more modest than in 1994, my God, we are telling every school district in every State they have to test every child, every year, ages 8, 9, 10, 11, 12, 13. That is not modest in scope.

At the very minimum, transitioning to the Senator from New Jersey, what I am saying is, if we are going to have a national mandate of every child being tested, then we ought to have a national mandate of every opportunity for every child to do well. I reserve the remainder of my time.

Mr. CORZINE. Madam President, I could not agree more with my distinguished Senate colleague and friend from Minnesota. I rise in support of his amendment which ensures we not only test our kids, but we actually provide promised resources we have talked about over and over in this body to improve educational quality. He believes and I believe, and I think common sense argues, that unfunded mandates that are put upon our local school districts only aggravate disparities we already have about how our children are educated. We ought to make sure we start putting money where we are putting mandates on our communities.

Before I discuss the amendment, let me thank Senator WELLSTONE for his leadership on a whole host of these educational matters. It is terrific how he has spoken out about leaving no child behind. I am very grateful for his dedication to quality education for all of our kids, and I am sure the country benefits.

I agree we need to build more accountability into the system. Students, teachers, and administrators need to be held accountable for results. I come from the business world. We look at bottom lines. We ought to get to stronger and stronger results. Congress should be held accountable, too, and that is the purpose of this amendment.

Accountability measures focused only on our kids, schools, teachers, and administrators just do not seem enough to assure that our children get an adequate education.

As the Senator from Minnesota has spoken about several times today, 79 Senators supported an amendment to increase the authorization for the title I provisions in this bill to move that up to $24 billion-plus in the year 2005. Seventy-nine Senators voted in support of that. With that vote, we made a promise to millions of children who live in disadvantaged areas that those promises of better schools and greater opportunities would be real. We need to make sure that was not an empty promise, political rhetoric, or cynical posturing.

We have been underfunding the title I program for years. Never in the entire history of the program, which began in 1965, has Congress fully funded the program. Then we hear we are not getting the results we are supposed to be getting when we do not put the resources that actually deliver the goods on preschool or afterschool programs or reading programs and the other issues about which people are talking. We complain but we do not put the resource there to make sure we can deliver in those places where they don't have the resources to provide the educational opportunities other places in the country have.

We have seen the educational dollar that the Federal Government provides for education shrink from 12 cents to 7 cents, with some talk about 6 cents. We shrink that and we wonder why we get disparate results.

Title I is a critical program if we are to ensure all children in our society are provided with meaningful educational and economic opportunity. Title I is the engine of change for low-income school districts across this country. The program is used to train teachers, to provide new technology for students, to support literacy and afterschool programs, and to promote preschool programs, a whole host of items that will make a difference and to make sure every child has a comparable education from one community to the next.

Together, these initiatives have proven effective where they have been applied, raising test scores and improving educational achievement. But we have to have the resources. It has been underfunded for far too long and too many kids have been left behind. The engine of reform needs fuel.

Let me be clear. I support testing. I think it is a good idea. I am not sure much of what we are putting in place is a good idea, but I support testing. By itself, testing is not enough. I am sure it gets our priorities right. What good does it do to test kids if we do not provide the tools needed to respond to bad test results and, more importantly, even prepare for the tests. It would be similar to diagnosing an illness and refusing to prescribe the drugs needed to cure it. That does not make sense.

This amendment stands simply for truth in legislation. It is easy for Congress to authorize funding for programs. It makes political campaigning a lot easier to go out and say: I stood in there and I stood for authorizing title I funds for all our kids. Many people in the country hear we have done that and they think we have fully funded it. As my colleagues know, an authorization is little more than a promise, and all too often it is an empty promise.

In my view, when it comes to providing quality education for all of our children, we need to make sure the promise is real. We need to put the money where the authorizing words state they should be. We must provide our schools with the resources to help students achieve their full potential. We must address the glaring disparity in resources that undermines America's sense of fairness and equal opportunity. We want to hold every child to high standards. We must provide every child with the opportunity to meet them. We have to hold ourselves to high standards.

I urge my colleagues to support the amendment of the Senator from Minnesota. Let's test our kids but get real and provide the resources we have been promising to ensure quality education for all.

Mr. WELLSTONE. I will give the Senate a bit of background. This amendment tracks the amendment that Senator DODD worked on with Senator COLLINS. The Senate went on record—79 Senators—saying we would make this commitment to title I and over a 10-year period we would have funding.

I don't think the Senator would disagree, as much as I was for it, in some ways I very much regret we could not have said full funding in 1 year. For a 7-year-old, 10 years is too late.

In any case, this amendment says by 2005 the Senate went on record saying we ought to be spending $25 billion on title I because that puts us on track for full funding, gets more resources to schools and our children, more help for reading. It can be prekindergarten; it can be technology; it can be more professional training for teachers; it can be afterschool programs.

This amendment says, if we do not live up to our commitment, the States and school districts, if they do not want to do the testing, do not have to. It is up to them. No one is telling them they can't do it, but it is entirely up to them. We have been saying over and over and over again, with accountability comes resources. I wanted to give my colleague a bit of background.

My other point is, if we are going to have a mandate of every child being tested, we better also have a national mandate of every child having the same opportunity to do well. Since the title I program is one of the major ways we at the Federal level make a commitment to low-income, disadvantaged children, we ought to live up to our word. That is what this amendment says.

I yield the floor.

Mr. DODD. I thank my good friend and colleague from Minnesota and express my appreciation to him for raising this amendment. This is not a unique approach. We have taken on matters where we linked financing with obligations. One of the constant complaints we receive as Members when we return home to our respective States and speak with our mayors and Governors, our local legislators, we often hear, regardless of the jurisdiction—Minnesota, Connecticut, Michigan, New Hampshire, Massachusetts—you folks in Washington like to tell us what we need to do, but you rarely come up with the resources to help us do what you tell us we have to do.

We have gone through an extensive debate as part of this discussion on special education. We made a commitment as the Federal Government years ago that said every child ought to have the opportunity for a full education, as much as they are capable of achieving, and that special education students would be a part.

We promised we would meet 40 percent of the cost of that as a result of a Federal requirement. That commitment was made 25 years ago. It took 25 years, until just recently, as a result of the efforts of the Senator from Massachusetts, the Senator from Vermont, Mr. JEFFORDS, Senator COLLINS, my colleague from Minnesota, and many others, who said we were going to have to meet that obligation, financially supporting the special education needs of the country. As a result of their efforts, we have included in this bill a mandatory spending requirement to meet those obligations.

I raised the issue about 12 years ago in the Budget Committee and lost on a tie vote.

Why do I bring that up and discuss it in the context of this amendment? If we fail to adopt this amendment that the Senator from Minnesota has suggested, in 5, 10, 15 years, we will have a similar demand made by the very people asking us today to fulfill the financial obligations that we owe as a result of mandating special education needs.

People may not like that comparison, but that is a fact. We are saying to these students, across the country, disregarding States and in a sense localities, here are some standards we expect you to meet. We are willing to authorize, as we did by a vote of 79–21, some substantial sums of money to allow for full funding of title I as a result of the heroic efforts of my friend and colleague from Maine, Senator COLLINS, along with 78 others in this Chamber. We went on record, with a rather overwhelming vote. This was not a 51–49 vote. Almost 80 Members of the body said full funding of title I is something we ought to do.

If this bill is going to work, we ought to fully fund this program. We said over 10 years.

I would have preferred if it was a more brief period of time, but we have to accept the realities. I think it is important to note that it occurred. It is a

true expression of the desire of Members here, regardless of party or ideology. As a result of the demands we will make in this legislation, we are fully prepared to do something that kids on the corner often say to each other: Put your money where your mouth is.

We have had a pretty good mouth when it comes to telling the country what they ought to do. The question is whether or not we will put the money up to back up and support the demands we are making here.

I think the amendment offered is one that is important. It says, obviously, if you want to live up to those commitments—we are asking schools to be accountable, to be responsible—then we should as well. We cannot very well demand a third grader be responsible or fourth grader or fifth grader or some impoverished rural district or urban district—as we demand accountability from a superintendent of schools, a principal, a teacher—and then we duck our responsibility here.

There is a long and painful history where demands have been made by this government on our localities and our States and then we have failed to back up those demands by failing to provide the resources to accomplish them.

This is about as critical an area as can be, education. I do not want to see us coming out of this with a self-fulfilling prophecy of failure. I don't want us to know going in, as a result of the paucity of resources, that young children living in some of the toughest areas of the country are deprived of the resources necessary so they can maximize their potential. As we begin this testing process, year in and year out, as we watch the scores not improving because the title I funds are not there—and by the way they work. Title I funds work as we know based on all sorts of examinations and studies that have been done. Therefore, it seems to me we want to have funding.

My colleagues and I were at recent meetings at the White House. I don't believe we should go into the details of those meetings. The President was gracious enough to invite us to those. He cares about education a lot. I have no doubt that President Bush cares about it. He made that point when he was Governor. He provided evidence of it. He has spoken out about it numerous times and gone to schools all across the country. So the fact that we are of different political parties or persuasions is not the point, obviously. I am willing to believe that his slogan that he used a lot during the campaign of ''leave no child behind'' is sincerely and deeply felt.

All I am suggesting, as are the Senator from Minnesota and others who support this, is to see those achievements. I believe this President wants to see these kids do better. That is what we all want.

We spend less than 2 percent of the entire Federal budget on elementary and secondary education—less than 2 percent. I think that would probably come as a shock to most Americans who send their tax dollars to Washington to discover that less than 2 cents on every dollar the Federal Government spends actually goes to elementary and secondary education. I am excluding higher education.

We have all heard the speeches given around the country of how important this is, that any nation that ever expects to improve or grow has to have an educational system that creates the opportunities for its people. So this is about as important an issue as there is. When you talk about economic growth, economic stability, education is about as important an issue as you can discuss. If we fail to have an educated generation, all the rhetoric, all the decisions by the Federal Reserve Board, all the decisions by the Treasury, all the decisions made by Wall Street, will not mean a lot if we do not have an educated population able to fill the jobs and perform the work needed to keep this economy and our country strong.

This is the first step. If we get this wrong, then the likelihood we will succeed at every other point is reduced dramatically, in my view. I do not think that is a unique perspective. I suspect if you were to ask the 100 Members of this body whether or not you could have true economic development and true economic stability and success without a strong educational system, I do not know of a single Member of this body who would accept that as a likely conclusion.

What we are saying is, if that is the case, then should we not link this issue of providing the resources necessary to the title I program, which has proved to be so successful, and to say that before we start demanding these tests and so forth we are going to see to it that these young people, and these communities, are going to have the resources to get the job done? That, it seems to me, is only fair and right. If the resources are not going to be there, does anyone doubt, can anyone stand up and say if the resources are not there, that these children, the most needy in the country—in rural and urban America, most of them—are going to be able to do better on these tests?

If you do not have the resources to make these environments better, there is no doubt about the outcomes. You are not going to hire the teachers who are qualified. You are not going to have the tools necessary. That is just a fact.

There is more empirical evidence to support that statement than anything I know of. Over and over again we are told it will not work if you do not have the tools. No matter how strong the desire, no matter how ambitious these parents or these children may be, they have to have the tools. You cannot be in a classroom with 40 kids and learn. A teacher cannot teach.

You cannot get ready for the 21st century economy without a wired school and the ability to access the technology available.

You cannot have teachers who know nothing about the subject matter teaching math, science or reading. They cannot do it. Don't expect a child anywhere to learn under those circumstances.

The fact is, in more schools around the country, those are the realities. I wish I could magically wave a wand and automatically guarantee that there will be these tools available. But none of us possesses that kind of power. You have to have the resources to do it.

So to go out and test a bunch of kids who have not had the support and backing necessary for them to be accurately tested has structured a very cruel arrangement for this Congress and this administration to impose. It is going to produce predictable results. So I think the Senator from Minnesota has properly asked us to do what any mayor, any Governor, any school board or principal or superintendent would ask of us. I think what they are saying to us—my colleague from Minnesota can correct me—they are saying: Look, we accept the challenge you imposed on us. I know my friend from Minnesota and I have heard from a number of people who have questioned the wisdom of this annual testing idea as a way of somehow proving whether or not kids are doing better. I get very uneasy about what teachers are going to be teaching. It is what I call turning our schools into test prep centers where you spend half the year or more of it getting the kids ready to do well on the tests because the teachers, the superintendent, the principal, the Governor—everybody wants to look good and pass the test. I don't know whether you learn anything or not, but you pass the test. I get nervous about an educational system that is more geared to passing some test so more of the ''political'' people can have bright stars attached to their names.

I think testing is valuable, but your educational system is geared toward those testing requirements rather than educating children. I certainly think math and reading are very important—but I also think science is important, I think history is important, I think geography is important, I think languages are important. My fear is in some ways we are going to get so focused on a couple of disciplines which are critical—very critical, essential, Madam President—but at the expense of a lot of other areas which are also critical for the full and proper development of a child's educational needs.

You do not have to be an educational genius to know what can happen if you are just geared to getting the class to pass the Federal test in order to keep the school open. I am very worried about that.

But I will put that aside. I will put my worries aside for a minute. I am not the only one worried. This is not just Democrats and Republicans who

are worried. I think parents out there who may not know all the nuances of this bill are worried. People who work hard in school every day will tell you they know what they are going to end up doing. But we will put that aside for a second.

At the very least, if we are going to demand this in tests, it seems we have to have the kid prepared, at least give them a chance to do well.

If the resources are not there for them to do well, then I think we all know what the results are going to be. That is really what this amendment is all about. Maybe it is more complicated than that. But I don't think it is.

Take the environment, or transportation, or any subject you want. No one would suggest that you can anticipate high performance without the resources being there to help you achieve it. Yet in the education field we seem to be indulging in a fiction that somehow we can set the standard and demand the test, hold back the resources, and expect the students to reach it. I don't know where else you could ever imagine that kind of result to occur.

We seem to be anticipating 50 million children around America, if the bill is passed and signed by the President shortly thereafter, having to meet these tests. It is fewer than 50, because we are talking about grades 3–8. Whatever that number is of kids in elementary and secondary school—perhaps it is 30 million who are in our elementary schools. So 30 million kids will start to be tested. You are not going to have the resources necessary to help the hardest hit schools in America ensure that the children are well prepared.

I realize this amendment is troublesome to people. They prefer that we don't demand this. But just as we demanded special education for children without resources, until finally people were banging on the doors of Washington and saying, ''You people promised to help us do this,'' I suggest we get ahead of their argument and provide the resources as a result of the amendment of the Senator from Minnesota, and then go forward with it.

I am prepared to support this. But I say to my friend from Minnesota, as hesitant as I am about supporting testing in the third, fourth, fifth, sixth, seventh, and eighth grades—by the way, if it were one test, I wouldn't mind. This is Federal. Forget about the State and local. On average, there are about five tests that kids have to go through during a year. I am willing to accept that. But I have the outrageous demand that we provide the resources to these schools so these kids have a chance to demonstrate what they are capable of.

If you are telling me that I can't have the resources to at least give them a chance to prove how bright they can be, don't ask me to require a kid to take a test that they can't possibly pass and set them up for failure in life.

We only debate this bill once every 6 years. I suspect many of us on the floor today may not be here the next time the Elementary and Secondary Education Act is debated. If it were debated every year, I might wait until next year to try it. But if we don't provide the funding in the language here that provides for it, a half a decade or more will go by before we are back again discussing this.

I don't want in this last debate for the next 5 or 6 years, where we mandate this testing and mandate these standards from Washington to every school district in America, to then stick our hands in our pockets and walk away and tell them we are not going to give them the resources necessary to achieve success. I am confident they can achieve.

We have no obligation to guarantee any American success. But we do have an obligation to guarantee every American the opportunity to achieve his or her potential. That is a responsibility that I think I bear as a Member of this body. I am going to be hard pressed to vote for a piece of legislation that demands success without giving these kids the opportunity to prove what they are capable of.

The Senator from Minnesota has offered us an amendment which would complete the circle by requiring the tests but providing the resources that will allow us to judge fairly whether or not these children, their parents, and their schools are meeting their obligations. I thank my colleague for offering the amendment.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I know other people desire to speak. I would like to take 20 seconds to say to the Senator from Connecticut that, try as I might, I cannot say it as well as he did. I thank him. We thank each other all the time. But what he said was so powerful. Honest to God, it was so powerful. I really do believe having national testing without any guarantee of equal opportunity to pass the test, and the opportunity to do well, is ethically unjust. What we are trying to say with this amendment is let's give these children the opportunity to do as well as they can. I thank him.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I yield to no one in this body in my battle to seek full-funding for the title I program. I joined with the Senator from Connecticut and the Senator from Maine on the amendment to authorize full funding for title I. I have supported additional funding in this bill, in terms of professional development, bilingual programs, afterschool programs, school construction, and the other programs. We are going to make every effort to ensure that reforms are accompanied by resources.

But I have to really take issue with some of the points that have been raised this afternoon, including the statements from my good friend from Connecticut. We are already testing. Forty-six States currently administer annual reading and math tests in two or more grade levels.

Adequate yearly progress in current law, as well as in this legislation, will be based upon the tests that were held last year. That legislation is currently in place. It is happening in my State. I will spend some time later in my conversation to go through the scores of States that already test in grades 3–8. That is already taking place.

No one argues with the point about ensuring that all students will be prepared to take these tests. However, it is not quite that easy, even with the full funding for title I. We are not providing full funding for the Head Start Programs—only 40 percent. We are not providing full funding for the Early Start Programs. All are enormously important for our children to progress. But a number of States are doing a very good job.

On the idea that we were going to effectively end any assistance to those States after we accepted the amendments from the Senator from Vermont in terms of effectively saying if we don't get the funding for effective tests, that we are not going to be obligated to do it, we have accepted the Wellstone amendment in terms of quality; we have accepted the Wellstone amendment for increased funding; we are going to make the battle in terms of funding for those programs.

But those tests which the States are using under this legislation are happening today in 46 States. The question is, How are we going to have those tests? What I think the Senators from Minnesota and Connecticut, and I think on all sides of the aisle, want is not punishment for students but instruments by which we can determine what children are learning and what they are not learning: We want tests that will be responsive to curriculum reform with well-trained teachers in those classrooms. It is going to take some time. But we have recognized that we are going to try to use quality tests in an effective way to enhance children's learning.

I am not going to take a good deal of time, although I had the good opportunity in Massachusetts last week to appear at a conference sponsored by Mass Insight, and also to meet with Achieve—a nationally known organization that has been working on accountability for several years.

When I met with Achieve, they reported that 22 schools in Massachusetts have made significant progress using tests and demonstrating, with measurable results, how students have been making progress. Those tests are being used well and effectively. No one stands to defend poor quality tests that may, in fact, be detrimental to children. But, the Senator from Minnesota's premise that if we do not get to the full funding for the Title I program within 4 years, that we cannot

provide for high-quality tests and good school reforms, is flawed. Choosing not to commit to developing good instruments of educational assessment and high standards that will drive curriculum reform, teacher reform, educational reform, and accountability in those communities, I think, just misses the point.

Our bill in the Senate requires States to develop assessments in grades 3 through 8 in math and literacy, with the understanding that those subjects are vital to the future educational success of children. If students do not know how to read, they cannot learn. If they do not know mathematics, they cannot continue their education, and they will not be able to survive in the modern economy. So, we have made a commitment in this bill to ensure that States develop and implement tests in those subject areas.

But in the 1994 reauthorization of ESEA, we required States to administer tests for school accountability at least three times: one in grades 3–5, once in grades 6–9, and once in grades 10–12. Some States have done a very good job of developing these assessments. Some have not done so well. But this bill seeks to build upon the progress made by those States who have developed high-quality assessments, and ensure that the additional assessments developed by States are of the highest quality.

I question the logic of discouraging high-quality assessment that will provide data to help improve education, if in Congress may not be able to secure 100 percent of the resources for reforms across the board in Title I. I cannot understand this, as much as I fight for increased funding for enhanced professional development, afterschool programs, technology, literacy programs, and scores of other reforms essential to improve student achievement.

There are not many Members of the Senate who like increased funding as much as I do. However, we should not use tests as a scapegoat if we are not able to achieve all that we advocate for. We should not take out our frustrations that stem from insufficient funding for Title I, on what have been recognized as effective instruments that measure student achievement, and help teachers tailor instruction to meet the needs of students. That should not be our goal.

I respect the opinion of my friend from Minnesota, and understand that he does not regard assessments as having a critical role in school reform. I know that he feels too many teachers teach to the test, and that too many tests are used punitively, rather than constructively. I believe that his concerns are at the heart of this amendment. However, good tests can play an important role in school reform.

Earlier in our consideration of this bill I mentioned examples of assessments working in tandem with efforts to reform schools, as has occurred in my own State of Massachusetts, at the Jeremiah Burke High School. The Burke school lost its accreditation 6 years ago because of the low-level of education that was being offered at that school. This year, the school has one of the lowest dropout rates in the city of Boston. And every single student has been accepted to college. High expectations, high standards, and the assessments needed to measure progress.

At the Burke school, they use tests to identify student weaknesses, and develop what is almost an individualized curriculum and academic program for each student in need of extra help. This is not a school that has great financial resources, but to the credit of the principal, the Burke school was received with great excitement by parents and the local community for the academic progress that has been made in the school.

I am not prepared to accept an amendment that would propose to throw away meaningful and important tools to gauge student achievement if Congress cannot secure full-funding for all of the reforms included in this bill. I do not think that is wise education policy. I think such an amendment effectively undermines this legislation.

I take a backseat to no one in the fight to increase funding for Title I and other programs. But no member in this body thinks we'll meet the rate of increase for Title I called for in this amendment.

We should not discard the tools that can help promote school success. I think that we should accept the basic assessment provisions in this legislation, and take steps to monitor and watch State's progress toward fulfilling the promise of those provisions. We are going to have to ensure that States develop and implement effective, quality tests.

We have taken steps, with the Collins amendment, to review and financially evaluate the costs associated with producing effective tests. I can commit that as long as I am chairman of the Education Committee, we will have vigorous, vigorous oversight on this particular issue. We will take the steps that are necessary to alter and change this situation if States do not have the resources to effectively develop or use assessments.

But to eliminate provisions to provide for instruments that are being used as tools for reform by teachers throughout the country would be wrong. We should promote teachers' understanding of what children are learning, and we should promote parents' understanding of what children are learning. Denying parents the opportunity to understand how their children's school is performing makes no sense.

At the appropriate time, I intend to vote no.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Madam President, first of all, let me be real clear. I have said that in my own mind it is an interesting question as to whether or not the Federal Government ought to be telling every school district in every State to do this. I have never said I am opposed to accountability. I was a college teacher for 20 years, and I do not tend to give ground on this issue.

The reason I have had amendments to try to make this testing of high quality is because, if this is going to be done, it has to be done the right way. But there is more to this legislation.

My colleague from Massachusetts says we are already doing this with title I. That is right. This legislation requires every school district to test every child—not just title I children, every child, every year.

I have heard Senator after Senator after Senator say we ought to, along with the mandate of testing every child, have the opportunity for every child to do well. That is all this amendment says.

I cannot believe what I have heard in this Chamber, which is that we are not going to live up to what we said. Seventy-nine Senators voted for the authorization. We were going to fully fund title I in 10 years. It was going to be up to the level of $25 billion in 2005. Right now we are only funding 30 percent of the children who are eligible. And now my colleague comes to the floor and says that is all fiction, that it is never going to happen.

If it is never going to happen, why, in God's name, do we want to pretend it is going to happen? Whatever happened to the idea that every child should have the same opportunity to succeed and do well?

I will say it one more time. I have heard a million people—I am the one who first said it—say you cannot achieve the goal of leaving no child behind on a tin-cup budget. You cannot pretend to have education reform on a tin-cup budget. I have heard Senator after Senator after Senator say we are going to do both accountability and resources. All this amendment says is, not that States and school districts cannot test—they can; not that they don't want to go ahead with testing—they can. What we are saying is, if we do not live up to our commitment to provide the money for more help for kids for reading, more prekindergarten education, more afterschool education, then the State can say they do not want to do the testing.

We ought to live up to our end of the bargain. I cannot believe we are acting as if the test brings about better teachers; that testing leads to smaller class sizes; that testing means kids come to kindergarten ready to learn; that testing means children get the help they need. None of that is happening the way it should. And title I is part of our commitment.

Can't we at least live up to our words? That is all this amendment says. I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER (Mr. CARPER). Is the Senator from Minnesota

yielding time to the Senator from Rhode Island?

Mr. WELLSTONE. How much time do we have?

The PRESIDING OFFICER. Thirty-five and one-half minutes.

Mr. WELLSTONE. I am pleased to yield 10 minutes to my colleague from Rhode Island. I also say, in 30 seconds right now, for month after month after month, I have been hearing how we are going to get a commitment from the administration of resources. We have no commitment of any resources in this bill when it comes to title I. I am trying to make sure we live up to our promises.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I rise as a cosponsor of the Wellstone amendment and a strong supporter of the amendment. I believe what Senator WELLSTONE is doing is calling our collective bluff. We talk about high standards, high accountability for every school in America. We talk about not leaving any child behind. We talk about authorizing significant amounts of money for title I. In fact, we have all come together, 79 of us, to vote for a substantial increase in title I spending—authorization, not appropriation, under the leadership of Senator DODD and Senator COLLINS.

What he is saying is, if we are all in favor, if we have all voted for it, let's make sure we do it. Let's make sure we do it in conjunction with the testing, not after the fact, not testing first, money later. Let's do it together.

That is very wise public policy. It reflects what we have all been talking about for weeks and weeks now. I have heard in the course of the debate analogies to other realms of endeavor, talking about the efficacy, the importance of testing. We know testing is important. There is no one in the Senate who does not recognize that if you test students to see if they are making progress, you have to evaluate the test scores of schools to see if they are adequate. No one is arguing with that logic.

Let's look at, for example, a medical situation. If you showed up in one hospital, you would get the same test as another hospital across town. But in one hospital, you are discovered to have a serious heart problem. They don't have a lot of money, so they give you some chewing gum. The other hospital across town has lots of money, so they give you beta blockers and all sorts of exercise counseling, nutrition, everything under the sun. You are besieged by counselors and therapists, people organizing your life so that you can deal effectively with this discovery. It is the same test, however, with much different results. Senator WELLSTONE is arguing, we will have those tests, but we want the same results.

Frankly, it is about money. It is about resources. The difference, as he pointed out so well, between the performance of students on tests is inextricably, invariably linked to the income levels of those students and, as a result, the income levels of those schools. We all know the basic source of funding for public education in the United States is the property tax. Inner cities with declining property values put less into their programs than affluent suburbs. The reality is, if we really want the system to work, if we want the tests to work, to do more than just identifying failure, if we want to guarantee success, we have to put these resources in. That is the heart of the amendment.

I have also heard—and we hear this every time we engage in a debate on education—we are doing so much worse compared to other countries, particularly European countries. We very well may be. The answer, however, might not be testing. The answer might be having a comprehensive health care system for every child. It might be to have a program of daycare for every child, a very elaborate parental leave program for every family. Maybe if we did those things, our test scores would look very good relative to France or Germany or Great Britain or other countries. So be very careful and wary of these comparisons internationally.

We know that we can improve the quality of our education if we have accountability, and that requires some testing. But we also should know and recognize, as Senator WELLSTONE does, that accountability in testing without real resources won't make the difference we want to achieve. That is not unique to Senator WELLSTONE.

A recent Aspen Institute report noted:

> In the effort to raise the achievement of all American students, an extremely serious barrier is the huge disparities in resources for education across districts and states. It is not unusual for per student expenditures to be three times greater in affluent districts than in poorer districts of the same state.

That accounts for many of the reasons why some students succeed and others fail. The real test, in fact the essence of democracy in America, is not what we say but where we send our children to school. Many parents recognize that when they purchase homes in areas that have good public schools versus those areas that are not funded as robustly.

Now, in addition, the Center for Education Policy concludes, in a recent report, that policymakers ''should be wary of proposals that embrace the rhetoric of closing the gap but do not help build the capacity to accomplish that goal.''

Testing is just one aspect of that capacity building. We have to have good professional development, good parental involvement, and resources so that the school building itself is a place that children will want to go to and not try to shun and leave as quickly as they can.

The Wellstone amendment is very straightforward. It simply states that the new tests authorized under title I need not be implemented unless title I appropriations have reached $24.72 billion by 2005. That was the amount authorized by the Dodd-Collins amendment for the year the tests are scheduled to go into effect, also 2005.

This amendment has widespread support: The American Association of School Administrators, the Council of Great City Schools, the Hispanic Education Coalition, the Mexican American Legal Defense and Education Fund, the NAACP, the National Association of Black School Educators, the National Council of La Raza, the National Education Association, the National PTA, and the National School Boards Association—all of these groups representing those individuals closest to the issue of education. The school boards, the PTAs, they recognize the logic and the wisdom of the Wellstone amendment.

I hope we can recognize that logic, that we can support this amendment. And, frankly, if our intentions are good, and I believe they are, this amendment will be merely hortatory. If our intentions are good, we will appropriate the money. We will reach those targets. Testing will go into effect. But if it is the intention or the mishap that we vote for testing but we don't vote for resources to title I, then rather than ruing that day, we should vote for this amendment and provide a real check.

I urge all of my colleagues to support the amendment. I yield back my time to Senator WELLSTONE.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. I yield such time as he may consume to the Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, let me say a few words about this amendment. Then I will speak on the bill in general.

Just reading the Wellstone amendment helps to clarify the argument and the signal this amendment sends. It says:

> No State shall be required to conduct any assessments under this subparagraph in any school year if, by July 1, 2005, the amount appropriated to carry out this part for fiscal year 2005 does not equal or exceed $24,720,000,000.

That is, let's fully fund—however we define ''fully fund''—title I before we require this accountability and these assessments. The signal of this amendment, the not-too-subtle message is that the problem in our educational system in this country is there is not enough money. That is the less-than-subtle message the Senator from Minnesota would send out to school districts across this Nation: We are not going to have accountability; we are not going to require testing; we are not going to have assessments under this title until we triple the funding.

If money were the issue, if simply spending more money would solve our education problems in this country, we would have no education bill before us.

If one looks at the last decade, particularly in terms of the Federal Government's involvement, it has been about a 180-percent increase over the previous decade. Nationally, we have increased spending on education by about 30 percent, if one looks at every source of spending on education.

There have been dramatic increases in education spending, but there has been no—I repeat—there has been no correlation to increased test scores and increased student achievement.

While I do not doubt the sincerity of the Senator from Minnesota, I question the logic and the message this amendment sends forth.

In the 1994 ESEA reauthorization, Congress required assessments in three grades. Those provisions were in effect no matter how much or how little Federal funding was provided. The fact is, we did not pay for the testing that we at that time required. In the bill before us, I believe we are more than increasing spending sufficient to meet the new mandates that are being placed upon the States.

The Senator from Minnesota says we are setting schools up for failure. I suggest that what we are really doing is freeing schools and freeing States to make the kind of reforms to focus resources where real academic achievement can be realized.

I have talked to education officials in the State of Arkansas. I have talked to education officials in our State department, and they support the President's education initiative. They support the provisions regarding testing. It does not scare them. They realize this is the way we measure; this is the way we assess; this is the best means we have to really demonstrate that education is working, that children are learning, and that the investments being made in Federal, State, and local resources are good investments.

This amendment strikes at the very heart of the President's plan. We currently provide almost $9 billion for title I, and since title I has been around, we have seen no correlating rise in test scores among students being served. Why then would it be suggested we should require that we eliminate the most important accountability provisions of the bill and not put those accountability provisions in effect until we triple title I funding?

Total national spending on elementary and secondary education has increased 129 percent over the last decade, but Federal spending has increased by over 180 percent over the last decade. Since Republicans gained control of the House and Senate in 1995, Federal spending on elementary and secondary education has increased from $14.7 billion in 1996 to $27.8 billion in 2002. That is an almost doubling of the Federal funds for elementary and secondary education.

I suggest we should not try to portray one party or another party as being committed to education but look at the facts, look at the commitment that has been demonstrated in resources. But increasing funding is simply not the answer in and of itself. There are a lot of statistics that can demonstrate that. Let me share a few of them.

These statistics came from the most recent 1998 National Assessment of Educational Progress, the NAEP test, demonstrating that with the $120 billion that has been invested, poor kids still lag behind those of more affluent backgrounds in reading. In 4th grade, 8th grade, 12th grade, the areas in which we require testing, we can see that gap is as real and as evident as it ever was.

The whole reason the Federal Government involved itself in local education was justified by our commitment to narrowing the gap between affluent homes, advantaged children, and those from less affluent homes and disadvantaged backgrounds. The experiment has been a monumental failure. We have invested billions of dollars, and yet we have not narrowed that gap. It is not time to reduce the resources but to ensure with those resources there are genuine and real reforms that accompany the resources.

This is a graph demonstrating ESEA funding versus the NAEP reading scores. A chart such as this clearly demonstrates there is a lack of correlation between increased spending and automatic improvement in reading scores or academic achievement. The appropriation for ESEA programs is in the billions of dollars. The red line demonstrates how dramatically those increases have occurred. The green line demonstrates the national fourth grade reading scores, which have effectively, since 1991, been level. There has been increased spending without a comparable increase—in fact, any demonstrable increase—in reading scores nationally.

If we look at math, we find exactly the same story. These are ESEA funding versus NAEP math scores. There is a flat line on math achievement and a dramatic increase in appropriations for ESEA. We simply cannot find the evidence which shows that with increased spending, given the resources, the results are going to be there.

This bill dramatically increases spending, but to its credit and to the President's credit for taking the lead on this issue, it says increased resources must be accompanied by real reforms, real assessments, real accountability. That is what this legislation does.

The United States spends more per student than most other advanced nations in the world. This chart clearly demonstrates, even if we look at advanced nations in Europe—Denmark, Switzerland, France—and Australia, we are expending more money, sometimes dramatically more money, than other developed nations.

If spending were the answer, if the more we spent per student the better the test scores were going to be, the greater the academic achievement, hence, the greater opportunity those children would have in the future, then we should be leading the world in academic achievement. After all, we are spending more per student than any other advanced nation in the world.

What are the academic results internationally? A 1999 chemistry knowledge achievement on the TIMSS eighth grade test shows we are lagging way behind Hungary, Finland, Japan, Bulgaria, Slovak Republic, South Korea, Russian Federation, Australia—we are way down in our achievement in the area of chemistry. We are spending more, but we are not producing more.

This chart shows the 1999 algebra knowledge achievement test in the area of math in the eighth grade. Once again, we are near the bottom of the industrialized nations of the world. South Korea cannot compare with how much we are spending per student in this country, and yet they dramatically outperform American students. There simply is not the correlation between spending and academic achievement that many would like to draw.

This next chart is 1999 geometry knowledge achievement in the eighth grade. Once again, looking at the industrialized nations around the world from Japan to Australia, they far outperform American eighth grade students in math and in science.

Does it mean we should spend less? No. It means we should spend more wisely. It means we must accompany increased spending with real reform, with accountability, with assessment, with local control and flexibility. Truly one size does not fit all.

There is one message the Arkansas Department of Education sent to my office: Do not handcuff us; do not continue down the road of prescriptive national formulas on what we must do. Give us the flexibility to make local reforms and, hence, improve student achievement.

The evidence is clear that this amendment, well intended as it may be, is greatly misguided. We have a bill before us that, if we were to enact it without undermining its very underpinnings and pulling its very heart out, could move us in a dramatically new and better direction on education.

It provides important provisions on greater parental choice, not as much as many would like but greater parental choice. The charter States and the straight A provisions, although much watered down, still provide a new and bold opportunity for a few States to experiment with real reform, unhindered by Federal prescriptive programs.

New standards; the requirement of testing grades 3–8; participation in the NAEP; testing 4 and 8; ensuring that not only are the States testing but the tests they are utilizing are meaningful and are giving an accurate depiction of what schools are succeeding and what schools are failing; what States have reforms that are working and what States are not doing the job.

On improvement in teacher quality, I applaud and commend the distinguished Senator from New Hampshire for his lead on improving teacher quality and ensuring that money is wisely invested in professional development, not giving a one-size-fits-all but providing a flexible funding stream to meet the particular teacher quality needs that school districts have across this country.

Finally, with those reforms, with increased parental flexibility, local school flexibility, with attention on individual children, with the requirements on testing, with the consolidation of the plethora of Federal programs, with all of those reforms, there is the increase in spending. That should be the proper Federal role.

We have a great opportunity before the Senate. We have been on the bill for weeks and weeks. We have debated scores of amendments. The genuine and real thrust of the President's education program has thus far been kept intact. The challenge before the Senate this week and next will be to beat back those amendments that turn back to the failed practices of the past, turn back to the misguided notion that more money means better education. That is our challenge, to keep that part of this bill alive, to honor the pledge the President of the United States made to the American people to take us in a new and dramatically better direction on education. I am still hopeful and optimistic, but amendments such as this threaten a return to the failed status quo.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 5 minutes from the opposition.

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

Mr. WELLSTONE. I also ask unanimous consent the Senator from Michigan be allowed to speak for 5 minutes, followed by the Senator from Washington.

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

Mr. KENNEDY. I indicated my opposition to the Wellstone amendment, but I take a moment to correct the record of my good friend from Arkansas.

We spend $400 billion a year in K–12; and $8 billion on title I. The fact that some students have not made progress is not the fault of the Title I program. Instead, it is a reflection of the fact that States have not provided the leadership in terms of assistance and resources. That is where accountability comes in.

No one is saying money is the answer to everything, but it is a clear indication of a nation's priorities. Although we have a difference in terms of this particular legislation, I stand shoulder to shoulder with the Senator from Minnesota and others who say we ought to work for the full funding because we are only reaching a third of the students.

I remind my friend from Arkansas what happened in Texas. Look what has happened in school funding from 1994 to 2001. Texas has increased their funding for education statewide by 57 percent. Look at the student achievement. Student achievement has increased by 27 percent. Resources have been expended in developing standards and assessments, academies that assist low-achieving students, professional development, and smaller class sizes. That is how the resources have been spent. They have been getting results.

I agree what we want to do is, with scarce resources, give the tried and true policies which have demonstrated effectiveness in the past and make them available to local communities so they make decisions and hold them accountable within that community. That is what this legislation will do.

The testing is also a part of this process. I agree it should be. I am not prepared to put it at risk because we don't reach the actual dollar figure included in the Senator's amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Under a unanimous consent, the Senator from Michigan is recognized.

Ms. STABENOW. Briefly, Mr. President, I will respond to my friend from Arkansas and his charts, comparing our country to other countries.

One of my concerns in comparing countries is that we in the United States do not stress that we have very different values regarding universal free education for all children, kindergarten through the 12th grade. We take all. Whatever child walks in the door, whether that child has had breakfast, whether they have had a good night's sleep, whether they even had a bed or home in which to sleep the night before. We take all children. I believe that is a strength of the United States of America.

I have had the opportunity to travel around the world and speak with those involved in education in other systems and know if we were to make certain adjustments and only let children over the eighth grade who have met a certain level proceed, or do as done in other countries, that would have a different effect from what we do in the United States.

Mr. HUTCHINSON. Will the Senator yield?

Ms. STABENOW. Certainly. I ask it come from the opposition time.

Mr. HUTCHINSON. Would the Senator from Michigan concede that although there are differences between European nations and the students they educate in the upper grades, the statistics I showed giving international comparisons in the eighth grade in both Europe and the United States, all students are being educated, that it demonstrates we are achieving less on those international test scores than comparable student bodies in European nations?

Ms. STABENOW. If I may reclaim my time, I concur, from watching the study and what has been done, that we, while doing well at the fourth grade level in the TIMSS international studies, by the eighth grade we are losing children. We need to be toughening curriculum and we need to focus on accountability. Many times comparisons that are done are not fair and accurate given the value we have on public education.

Two further comments. First, saying resources should not be coupled with accountability and don't make a difference is to ignore what has happened today for our children in schools. It is not about the dollars. It is about lowering the class size. I have a friend in Grand Rapids, MI, who teaches high-risk students and last year had over 30 students; this year, 15. Surprise, the children went from F's and D's to A's and B's. That is because there was more time for the teacher to teach and the children to learn. It is not about money; it is about children learning and teachers being able to teach smaller classes.

As an example, that same school has books that have situations that don't exist anymore, countries that don't exist anymore, discussions about NASA from years ago. They need to be updated.

I have one final point in support of the amendment of my colleague. I was not here 25 years ago when IDEA passed, when special education was brought forward. However, I do know as someone who has been in a State legislature and has been an active parent with my two children growing up, special education, while setting very important requirements, had, also, the promise that the Federal Government would pay 40 percent of the costs to help the schools so they would not have to take dollars away from other programs, other children, in order to provide these important special education services.

What happened? The Federal Government has never hit 15 percent—never hit 15 percent—even though the promise was 40 percent. The reason I believe this amendment is important is we cannot do this again to the schools. The fact we are not keeping our promise on special education costs my Michigan schools $420 million this year—$420 million that is taken from the ability to lower class size, the ability to upgrade our technology and focus on math and science in our schools, to fund critically important special education programs.

We should not do this again. This amendment will guarantee that, in fact, we will not just talk about requirements; we will make sure the resources are there so our children can truly succeed.

The PRESIDING OFFICER. Under the previous unanimous consent agreement, the Senator from Washington is to be recognized.

Mr. WELLSTONE. Mr. President, I ask how much time we have?

The PRESIDING OFFICER. The proponents of the amendment have almost

23 minutes, the opponents of the amendment have just over 60 minutes.

Mr. GREGG. Will the Senator from Minnesota allow us, Mr. President, after the Senator from Washington speaks, to set aside his amendment so the Senator from Texas could offer her amendment? And then after offering her amendment we could go back to the Wellstone amendment?

Mr. WELLSTONE. Could I ask how much time the Senator from Texas requires?

Mrs. HUTCHISON. Mr. President, I would like to take about 7 minutes, and the Senator from New York would be speaking on the amendment as well for about 5 minutes. Could we have, perhaps, 15 minutes? Because Senator COLLINS from Maine is going to try to come down. After 15 minutes, then we would go back to the Wellstone amendment, close that, and our amendment would be voted on afterwards.

Mr. WELLSTONE. Mr. President, my understanding is this would be after the Senator from Washington speaks? That will be fine.

Mr. GREGG. I ask unanimous consent that after the Senator from Washington speaks, the Senator from Texas be recognized to offer her amendment, that we set aside Senator WELLSTONE's amendment, that she offer her amendment and be on her amendment for up to 15 minutes. Then we will return to Senator WELLSTONE's amendment.

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

The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, Senator WELLSTONE brings us an amendment today that really gets to the very heart of this bill, helping our schools ensure that no child is left behind. Some seem to think the heart of this bill is testing, but I have to say as a parent and former educator I know testing alone will not ensure that one additional child learns to read. Testing alone will not help our Nation's students learn to add and subtract. The heart of this bill must be a true effort by the Federal Government to serve as a partner to our States and to our local communities, offering every child a high-quality education and true chance to succeed.

In 1965, when the Federal Government first recognized its special responsibility to provide additional resources to help the most disadvantaged students, we determined a level of support that was necessary to ensure that every child would succeed. Since that time, we have failed over and over again to really give them that support. That is what this Wellstone amendment is about: ensuring we finally meet our commitment to those children.

Over the course of this debate, many of my colleagues have said that title I has failed to help our children over the past 35 years. They cite stagnant test scores as proof that additional investments in title I are a waste. Frankly, that is ridiculous. The reality is, after adjusting for inflation, title I spending has been almost flat. Meanwhile, the job of our public schools has gotten much more demanding, serving not only more students overall, but more students with challenges in limited English proficiency and disabilities.

But these glib statements about title I having failed our disadvantaged students are perhaps most disingenuous and frustrating when one considers the chronic underfunding of title I. Let me talk about that for a moment and illustrate the absurdity of this argument that title I has failed.

Let's assume that Congress decides we must build a bridge from the House to the Senate side of the Capitol; after building a third of that bridge, we begin sending people over that bridge. Not surprisingly, no one makes it to the other side. Some Senators come to the floor and express shock and dismay that no one has crossed the incomplete bridge. After years of this kind of folly, we finally declare on the floor of the Senate that the bridge is clearly a failure and it has to be torn down.

That is what we have done with title I. We have determined that a need exists. We have developed a solution. We have failed to implement that solution. And then we have declared that the solution is not a good one.

The promise of title I has never truly been fulfilled, and because of that, the promise for millions of children has also not been fulfilled. But this is not a matter of getting people across the Capitol. This is about our children's lives. This is about giving them a true chance to succeed. Title I has not failed our most disadvantaged children; we have failed them by not fully funding title I. Title I provides some of the most targeted and flexible funding. This is the kind of funding we need to offer if children are going to have any chance of passing these tests.

Last week, when I was home in my home State of Washington, I met with 31 superintendents in one meeting, and then I talked with countless other parents who stopped me in the grocery store or on the street or anywhere else they found me to express their enormous concern about this bill. They know we are sending them a huge unfunded testing mandate, but they are not sure whether we are sending them much else. Frankly, neither am I.

I know this bill does not provide smaller classes. It doesn't provide support for school renovation or even all the money they will need to develop and implement the tests we are requiring. I also know this bill imposes serious consequences based on the results of these new tests, but this bill does not give our children or our teachers or our schools the tools they need to help the kids pass these tests.

What is our goal in this bill? Is it to impose an enormous unfunded testing mandate on our schools? Is it to declare our schools are in need of improvement or to shut them down? Is it to set our children and their teachers up for failure or is it to ensure that no child is left behind by, yes, measuring their progress but also providing the resources that will help them make that progress?

I have heard my colleagues claim over and over again that the testing in this bill is simply a measure and it will help us identify the needs. Will anyone really be surprised if these new tests show that many children in our most poor schools are not succeeding? When will they have sufficient evidence that the problem exists and be willing to then take the steps necessary to solve it? We keep hearing people say this bill is about accountability. I have news for them. Most of our Nation's teachers, principals, and educators have always felt accountable to the people they serve in their own communities.

What about our accountability? When will we be held accountable for following through on our commitments? We have gotten away with not following through on this one for 35 years. Isn't it time we held ourselves accountable and stopped picking on the teachers and the parents and the students who are struggling every day with insufficient resources?

About a month ago, 78 of our colleagues came down to this floor and voted to invest this amount of funds in our most disadvantaged children. Was our goal that day just another empty promise? I expect at least some of those same 79 votes will be registered in favor of Senator WELLSTONE's amendment since it simply affirms the commitment we have made to these children.

This vote is a test. Are we willing to put our money where our mouths are? Any Senator who voted for the Dodd amendment but votes against this amendment will have some explaining to do—not to me, by the way, but to the children they are deceiving with false promises of help backed up with only another test, not a smaller class, a well-prepared teacher, or an after-school program.

I urge my colleagues to support the Wellstone amendment and show the Nation's most disadvantaged students that we are committed to offering more than just words of encouragement. We are committed to offering them the support they need to succeed.

Mr. WELLSTONE. Mr. President, if I could take a moment, I thank the Senator from Washington. Her work as a State legislator, as a school board member and teacher, her familiarity with children and what is happening in schools, with kids, with teachers, and for the amendment, comes through all the time.

I thank her.

The PRESIDING OFFICER. Under the unanimous consent agreement, the Senator from Texas is recognized for 15 minutes on her amendment.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to set aside

any pending amendment and to call up amendment No. 540.

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

AMENDMENT NO. 540 TO AMENDMENT NO. 358

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 540.

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

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

The amendment is as follows:

(Purpose: To provide for education reform programs that provide same gender schools and classrooms, if comparable educational opportunities are offered for students of both sexes)

On page 684, strike liens 1 through 5, and insert the following:

''(L) education reform programs that provide same gender schools and classrooms, if comparable educational opportunities are offered for students of both sexes;''.

AMENDMENT NO. 540, AS MODIFIED

Mrs. HUTCHISON. Mr. President, I send to the desk an amendment to amendment No. 540, a modification to be substituted for the text of the amendment.

The PRESIDING OFFICER. Is there objection to the modification?

The amendment is so modified.

The amendment (No. 540), as modified, is as follows:

(Purpose: To amend the provisions relating to same gender schools and classrooms)

On page 684, strike lines 1 through 5, and insert the following:

''(L) programs to provide same gender schools and classrooms, consistent with applicable law;

On page 684, between lines 16 and 17, insert the following:

''(c) AWARD CRITERIA AND OTHER GUIDELINES.—Not later than 120 days after the date of enactment of the Better Education for Students and Teachers Act, the Secretary shall issue specific award criteria and other guidelines for local educational agencies seeking funding for activities under subsection (b)(1)(L).

Mrs. HUTCHISON. Mr. President, this is an amendment that several of us have worked on for quite a while trying to come up with the right formula.

I thank Senator KENNEDY, and I especially thank the cosponsors of my amendment, Senator COLLINS, Senator MIKULSKI, and Senator CLINTON, for trying to come up with a solution to a problem that we have seen over many years; that is, obstacles put in place against public schools being able to offer single-sex classrooms and single-sex schools.

We are trying to open more options to public school than are available in private school because we want public schools to be able to tailor their programs to what best fits the needs of students in that particular area.

Most of the time coeducational classes in schools are going to be the answer. But sometimes in some circumstances we find that girls do better in a single-sex atmosphere and boys do better in a single-sex atmosphere. We want parents who might not be able to afford private school or might not have the option of parochial school to be able to go to their school board and say: We would like to offer a single-sex eighth grade math class for girls or we would like to offer a single-sex chemistry lab for boys or we might want a whole single-sex school, such as some that have had wonderful results.

I imagine my colleague, the Senator from New York, will mention this because one of the great success stories in single-sex public schools is the Young Women's Leadership Academy in East Harlem, NY, which just saw its first high school graduation and schools such as Western High School in Baltimore that has been in place since the 1800s.

These are the kinds of schools that have weathered all the storms, faced the lawsuits, and have gotten over it. We don't want those kinds of barriers.

If people want that kind of option, and parents come to the school boards wanting that option, that is easily obtain. Our amendment simply says, under applicable law, schools can offer, under title VI, which is the creativity title—the title that we hope will open more options for public schools, single-sex schools and classrooms—we want to particularly have the Department of Education, which is provided in this amendment, to have 120 days to issue guidelines so the public schools that are interested in offering this kind of option will have clear guidelines on how they must structure the program to meet applicable law. That is simply what the amendment does. It has been agreed to by all of the entities that have been working on this issue.

I think this is very exciting. It is something I have worked on since Senator Danforth of Missouri left the Senate; he tried to get an amendment passed when he was here that would have allowed single-sex schools and classrooms and made it easier to do that. But the Department of Education, frankly, has been the barrier. They have put the roadblocks in front of the people who want to try to do this around the country. Most people have been persuaded. Ones such as the East Harlem Young Women's Leadership Academy have prevailed, and they have done very well.

However, we shouldn't have to overcome hurdles. We want public schools to meet all of the tests and all of the individual needs of students without having to go through a lot of redtape, a lot of bureaucracy, and many barriers. That is what this amendment will do.

I call on my colleague from New York, who has worked with me on this amendment. I talked to her about my observations of the leadership school in Harlem when we first put this amendment forward. She has been a real leader in helping me work through the amendment and getting everyone to agree on what we could do to go forward. I appreciate that help. I yield to my colleague, the Senator from New York.

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

Mrs. CLINTON. Mr. President, I thank my good friend and colleague from Texas for her leadership on this and so many other issues. The remarks she made very well describe why I stand in support of this amendment.

I believe public school choice should be expanded and as broadly as possible. Certainly, there should not be any obstacle to providing single-sex choice within the public school system. I thank the Senator from Texas for being a leader in promoting quality single-sex education and for working with me, as well as our colleagues from Maryland and Maine, and with the chairman of the Education Committee, to find a compromise that would further the ability of our school districts around the country to develop and implement quality single-sex educational opportunities as a part of providing a diversity of public school choices to students and parents but in doing it in a way that in no way undermines title IX or the equal protection clause of the Constitution.

We know, as the Senator from Texas has said, that single-sex schools and classes can help young people, boys and girls, improve their achievement.

In New York City, we have one of the premier public schools for girls in our Nation. In fact, yesterday the New York Times reported that the first class of girls graduating from the Young Women's Leadership Academy in East Harlem in New York City—all 32 of the seniors—have been accepted by 4-year colleges, and all but one are going to attend while the other young woman has decided to pursue a career in the Air Force, which we know is also an opportunity for young women.

We have to look at the achievements of a school such as the one in New York City that I mentioned, the Young Women's Leadership Academy, or other schools that are springing up around the country. We know this has energized students and parents. We could use more schools such as this.

With the negotiations we have engaged in over this amendment, there was some disagreement that we had to work out about how to comply with title IX and with the Constitution because there has been confusion around our country in school districts about how they can develop single-sex educational opportunities without running afoul of the law or a constitutional prohibition.

This amendment clearly states that school districts should have the opportunity to spend Federal educational funds on promoting single-sex opportunities so long as they are consistent with applicable law. It also makes

clear that the U.S. Department of Education should clarify to our school districts what they can and cannot do. Their guidance should be developed as soon as possible. The Senator from Texas and I will watch closely to make sure this guidance is available to school districts.

Both title IX and the equal protection clause provide strong protections so schools cannot fall back on harmful stereotypes. For example, we have done away with the prohibition that used to keep girls out of shop classes. I can remember that—even out of prestigious academic high schools because they were boys only. We have broken down those barriers. We don't in any way want this amendment to start building them up. We are trying to be very clear that we uphold title IX and the Constitution while we create more young women's leadership academies that will make a real difference in the lives of young women and young men.

For example, we do not need another situation as we had with VMI, where young women were first prohibited from attending the school and then were provided with an alternative that was not in any way the same as what was available to the boys.

The language offered here strikes the important balance between providing flexibility to offer single-sex educational opportunities and providing the legal safeguards pursuant to the VMI decision, and key title IX protections, to ensure that we do not turn back the clock.

What the Senator from Texas and I want to do is to provide more and more opportunities for our young people to chart their own courses, to make it clear that they are able to have their own futures in their hands by getting the best possible public school education.

So I am very grateful that we have come together today on behalf of this important amendment which will send a clear signal that we want public schools to provide choices. We want to eliminate sex-based stereotyping. We want to make it clear that every young girl can reach her fullest potential and should be able to choose from among options that will make that possible; and the same for our young boys as well.

So I thank the Senator from Texas for not only putting forth this amendment but for working so hard on making it really do what we intend it to do, so there will be the kind of opportunities for our children that we in this Chamber favor and that we hope this bill will bring about.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator yields back the time.

There are approximately 5 minutes remaining.

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I yield up to 4 minutes to my colleague and cosponsor of the amendment, Senator COLLINS.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, first, I commend the Senator from Texas for her superior work on this issue. She and I have been working on it for a very long time. I am delighted to see the bipartisan compromise amendment reached today.

This action is long overdue and would correct a misinterpretation of title IX of the education amendments of 1972 that clearly was never intended.

Our amendment would ensure that local school districts can establish single-sex classrooms. I would like to share with my colleagues a wonderful example from Presque Isle High School in northern Maine of what can be accomplished with a single-sex classroom.

A gifted math teacher in Presque Isle by the name of Donna Lisnik believed that an all-girls advanced mathematics class would result in higher levels of achievement by women. She was absolutely right. Donna established an all-girls math class, and the results were absolutely outstanding. Both the achievement of the girls, whether measured on SAT scores or by other tests, and the results, the number of girls participating in the class, soared. Everything was a plus.

I had the privilege of visiting Mrs. Lisnik's class. I saw firsthand the enthusiasm the girls had for mathematics, how comfortable they felt, and how they were accelerating.

However, unfortunately, in the previous administration, the Department of Education concluded that this very worthwhile and effective course did not correct historical inequities and, thus, deemed it to be a violation of title IX requirements. As a result, Presque Isle had to open the course to both boys and girls. It was unfortunate that the school was prevented from pursuing a strategy that was resulting in very high achievement levels for the girls attending those classes.

Senator HUTCHISON's bipartisan compromise amendment will ensure that schools with innovative education programs, designed to meet gender-specific needs, will not face needless obstacles.

This amendment is a great example of our working across party lines to do what is best for our children and for educational reform. It will give schools the flexibility to design and the ability to offer single-gender classes when the school determines that these classrooms will provide students with a better opportunity to achieve higher standards.

That is a goal we all share.

I see the Senator from Delaware is also seeking to speak on this issue, so I yield back to the Senator from Texas the remainder of my time. Again, I commend her for her hard work on this issue. It has been a pleasure to be her partner in this regard.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I do want to say we would not have gotten to this point without Senator COLLINS' leadership and help. We adopted this amendment before. We are now back adopting it again because the bill that we passed before did not end up with a Presidential signature. So I thank her for being with us because of her experiences in Maine and appreciate her support very much.

Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator has half a minute.

Mrs. HUTCHISON. I ask unanimous consent the Senator from Delaware be yielded 1 minute, and then that I be recognized for 30 seconds to close.

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

The Senator from Delaware.

Mr. CARPER. Mr. President, I thank the Senator from Texas very much for providing me the 1 minute. And I thank the Presiding Officer for sitting in for me so I might speak.

Mr. President, I ask unanimous consent to be added as a cosponsor to the amendment that is being offered.

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

Mr. CARPER. We in the Senate should be concerned foremost with what is going to work to raise student achievement. We want to provide the resources that will enable and foster and nurture that achievement. We also want to make sure we take away barriers to that student achievement.

When I was sitting as the Presiding Officer during the debate, I realized the nature of the amendment being offered, and I felt compelled to applaud what we are endeavoring to do.

It reminds me that 10 years ago we faced a roadblock in my own State of Delaware because we were unable to do, on a small scale, what we seek to do with this amendment. I know it is not just our State but in the 49 other States young men and young women will benefit if we are able to include this in the legislation that goes to the President, and then if we follow up in the 50 States of America.

I applaud each of you for offering the amendment and thank you for the opportunity to speak on its behalf.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I thank the distinguished Senator from Delaware, the distinguished former Governor, who obviously has another example of how these big barriers have hurt our ability to allow students to get the best education for their particular needs.

So I just close by saying, now it is up to the Department of Education. What we are saying in this Chamber today is: Drop the barriers. Open the options for public schools. Give parents a chance to have their child in public school have all the options that would fit the needs of that particular child.

I again thank Senator MIKULSKI and Senator COLLINS who have been with

me on this amendment from the very beginning, and I thank our new cosponsors, Senator CLINTON, Senator CARPER, and Senator KENNEDY, for working with me to form this compromise.

The bottom line is that the Department of Education must step up to the plate. I have discussed this with Secretary Rod Paige. He agrees. He has committed to me that he will open the spigot, open the floodgates, to allow this to be one of the options that will be available to the parents of public schoolchildren in this country.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator's time has expired.

Mr. KENNEDY. If it is agreeable to the Senator from Minnesota, we could dispose of the amendment on a voice vote now. Would that be agreeable to the Senator?

Mr. WELLSTONE. That would be fine.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 540, as modified.

The amendment (No. 540), as modified, was agreed to.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. KENNEDY. I move to reconsider the vote.

Mrs. HUTCHISON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I yield myself just 3 minutes on the amendment of the Senator from Texas.

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

Mr. KENNEDY. Mr. President, I want to join in thanking the Senator from Texas. This issue is one of enormous importance. We have heard very eloquent comments and statements about the opportunities that this type of amendment can provide for young Americans.

We want to take advantage of those opportunities. As one who has been here for some time, I have often seen where there appear to be opportunities, and where there has also been discrimination against individuals. That has been true in a variety of different circumstances. None of us wants to see this. We know that that is not the intention of any of us who is supporting this particular program.

The Senator was enormously helpful and positive and constructive, as was the Senator from New York, Mrs. CLINTON, Senator COLLINS, Senator MIKULSKI, and others, in making sure that we were, to the extent possible, not going to see a reenforcement or a return to old stereotyping which has taken place at an unfortunate period in terms of American education. They have done that, the Senator has done that with the amendment. That has been enormously important.

I yield the floor.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from New York.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the amendment under consideration be set aside.

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

Mrs. CLINTON. Mr. President, I did not realize that the Senator from Minnesota wanted to continue at this moment. I yield to him.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Does the Senator have an amendment she is trying to dispose of?

Mrs. CLINTON. I am trying to propose the amendment, but I will lay it aside, and I am not asking for a vote.

AMENDMENT NO. 466

Mr. WELLSTONE. I think we should probably go ahead and finish up on the other amendment. How much time do we have?

The PRESIDING OFFICER. Fifteen minutes and 57 minutes 30 seconds for the other side.

Mr. WELLSTONE. May I ask the other side how much time they intend to use?

Mr. KENNEDY. Mr. President, if the Senator wanted to yield the time back, I would urge my colleague from New Hampshire to yield his time back.

Mr. WELLSTONE. I have a little time to summarize. If you all are going to use a few minutes, then at the end I will go ahead and finish. If you have a lot to say, I want to respond to your comments. All right.

I thank the Senator from Massachusetts and the Senator from New Hampshire.

Mr. President, I thank all of my colleagues who have come to the Chamber and spoken on the amendment; quite a few Senators have. I thank each and every one of them for some very powerful words. I almost forget everybody, but Senator DODD, Senator MURRAY, Senator REED, Senator CORZINE, Senator STABENOW, I thank all of them.

This amendment says that the tests that are authorized under title I need not be implemented until after we live up to our goal of appropriating the $24 billion for title I. This is the amount the Dodd amendment called for in authorization. I am not saying that Minnesota or any other State can't go forward. They can do whatever they want. What I am saying is, States have a right to say to us, if you don't live up to your word to get us the resources to go with the testing, then we decide whether we want to do this. The testing that is being done post-1994 goes on. I am talking about the testing in this bill.

This amendment has endorsements from, among others, the Hispanic Education Coalition, Mexican American Legal Defense and Education Fund, NAACP, National Council of La Raza, National Education Association, National Parent Teacher Association, National School Board Association. In addition, we have a letter from Democratic Governors basically saying, while we support the Carnahan/Nelson amendment, we are hopeful that any final version to reauthorize ESEA will apply a funding trigger more broadly, specifically to include title I, the argument being that the Government needs to strengthen its accountability with adequate new investment.

Colleagues, there is a reason that all these organizations that represent the education community on the ground—I didn't include the National Education Association as well—support this amendment, because what they are saying is: Don't set us up for failure. If you are going to mandate that every child in every grade will be tested every year, grades 3, 4, 5, 6, 7, and 8, then how about a Federal mandate that we will have equality of opportunity for every child to be able to succeed and do well on these tests? To not do so is ethically unjust.

This bill, right now, without the resources, without this amendment passing, will test the poor against the rich and announce that the poor failed. Federally required tests without federally required resources for the children amounts to clubbing children over the head after we have systematically cheated them. We already know in advance which children are going to fail. This is a plan, without this amendment passing, not for reform, not for equality, but for humiliation of children.

How in the world can we continue to have the schools? They don't have the resources. They have the large classes. All too often, it is two or three or four teachers in a given year, much less the children living in homes where they move two or three times a year. They come to kindergarten way behind, not kindergarten ready. Quite often, they don't have qualified teachers. They don't have the technology. They don't have the resources. Then, in the absence of making the commitment to making sure these children have a chance to do well, the only thing we are going to do is require testing and fail them again.

This amendment is just saying, if we are going to have the testing, we are going to provide the resources.

My friend Jonathan Kozol, who I think is the most powerful writer about children in education today, says that testing is a symbolic substitute for educating. Don't substitute a symbol for the real thing. Kids who are cheated of Head Start—we fund 3 percent of the children who could benefit from Early Head Start, barely 50 percent of the children who are 4-year-olds. Children who are cheated of small classes, cheated of well-paid teachers learn absolutely nothing from a test every year except how much this Nation wants to embarrass and punish them. That is what is wrong with having the testing without the resources.

I hope the testing advocates do not assume that teachers are afraid to be held accountable. Frankly, that is libel against teachers. No good teacher is afraid to be held accountable for what she or he does. I wish I had the time. I have e-mails from teachers all across the country about this.

Accountability is a two-way street. What we have here is one-way accountability. We want to have the tests every year, but we don't want to be accountable to the words we have spoken. Seventy-nine Senators went on record to vote for authorizing full funding for title I, for disadvantaged children, in 10 years.

I see my colleague, the Senator from Minnesota, presiding. He would say: Why 10 years? He is right. A 7-year-old will be 17 then. That is too late. You only have your childhood once. Nevertheless, we went on record, and that means that by 2005, we made a commitment of $25 billion for title I, which right now is funded at a 30-percent level.

So Senator DAYTON, in St. Paul, when you get to a school with fewer than 65 percent low-income children, they don't receive any funding—we have run out already—money that could be used, especially with the little children, for additional reading help, after school, prekindergarten. What this amendment is saying is that 79 Senators voted for that authorization. If that is what you did, and it was a good vote for the Dodd-Collins amendment—Senator DODD was here speaking—then let's live up to our words.

Let's say that unless that money is appropriated—and I can see Senators running ads: I voted to authorize full funding for the title I program for the children in my State—knowing that the authorization has nothing to do with whether there is money.

This amendment makes the words real. Let's not fool around with people. Let's live up to our commitment, and let's make it clear; yes to accountability, but we also are going to follow through when it comes to living up to our commitment of resources.

I have heard Senators say if we talk the talk but we do not walk the walk, we are going to fail our children. That is exactly what is wrong with this bill that calls for the testing without the resources. Testing and publishing test scores is talking, only talking.

Giving title I, supporting what we should be doing—fully funding Head Start, making sure every child comes to kindergarten ready to learn, getting the best teachers in the schools, providing additional help for reading—that is walking. That is what this amendment is. This is a walking amendment.

I say to Senators: It is time to walk. It is time to start walking. It is time to start walking your talk. It is time to start living up to what you said when you voted for the full funding for title I.

Let's be accountable. I have heard the majority of Senators say they were going to fight for the resources to go with the testing. Now is the time to do so.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have listened to the Senator make a very impassioned plea for funding the program, and I am all in agreement with it. I feel, however, as if we are describing two different bills.

The pending Senate bill already includes accountability. The bill already includes testing. And, at the present time, under current law there are already 15 States that are testing students every year, in grades 3 through 8, in math and reading. There are 46 States that are testing their students annually in at least two grades. States are complying today with the 1994 law, and are being held accountable for their progress, under provisions that describe adequate yearly progress in Title I. This is nothing new.

The amount that those 15 States are spending on their statewide tests is low. Many States are not investing the resources that they really need to ensure high-quality assessments. According to the Education Commission of the States, those 15 States only spend between $1.37 and $17.16 per student annually on their assessments.

Under our legislation, the Jeffords amendment would ensure $69—do we hear that?—$69 per student for States to develop their annual assessments by the 2005–2006 school year, in reading and math for students grades 3–8. According to the National Association of State Boards of Education, it takes between $25 and $125 per student to develop such assessments. $69 should be sufficient. Not $1, as exists now, not $5, but $69.

The Wellstone amendment essentially eliminates requirements to develop those assessments, and eliminates the promise that those high-quality assessments may hold to produce the data that can drive school reform. We are cutting off our nose to spite our face. Senator WELLSTONE is thinking that, sometime in the future, we will eventually begin this process of assessment. In reality, assessments are in place now.

To say if we do not get full funding, if we miss it by $500 million, what happens? We are not going to provide any of the accountability. If we miss it by $300 million, we are not going to get it. With all respect to my colleague from Connecticut, their amendment for full funding was for 10 years. This amendment calls for full funding in 4 years. I am all for full funding in 4 years, if Senator wants to offer an amendment that does not compromise essential reforms in the underlying bill.

I have spoken with the President about this very subject. We ought to increase funding for Title I, and double our present commitment to cover two-thirds of the children, and the other third during his administration. I have said it publicly, and I said it to the President within the last 3 days.

I am going to continue to fight this fight, because I believe in the Title I program. However, to say that at the end of the day we are not going to be able to implement high quality tests that help us in the reform process I do not understand. I just do not understand it because tests are nothing new, we are currently assessing student progress for accountability today, and more and more States are implementing a plan similar to that which is in this underlying bill. Many States are not implementing tests that are of high-quality. They are not doing very well. We have seek in this bill to address that point.

We are not talking about the future. We have addressed the issue of quality in the assessment process with the amendments that we have taken. We want to improve upon States' current practice. We have tried to accomplish that with the amendments to date, but that goal will not be met by the pending amendment offered by the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Five minutes 47 seconds.

Mr. WELLSTONE. Let me try to clear up the confusion of my good friend from Massachusetts. First, part of what we talked about is whether or not there should be full funding for the testing. I support the Carnahan amendment. It was not adopted. I think it should have been adopted.

The Senator talked about the Dodd amendment full funding in 10 years. This amendment does not call for full funding by 2005. This amendment tracks the Dodd amendment. This amendment is a 100-percent reflection of what we have already gone on record supporting. I do not call for full funding; $25 billion in 2005 is not full funding. This is exactly what the Dodd amendment calls for as we reach full funding in 10 years.

As to the testing, it is true we are already testing. As a matter of fact, this amendment does not talk about that testing. This amendment talks about the fact that this bill, called the BEST bill, I say to my colleague from Massachusetts, does not say title I children are tested. It says every child in every school district in every State is tested every year. That is quite a different piece of legislation in its scope. Finally, one more time, the National Council of LaRaza, National Education Association, National Parent Teacher Association, National School Board Association, Democratic Governors—why in the world do you think they support this? Because they have had enough of it. They have had enough of us constantly putting more requirements on them without backing it up with resources.

They are a little bit suspicious of the Congress. They think we are great when it comes to telling them to do this, this, and this, but they do not think we fully fund what we ask them to do, and they are right.

That is why they support this, and they are right. They are saying if you are going to have a national mandate that every child is tested, then let's have a national mandate to make sure

every child has an opportunity to do well on those tests and make sure you live up to your commitment on the title I programs, which is one of the major Federal commitments—it is not a large part of education money spent, but it is a real important piece when it comes to what our commitment is.

This commitment just asks every Senator to walk the talk. You already went on record saying you are for this. Now let's get real. This amendment just says walk your talk.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

On page 43 under ''Assessments,'' this bill spells out the tests which I mentioned earlier are statewide. There are currently 15 States that are testing reading and math annually in grades 3 through 8.

Accountability in current law is based, at least partly, on these tests that are currently being administered. Not all, but many of these tests are not of the highest quality. They are not aligned with standards. They are not valid and reliable measures. I want to make them better. We have in place in this legislation, with the amendments that have been accepted—the Jeffords amendment, the Wellstone amendments, the Collins amendment.

The best estimate has been provided by the National Association of State Boards of Education. They estimate that the cost of developing high quality State tests, aligned to standards, in grades 3–8 ranges from $25 to $125 per student. Our bill provides $69 per student. If States do not receive the funds provided by the Jeffords amendment under this bill for testing, they may suspend the development or implementation of their tests.

The fact is, S. 1, when the President signs it, will contain accountability provisions that will be driven by, as it says on page 43, existing tests under requirements that mirror current law. Many of those tests are not of high quality. Some States are doing better than others. I can understand why the President and our committee both want to do better. To eliminate the possibility to do better, by warding off assessments, does not make any sense to me.

Mr. WELLSTONE. Mr. President, if the Senate lives up to its word and we do exactly what we say we are going to do in the appropriations, which is to provide the money for title I which provides the money for the extra help for reading and afterschool and prekindergarten, nobody loses.

I am calling everybody on their bluff on the words they have spoken. I have not seen any firm commitment about money. I have not seen the administration come forward with any commitment of resources to expand title I to make sure we do our very best for these kids. I don't think this program called BEST, is the best, unless we live up to our commitment.

This should be easy for Senators to vote for. It just means that in our appropriations we do exactly what we promised to do. How can anyone vote against what was already voted for? How can Members vote against an appropriation that is exactly the same thing Members voted for as an authorization? What is wrong with saying, don't ask for me to vote for testing every child throughout America in every school, which is what Senator DODD said? Start as young as age 8, unless you are also going to give me a chance. Don't ask us to vote for a mandate of testing every child without also letting us have an opportunity to pass legislation which will assure we get the resources to the schools and the teachers and kids so they can do well in these tests.

I don't believe that is an outrageous assumption. I stand for that. I hope we get this through.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I associate myself with the comments of the Senator from Massachusetts. There has been a significant amount of debate so I will not carry it on. I reinforce the fact that the President has suggested we extend the testing passed in 1994 to three additional grades. The testing in 1994 required the curriculum be aligned and that the tests be fairly pervasive. At the same time, when those tests were put in place, there was no funding at all to support them.

This President has suggested that is not correct. He has put in place $3 billion of new funding for the purposes of underwriting the costs of these tests. In addition, he has suggested the most significant increase of title I funding for the actual problematic side than any President in the history of this country. He has suggested increases that represent more than 50 percent of an increase in title I funding. So the commitment is significant in the area of dollars.

Senator KENNEDY hit the nail on the head. If this amendment passes, essentially we are stepping backward on the issue of assessment. And we are stepping backward, therefore, on the issue of finding out whether or not low-income kids are getting fair treatment in our school systems. That is what this is about.

Will we have in place a procedure for determining whether or not our low-income children are getting fair treatment? The only way to do that is through a testing regime in the form outlined in this bill. If we abandon that testing regime, for all intents and purposes, we are going back to the present status quo which has produced 35 years of failure. We know it is not working. It is time to make the changes proposed in this bill. Regrettably, the Wellstone amendment takes us backward, rather than forward, in that effort.

I yield back the remainder of our time on our side.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from Georgia (Mr. MILLER), and the Senator from New Jersey (Mr. TORRICELLI), are necessarily absent. I further announce that, if present and voting, the Senator from California (Mrs. BOXER) would vote ''aye.''

Mr. NICKLES. I announce that the Senator from Idaho (Mr. CRAPO), the Senator from Utah (Mr. HATCH), and the Senator from Arizona (Mr. MCCAIN) are necessarily absent.

I further announce that if present and voting, the Senator from Utah (Mr. HATCH) would vote ''nay''.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 23, nays 71, as follows:

[Rollcall Vote No. 176 Leg.]

YEAS—23

Akaka	Durbin	Murray
Biden	Feingold	Nelson (NE)
Cantwell	Graham	Reed
Carnahan	Harkin	Reid
Clinton	Hollings	Sarbanes
Corzine	Kerry	Stabenow
Dayton	Leahy	Wellstone
Dodd	Levin	

NAYS—71

Allard	Edwards	Lugar
Allen	Ensign	McConnell
Baucus	Enzi	Mikulski
Bayh	Feinstein	Murkowski
Bennett	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nickles
Bond	Gramm	Roberts
Breaux	Grassley	Rockefeller
Brownback	Gregg	Santorum
Bunning	Hagel	Schumer
Burns	Helms	Sessions
Byrd	Hutchinson	Shelby
Campbell	Hutchison	Smith (NH)
Carper	Inhofe	Smith (OR)
Chafee	Inouye	Snowe
Cleland	Jeffords	Specter
Cochran	Johnson	Stevens
Collins	Kennedy	Thomas
Conrad	Kohl	Thompson
Craig	Kyl	Thurmond
Daschle	Landrieu	Voinovich
DeWine	Lieberman	Warner
Domenici	Lincoln	Wyden
Dorgan	Lott	

NOT VOTING—6

Boxer	Hatch	Miller
Crapo	McCain	Torricelli

The amendment (No. 466) was rejected.

Mr. KENNEDY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

ORDER OF PROCEDURE

Mr. KENNEDY. Mr. President, I have just talked to the majority leader. And

I see our deputy leader and our Republican floor manager. We had been talking during the course of the afternoon, and hopefully we will have a pathway which will lead us to two votes, I believe, on Monday night and then hopefully set the stage for our Tuesday deliberations.

I heard from our leader, if we are able to work that out, there might not be further votes this evening. But this is underway. I just hope the membership can give us a minute or two to see if that can be put in a unanimous consent agreement. We will do that just as rapidly as possible.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mrs. CLINTON. Mr. President, I ask unanimous consent to lay aside the pending amendment.

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

AMENDMENT NO. 516 TO AMENDMENT NO. 358

Mrs. CLINTON. Mr. President, I call up amendment No. 516.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mrs. CLINTON], for herself, Mr. TORRICELLI, and Mr. CORZINE, proposes an amendment numbered 516.

Mrs. CLINTON. 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:

(Purpose: To provide for the conduct of a study concerning the health and learning impacts of sick and dilapidated public school buildings on children)

On page 586, between lines 18 and 19, insert the following:

SEC. ___. STUDY CONCERNING THE HEALTH AND LEARNING IMPACTS OF SICK AND DILAPIDATED PUBLIC SCHOOL BUILDINGS ON AMERICA'S CHILDREN.

Title IV, as amended by this title, is further amended by adding at the end the following:

"PART E—MISCELLANEOUS PROVISIONS

"SEC. 4501. STUDY CONCERNING THE HEALTH AND LEARNING IMPACTS OF SICK AND DILAPIDATED PUBLIC SCHOOL BUILDINGS ON AMERICA'S CHILDREN.

''(a) STUDY AUTHORIZED.—The Secretary of Education, in conjunction with the Director of the Centers for Disease Control and Prevention and in consultation with the Administrator of the Environmental Protection Agency, shall conduct a study on the health and learning impacts of sick and dilapidated public school buildings on children that have attended or are attending such schools.

''(b) STUDY SPECIFICATIONS.—The following information shall be included in the study conducted under subsection (a):

''(1) The characteristics of public elementary and secondary school buildings that contribute to unhealthy school environments, including the prevalence of such characteristics in public elementary and secondary school buildings. Such characteristics may include school buildings that—

''(A) have been built on contaminated property;

''(B) have poor in-door air quality;

''(C) have occurrences of mold;

''(D) have ineffective ventilation, heating or cooling systems, inadequate lighting, drinking water that does not meet health-based standards, infestations of rodents, insects, or other animals that may carry or cause disease;

''(E) have dust or debris from crumbling structures or construction efforts; and

''(F) have been subjected to an inappropriate use of pesticides, insecticides, chemicals, or cleaners, lead-based paint, or asbestos or have radon or such other characteristics as determined by the Director of the Centers for Disease Control and Prevention to indicate an unhealthy school environment.

''(2) The health and leaning impacts of sick and dilapidated public school buildings on students that are attending or that have attended a school described in subsection (a), including information on the rates of such impacts where available. Such health impacts may include higher than expected incidence of injury, infectious disease, or chronic disease, such as asthma, allergies, elevated blood lead levels, behavioral disorders, or ultimately cancer. Such learning impacts may include lower levels of student achievement, inability of students to concentrate, and other educational indicators.

''(3) Recommendations to Congress on the development and implementation of public health and environmental standards for constructing new public elementary and secondary school buildings, remediating existing public school buildings, and the overall monitoring of public school building health, including cost estimates for the development and implementation of such standards and a cost estimate of bringing all public schools up to such standards.

''(4) The identification of the existing gaps in information regarding the health of public elementary and secondary school buildings and the health and learning impacts on students that attend unhealthy public schools, including recommendations for obtaining such information.

''(c) STUDY COMPLETION.—The study under subsection (a) shall be completed by the earlier of—

''(1) not later than 18 months after the date of enactment of this Act; or

''(2) not later than December 31, 2002.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 for fiscal year 2002 for the conduct of the study under subsection (a).''.

AMENDMENT NO. 516, AS MODIFIED

Mrs. CLINTON. Mr. President, I ask unanimous consent to modify the amendment and send the modification to the desk.

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

The amendment (No. 516), as modified, is as follows:

On page 586, between lines 18 and 19, insert the following:

SEC. ___. STUDY CONCERNING THE HEALTH AND LEARNING IMPACTS OF SICK AND DILAPIDATED PUBLIC SCHOOL BUILDINGS ON AMERICA'S CHILDREN AND THE HEALTHY AND HIGH PERFORMANCE SCHOOLS PROGRAM.

Title IV, as amended by this title, is further amended by adding at the end the following:

"PART E—MISCELLANEOUS PROVISIONS

"SEC. 4501. STUDY CONCERNING THE HEALTH AND LEARNING IMPACTS OF SICK AND DILAPIDATED PUBLIC SCHOOL BUILDINGS ON AMERICA'S CHILDREN.

''(a) STUDY AUTHORIZED.—The Secretary of Education, in conjunction with the Director of the Centers for Disease Control and Prevention and in consultation with the Administrator of the Environmental Protection Agency, shall conduct a study on the health and learning impacts of sick and dilapidated public school buildings on children that have attended or are attending such schools.

''(b) STUDY SPECIFICATIONS.—The following information shall be included in the study conducted under subsection (a):

''(1) The characteristics of public elementary and secondary school buildings that contribute to unhealthy school environments, including the prevalence of such characteristics in public elementary and secondary school buildings. Such characteristics may include school buildings that—

''(A) have been built on contaminated property;

''(B) have poor in-door air quality;

''(C) have occurrences of mold;

''(D) have ineffective ventilation, heating or cooling systems, inadequate lighting, drinking water that does not meet health-based standards, infestations of rodents, insects, or other animals that may carry or cause disease;

''(E) have dust or debris from crumbling structures or construction efforts; and

''(F) have been subjected to an inappropriate use of pesticides, insecticides, chemicals, or cleaners, lead-based paint, or asbestos or have radon or such other characteristics as determined by the Director of the Centers for Disease Control and Prevention to indicate an unhealthy school environment.

''(2) The health and leaning impacts of sick and dilapidated public school buildings on students that are attending or that have attended a school described in subsection (a), including information on the rates of such impacts where available. Such health impacts may include higher than expected incidence of injury, infectious disease, or chronic disease, such as asthma, allergies, elevated blood lead levels, behavioral disorders, or ultimately cancer. Such learning impacts may include lower levels of student achievement, inability of students to concentrate, and other educational indicators.

''(3) Recommendations to Congress on the development and implementation of public health and environmental standards for constructing new public elementary and secondary school buildings, remediating existing public school buildings, and the overall monitoring of public school building health, including cost estimates for the development and implementation of such standards and a cost estimate of bringing all public schools up to such standards.

''(4) The identification of the existing gaps in information regarding the health of public elementary and secondary school buildings and the health and learning impacts on students that attend unhealthy public schools, including recommendations for obtaining such information.

''(c) STUDY COMPLETION.—The study under subsection (a) shall be completed by the earlier of—

''(1) not later than 18 months after the date of enactment of this Act; or

''(2) not later than December 31, 2002.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 for fiscal year 2002 for the conduct of the study under subsection (a).

"SEC. 4502. HEALTHY AND HIGH PERFORMANCE SCHOOLS PROGRAM.

''(a) SHORT TITLE.—This section may be cited as the 'Healthy and High Performance Schools Act of 2001'.

''(b) PURPOSE.—It is the purpose of this section to assist local educational agencies in the production of high performance elementary school and secondary school buildings that are healthful, productive, energy-efficient, and environmentally sound.

''(c) PROGRAM ESTABLISHMENT AND ADMINISTRATION.—

''(1) PROGRAM.—There is established in the Department of Education the High Performance Schools Program (in this section referred to as the 'Program').

''(2) GRANTS.—The Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, may, through the Program, award grants to State educational agencies to permit such State educational agencies to carry out paragraph (3).

''(3) STATE USE OF FUNDS.—

''(A) SUBGRANTS.—

''(i) IN GENERAL.—A State educational agency receiving a grant under this section shall use the grant funds made available under subsection (d)(1)(A) to award subgrants to local educational agencies to permit such local educational agencies to carry out the activities described in paragraph (4).

''(ii) LIMITATION.—A State educational agency shall award subgrants under clause (i) to local educational agencies that have made a commitment to use the subgrant funds to develop healthy, high performance school buildings in accordance with the plan developed and approved pursuant to clause (iii)(I).

''(iii) IMPLEMENTATION.—

''(I) PLANS.—A State educational agency shall award subgrants under subparagraph (A) only to local educational agencies that, in consultation with the State educational agency and State offices with responsibilities relating to energy and health, have developed plans that the State educational agency determines to be feasible and appropriate in order to achieve the purposes for which such subgrants are made.

''(II) SUPPLEMENTING GRANT FUNDS.—The State educational agency shall encourage qualifying local educational agencies to supplement their subgrant funds with funds from other sources in the implementation of their plans.

''(B) ADMINISTRATION.—A State educational agency receiving a grant under this section shall use the grant funds made available under subsection (d)(1)(B)—

''(i) to evaluate compliance by local educational agencies with the requirements of this section;

''(ii) to distribute information and materials to clearly define and promote the development of healthy, high performance school buildings for both new and existing facilities;

''(iii) to organize and conduct programs for school board members, school district personnel, architects, engineers, and others to advance the concepts of healthy, high performance school buildings;

''(iv) to obtain technical services and assistance in planning and designing high performance school buildings; and

''(v) to collect and monitor information pertaining to the high performance school building projects funded under this section.

''(C) PROMOTION.—Subject to subsection (d)(1), a State educational agency receiving a grant under this section may use grant funds for promotional and marketing activities, including facilitating private and public financing, working with school administrations, students, and communities, and coordinating public benefit programs.

''(4) LOCAL USE OF FUNDS.—

''(A) IN GENERAL.—A local educational agency receiving a subgrant under paragraph (3)(A) shall use such subgrant funds for new school building projects and renovation projects that—

''(i) achieve energy-efficiency performance that reduces energy use to at least 30 percent below that of a school constructed in compliance with standards prescribed in Chapter 8 of the 2000 International Energy Conservation Code, or a similar State code intended to achieve substantially equivalent results; and

''(ii) achieve environmentally healthy schools in compliance with Federal and State codes intended to achieve healthy and safe school environments.

''(B) EXISTING BUILDINGS.—A local educational agency receiving a subgrant under paragraph (3)(A) for renovation of existing school buildings shall use such subgrant funds to achieve energy efficiency performance that reduces energy use below the school's baseline consumption, assuming a 3-year, weather-normalized average for calculating such baseline and to help bring schools into compliance with health and safety standards.

''(d) ALLOCATION OF FUNDS.—

''(1) IN GENERAL.—A State receiving a grant under this section shall use—

''(A) not less than 70 percent of such grant funds to carry out subsection (c)(3)(A); and

''(B) not less than 15 percent of such grant funds to carry out subsection (c)(3)(B).

''(2) RESERVATION.—The Secretary may reserve an amount not to exceed $300,000 per year from amounts appropriated under subsection (f) to assist State educational agencies in coordinating and implementing the Program. Such funds may be used to develop reference materials to further define the principles and criteria to achieve healthy, high performance school buildings.

''(e) REPORT TO CONGRESS.—

''(1) IN GENERAL.—The Secretary shall conduct a biennial review of State actions implementing this section, and shall report to Congress on the results of such reviews.

''(2) REVIEWS.—In conducting such reviews, the Secretary shall assess the effectiveness of the calculation procedures used by State educational agencies in establishing eligibility of local educational agencies for subgrants under this section, and may assess other aspects of the Program to determine whether the aspects have been effectively implemented.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

''(1) $250,000,000 for each of fiscal years 2002 through 2005; and

''(2) such sums as may be necessary for each of fiscal years 2006 through 2011.

''(g) DEFINITIONS.—In this section:

''(1) HEALTHY, HIGH PERFORMANCE SCHOOL BUILDING.—The term 'healthy, high performance school building' means a school building which, in its design, construction, operation, and maintenance, maximizes use of renewable energy and energy-efficient practices, is cost-effective on a life cycle basis, uses affordable, environmentally preferable, durable materials, enhances indoor environmental quality, protects and conserves water, and optimizes site potential.

''(2) RENEWABLE ENERGY.—The term 'renewable energy' means energy produced by solar, wind, geothermal, hydroelectric, or biomass power.''.

Mrs. CLINTON. Mr. President, I rise today to focus the attention of my colleagues and our country on the environmental health and energy efficiency of our Nation's schools.

Throughout this debate, we have come to the floor to propose solutions for improving student achievement and ensuring that all of our children are provided with a world-class education. I am very pleased that we have made a lot of progress in coming to consensus on some basic tenets—that all children should be guaranteed an education focused around high academic standards, that every child should be taught by a quality teacher, and that we should hold educators accountable for making sure their students can meet these high standards.

There is something we have not yet addressed; that is, to ensure that our children attend schools that are in good working condition and that are conducive to their learning and not detrimental to their health. I was disappointed that we were not successful in our efforts to provide needed Federal support for repairs and renovations to modernize our schools, and we have done a disservice to many of our children.

In the State of New York, for example, we have children who attend schools that are in deplorable condition. Approximately 67 percent of all the schools in New York have at least one inadequate building feature. That can mean a leaky roof or poor plumbing or electrical shortages, windows that are broken, heating, ventilating, air-conditioning systems that just don't work. What I hope we can do is to take a hard look at what the effects of these building conditions are on our children. We have children in New York attending classes in school buildings that average 50 years of age. In upstate New York the average is 38. These are the problems that are brought to my attention every single day—leaking roofs and bad filtration conditions that are beginning to demonstrate health problems in the schools.

In central New York, the Council for Occupational Health and Safety began receiving complaints from teachers and students about a particular school. When the director inspected the building, he discovered that the air filtration system was filled with hundreds of colonies of fungus and that another part of the system was filled with stagnant water. At another school in Cohoes, NY, near Albany, the ventilation problem in the city's middle school was so bad that the school administration banned the use of chalk because the dust hung in the air, making it difficult for students and teachers to breathe.

I recently received an e-mail from a father in Schenectady, NY. He wrote me the following:

My children attend school in the city of Schenectady. At the 90-year-old elementary school they attend, peeling lead-based paint, a malfunctioning heat system resulting in 80–90 degree classroom temperatures, and general disrepair have been the norm for years. There have been persistent roof leaks, resulting in molds growing in the building. Maintenance of playgrounds to conform to

safety standards has been neglected. Many of these problems continue to exist today. I believe that the primary cause of this is the highly constrained financial resources that are available in aging, low- to moderate-income urban communities.

This morning, the Rochester Democrat and Chronicle reported that tomorrow in Pittsford, NY, there will be a 3-hour public forum on the impact that environmental hazards in school buildings have on teachers and students. This forum in Pittsford is part of a series of EPA informational sessions on environmental problems in our schools. These stories from New York reflect a serious problem across our country.

A 1996 GAO study found that 15,000 schools in the United States have indoor pollution or ventilation problems affecting over 11 million children. Furthermore, as many as 25 million students nationwide are attending schools with at least one unsatisfactory environmental condition.

This is something I don't think we can afford to ignore because indoor air can have an even greater effect on children than the air they breathe outside. The EPA warns that Americans spend 90 percent of our time indoors. With children spending much of their day inside schools, that pollution can add up, and it can be a greater stress on them than anything they encounter outside. We know that poor indoor air quality severely impacts children's health.

According to the American Lung Association, asthma accounts for 10 million lost schooldays annually and is the leading cause of school absenteeism attributed to a chronic condition. Furthermore, a survey conducted by New York City Health Schools Working Group found that 40 percent of schoolchildren who had a preexisting condition, such as asthma, worsened from their being in school.

In addition to facing poor air quality, we also know that our children are exposed to chemicals, lead paint, and other hazardous substances. In fact, the GAO found in their 1996 study that two-thirds of schools were not in compliance with requirements to remove or correct hazardous substances, including asbestos, lead, underground storage tanks, and radon. And experts believe that exposure during childhood, when children are developing, may have severe long-term effects.

In Monroe County, NY, a group called Rochesterians Against the Misuse of Pesticides have been doing surveys of indoor and outdoor pesticide use by schools since 1987. That latest survey in 1999 showed that schools in Rochester were using 72 different pesticides. That is, as one member of the group said, a real chemical soup to which our children are being subjected.

What I am hoping is that we can build on the work that has been done in some places, such as Rochester, and the Healthy Schools Network in Albany, NY, and try to find out more about what happens to our children's health inside our schools.

The American Public Health Association recently passed a resolution calling for further research on the extent and impact of children's environmental health and safety risks and exposures at schools and prevention measures, including research sponsored by the U.S. Department of Education.

My amendment would authorize $2 million for a study conducted by the Department of Education in conjunction with the Centers for Disease Control and the Environmental Protection Agency to evaluate the health and learning impacts of sick and dilapidated public school buildings on the children who attend those schools.

This study would specifically call for researchers to determine the characteristics of our public schools that contribute to unhealthy environments, including the prevalence of such characteristics as the ones I have just mentioned in our elementary and secondary school buildings. How can we better monitor the situation and what steps can we take or help our local school districts take to remedy this situation?

Hand in hand with our environmental health is the issue of energy efficiency because many of the problems are from old ventilating systems, old heating systems that are not in working order and cause health problems, as well as costing more in energy than should be the norm.

In this amendment, we are asking that we help our schools deal with their energy costs. The U.S. Department of Energy estimates that schools can save 25 to 30 percent of the money they currently spend on energy—namely, about $1.5 billion—through better building design and use of energy-efficient appliances, renewable energy technologies, and just plain improvements to operations and maintenance.

I recently visited the John F. Kennedy Elementary School in Kingston, NY. It is leading the way in our State in making schools more energy efficient and saving money. In fact, last year, the Kingston School District saved $395,000 through energy-efficient upgrades.

When I was there, I released a brochure that we are sending to every school superintendent in New York called ''Smart Schools Save Energy, Promoting Energy Efficiency in New York State Schools,'' with a lot of good ideas about how to go about making the schools energy efficient and saving money to be used on computers or other important needs of the school.

What we have been told is that many school personnel want to do what is being recommended in this brochure and is known to many school districts, but they need a little bit of help to do it. They need that startup grant money that will enable them to make the changes that will save them money. This amendment would provide grants to States to help districts make their buildings healthier and more energy efficient.

By incorporating provisions of legislation I recently introduced, the Healthy and High Performance Schools Act of 2001, this amendment would provide funds for States to provide information and materials to schools, help States organize, and conduct programs for school board members, school district personnel, architects, engineers, and others, and would help bring our schools up to code, the codes that will make our schools healthier and a better investment when it comes to energy usage, to install insulation, energy-efficient fixtures, and the like.

With these Federal funds, we can make our schools more energy efficient which can save money which can then be used to reinvestment in our children's education that all of us in this body support.

I thank Senators KENNEDY and GREGG for the opportunity to offer this important amendment. I also reference the energy legislation that has been introduced by Senators MURKOWSKI and BINGAMAN which include provisions to bring this about.

I appreciate the opportunity for the entire Senate to vote on this amendment which will be a healthy vote as well as an energy-efficient vote on behalf of our children. No parent should have to worry about sending a child to school because it is a health risk. No school district should have to worry more about paying the lighting bill or the heating bill than paying their teachers.

Understanding the effects of unhealthy classrooms and school buildings and moving toward energy efficiency goes hand in hand with the high standards we set in this bill. I urge all of my colleagues to vote for healthy schools, energy-efficient schools, and better educational outcomes for all of our children.

I ask unanimous consent that my amendment be laid aside and await a vote which I hope we will be able to schedule for next week. I yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator from New York for giving focus to two extremely important issues. One deals with the inefficiencies in many of the older schools, in urban and rural areas. This is something that should be done. It is not being done. It is particularly important to consider since we have been unable to accept a school construction amendment that would deal with the modernization of our schools.

With all the challenges we are facing in energy efficiency, having visited so many of the schools in many of the older communities in my own State, this is something that can make an enormous difference. I do not know whether the Senator has had the experience, but in Massachusetts we had an energy expert come in and look at our

home down on Cape Cod. The recommendations they made and the savings that could be achieved were truly remarkable. We are not getting that kind of evaluation which is available in the private sector in the school districts. We hope school districts will go ahead.

The Senator's amendment recognizes there are other priorities for school boards, and there is a national interest in having greater efficiency.

In the area of health, this is enormously important. I think all of us—I know the Senator has—worked in the area of lead paint poisoning and the impact that has particularly on smaller children, situations where older children bring the lead paint dust back to their homes, and they can be consumed by infants and the potential health hazards to these children is dramatic.

There is asbestos, radon, and new chemicals which we all know about in the industrial areas that are being given attention in OSHA. The schools are increasingly exposed to these challenges. It is having an impact.

I commend the Senator for bringing this up. In Woburn, MA—the Senator probably read the book ''A Civil Action,'' or saw the movie on it. We had the greatest concentration of children's leukemia in the country. It was in a very narrow area. This was adjacent to conditions which were illustrated in ''A Civil Action.'' The families who were involved were similar in situations.

We knew a certain distance upstream from where the wells were they were dumping these old wooden casks which had been filled with acids used in tanneries in Lynn where they process it, and some magnificent leather products were produced there. But they were dumping, and these wells were anywhere from 10 to 15 miles downstream. There were open wells, and families were using the wells, and the children were getting leukemia. It was as certain as we are standing here, it was related to these chemical problems. We had the best toxicologists in the world examine the water, and they could not find anything wrong with it—nothing. The best from CDC, the best universities and toxicologists, have never been able to detect a particular ingredient that caused it, but we knew it was happening.

The Senator is pointing out what I have seen. We know it is happening in some schools. The children are getting sick, it is affecting their ability to learn. We can benefit from this effort.

I thank the Senator and look forward to supporting this amendment when we have a chance. I urge our colleagues to accept it. I thank her for bringing it to the floor this evening.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. CLINTON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Madam President, I ask unanimous consent the Senate resume consideration of S. 1 on Monday, June 11, at 2:30, and Senator BOND be recognized to call up amendment No. 476, with 30 minutes for debate, equally divided in the usual form, with no second-degree amendments in order; following debate, the amendment be laid aside and Senator LANDRIEU be recognized to call up amendment No. 475 regarding title I, with 2 hours equally divided in the usual form, with no second-degree amendments in order.

Further, that at 5:15 the Senate vote in relation to Landrieu amendment No. 475; and, following the disposition of the Landrieu amendment, there be 4 minutes for closing debate to a vote in relation to the Bond amendment No. 476.

Further, on Tuesday, June 12, the Senate resume consideration of the education bill at 9:30, and Senator GREGG be recognized to call up amendment No. 536, and there be 4 hours of debate equally divided, with no second-degree amendments in order.

Further, following the disposition of the Gregg amendment, Senator CARPER be recognized to call up amendment No. 518, with no second-degree amendments in order, and there be 2 hours of debate equally divided; that upon the use of the time, the Senate vote in relation to the amendment.

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

Mr. KENNEDY. In light of this agreement, there will be no further rollcalls this evening. There will be two rollcall votes beginning at 5:15 on Monday, June 11.

AMENDMENTS NOS. 557, AS MODIFIED, 483, AS MODIFIED, 404, AS MODIFIED, 556, AS MODIFIED, 624, AS MODIFIED, 548, AND 415, EN BLOC, TO AMENDMENT 358

Mr. KENNEDY. I have a package of cleared amendments. I ask unanimous consent it be in order for those amendments to be considered en bloc, any applicable modifications be agreed to, the amendments be agreed to, and the motion to reconsider be laid upon the table, en bloc.

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

The clerk will report the amendments, en bloc:

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes amendments Nos. 557, 483, 404, 556, 624, 548, and 415.

The PRESIDING OFFICER. The question is on agreeing to the amendments, en bloc.

The amendments were agreed to, as follows:

AMENDMENT NO. 557 AS MODIFIED

(Purpose: To provide additional limitations on national testing of students, national testing and certification of teachers, and the collection of personally identifiable information)

On page 29, between lines 14 and 15, insert the following:

''SEC. 16. ADDITIONAL LIMITATIONS.

''(a) NATIONAL TESTING.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act or any other provision of law, and except as provided in paragraph (2), no funds available to the Department or otherwise available under this Act may be used for any purpose relating to a nationwide test in reading, mathematics, or any other subject, including test development, pilot testing, field testing, test implementation, test administration, test distribution, or any other purpose.

''(2) EXCEPTION.—Paragraph (1) shall not apply to the following:

''(A) The National Assessment of Educational Progress carried out under sections 411 through 413 of the Improving America's Schools Act of 1994 (20 U.S.C. 9010–9012).

''(B) The Third International Math and Science Study (TIMSS).

''(b) MANDATORY NATIONAL TESTING OR CERTIFICATION OF TEACHERS.—Notwithstanding any other provision of this Act or any other provision of law, no funds available to the Department or otherwise available under this Act may be used for any purpose relating to a mandatory nationwide test or certification of teachers or education paraprofessionals, including any planning, development, implementation, or administration of such test or certification.

''(c) DEVELOPMENT OF DATABASE OF PERSONALLY IDENTIFIABLE INFORMATION.—Nothing in this Act (other than section 1308(b)) shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under this Act.''.

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AMENDMENT NO. 483 AS MODIFIED

(Purpose: To establish a National Panel on Teacher Mobility)

Beginning on page 380, strike line 5 and all that follows through page 383, line 21, and insert the following:

SEC. 202. TEACHER MOBILITY.

(a) SHORT TITLE.—This section may be cited as the ''Teacher Mobility Act''.

(b) MOBILITY OF TEACHERS.—Title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.), as amended by section 201, is further amended by adding at the end the following:

''PART D—TEACHER MOBILITY

''SEC. 2401. NATIONAL PANEL ON TEACHER MOBILITY.

''(a) ESTABLISHMENT.—There is established a panel to be known as the National Panel on Teacher Mobility (referred to in this section as the 'panel').

''(b) MEMBERSHIP.—The panel shall be composed of 9 members appointed by the Secretary. The Secretary shall appoint the members from among practitioners and experts with experience relating to teacher mobility, such as teachers, members of teacher certification or licensing bodies, faculty of institutions of higher education that prepare teachers, and State policymakers with such experience.

''(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the panel. Any vacancy in the panel shall not affect the powers of the panel, but shall be filled in the same manner as the original appointment.

''(d) DUTIES.—

''(1) STUDY.—

''(A) IN GENERAL.—The panel shall study strategies for increasing mobility and employment opportunities for high quality teachers, especially for States with teacher shortages and States with districts or schools that are difficult to staff.

''(B) DATA AND ANALYSIS.—As part of the study, the panel shall evaluate the desirability and feasibility of State initiatives that support teacher mobility by collecting data and conducting effective analysis on—

''(i) teacher supply and demand;

''(ii) the development of recruitment and hiring strategies that support teachers; and

''(iii) increasing reciprocity of licenses across States.

''(2) REPORT.—Not later than 1 year after the date on which all members of the panel have been appointed, the panel shall submit to the Secretary and to the appropriate committees of Congress a report containing the results of the study.

''(e) POWERS.—

''(1) HEARINGS.—The panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the panel considers advisable to carry out the objectives of this section.

''(2) INFORMATION FROM FEDERAL AGENCIES.—The panel may secure directly from any Federal department or agency such information as the panel considers necessary to carry out the provisions of this section. Upon request of a majority of the members of the panel, the head of such department or agency shall furnish such information to the panel.

''(3) POSTAL SERVICES.—The panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

''(f) PERSONNEL.—

''(1) TRAVEL EXPENSES.—The members of the panel shall not receive compensation for the performance of services for the panel, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the panel. Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of members of the panel.

''(2) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

''(g) PERMANENT COMMITTEE.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel.

''(h) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2002.

''(2) AVAILABILITY.—Any sums appropriated under the authorization contained in this subsection shall remain available, without fiscal year limitation, until expended.''.

AMENDMENT NO. 404 AS MODIFIED

(Purpose: To provide for the funding of suicide prevention programs)

On page 507, line 4, strike ''and''.

On page 507, line 6, strike the period and insert ''; and''.

On page 507, between lines 6 and 7, insert the following:

''(5) $25,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out section 4126.''.

On page 565, between lines 18 and 19, insert the following:

''SEC. 4126. SUICIDE PREVENTION PROGRAMS.

''(a) GRANTS AUTHORIZED.—

''(1) AUTHORITY.—The Secretary is authorized to award grants and contracts to elementary schools and secondary schools for the purpose of—

''(A) developing and implementing suicide prevention programs; and

''(B) to provide training to school administrators, faculty, and staff, with respect to identifying the warning signs of suicide and creating a plan of action for helping those at risk.

''(2) AWARD BASIS.—The Secretary shall award grants and contracts under this section—

''(A) on a competitive basis;

''(B) in a manner that complies with the requirements under subsection (c) of section 520E of the Public Health Service Act; and

''(C) in a manner that ensures that such grants and contracts are equitably distributed throughout a State among elementary schools and secondary schools located in rural, urban, and suburban areas in the State.

''(3) POLICY DISSEMINATION.—The Secretary shall disseminate to elementary schools and secondary schools any Department of Education policy guidance regarding the prevention of suicide.

''(b) USES OF FUNDS.—Funds provided under this section may be used for the following purposes:

''(1) To provide training for elementary school and secondary school administrators, faculty, and staff with respect to identifying the warning signs of suicide and creating a plan of action for helping those at risk.

''(2) To provide education programs for elementary school and secondary school students that are developmentally appropriate for the students' grade levels and are designed to meet any unique cultural and language needs of the particular student populations.

''(3) To conduct evaluations to assess the impact of programs and policies assisted under this section in order to enhance the development of the programs.

''(c) CONFIDENTIALITY.—Policies, programs, training materials, and evaluations developed and implemented under subsection (b) shall address issues of safety and confidentiality for the victim and the victim's family in a manner consistent with applicable Federal and State laws.

''(d) APPLICATION.—

''(1) IN GENERAL.—To be eligible to be awarded a grant or contract under this section for any fiscal year, an elementary school or secondary school shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

''(2) CONTENTS.—Each application submitted under paragraph (1) shall—

''(A) describe the need for funds provided under the grant or contract and the plan for implementation of any of the activities described in subsection (b);

''(B) provide measurable goals for and expected results from the use of the funds provided under the grant or contract; and

''(C) incorporate appropriate remuneration for collaborating partners.

''(e) APPLICABILITY.—The provisions of this part (other than this section) shall not apply to this section.''.

AMENDMENT NO. 556 AS MODIFIED

(Purpose: To provide additional protections and limitations regarding private schools, religious schools, and home schools)

On page 29, between lines 14 and 15, insert the following:

''SEC. 16. ADDITIONAL LIMITATIONS AND PROTECTIONS REGARDING PRIVATE, RELIGIOUS, AND HOME SCHOOLS.

''(a) APPLICABILITY TO HOME SCHOOLS.—Nothing in this Act shall be construed to affect home schools, whether or not a home school is treated as a home school or a private school under State law or to require any home schooled student to participate in any assessment referenced in this Act.

''(2) CONSTRUCTION OF SUPERSEDED PROVISION.—Section 11 shall have no force or effect.

''(b) APPLICABILITY TO PRIVATE SCHOOLS.—Nothing in this Act shall be construed to affect any private school that does not receive funds or services under this Act, or to require any student who attends a private school that does not receive funds or services under this Act to participate in any assessment referenced in this Act.

''(c) APPLICABILITY TO PRIVATE, RELIGIONS, AND HOME SCHOOLS OF GENERAL PROVISION REGARDING RECIPIENT NONPUBLIC SCHOOLS.—

''(1) IN GENERAL.—Nothing in this Act or any other Act administered by the Secretary shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, and home schools from participation in programs and services under this Act.

''(2) CONSTRUCTION OF SUPERSEDED PROVISION.—Section 12 shall have no force or effect.

''(d) APPLICABILITY OF GUN-FREE SCHOOL PROVISIONS TO HOME SCHOOLS.—Notwithstanding any provision of part B of title IV, for purposes of that part, the term 'school' shall not include a home school, regardless of whether or not a home school is treated as a private school or home school under State law.

''(e) STATE AND LEA MANDATES REGARDING PRIVATE AND HOME SCHOOL CURRICULA.—Nothing in this Act shall be construed to require any State or local educational agency that receives funds under this Act from mandating, directing, or controlling the curriculum of a private or home school, regardless of whether or not a home school is treated as a private school or home school under State law, nor shall any funds under this Act be used for this purpose.''

AMENDMENT NO. 624 AS MODIFIED

(Purpose: To provide for the identification and recognition of exemplary schools, and for demonstration projects to evaluate the performance of such Blue Ribbon Schools)

On page 776, line 17, strike ''education'' and all that follows through the end of line 19 and insert the following: ''education and the identification and recognition of exemplary schools and programs such as Blue Ribbon Schools, that are designed to promote the improvement of elementary and secondary education nationally.

'' ''(e) BLUE RIBBON SCHOOLS DISSEMINATION DEMONSTRATION.—

'' ''(1) IN GENERAL.—The Secretary shall conduct demonstration projects to evaluate the effectiveness of using the best practices of Blue Ribbon Schools to improve the educational outcomes of elementary and secondary schools that fail to make adequate yearly progress, as defined in the plan of the State under section 1111(b)(2)(B).

''(2) REPORT TO CONGRESS.—Not later than 3 years after the date on which the Secretary implements the initial demonstration projects under subsection (a), the Secretary shall submit to Congress a report regarding the effectiveness of the demonstration projects.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $7,500,000 for fiscal year 2002, and such sums as may be necessary in each of the 7 fiscal years thereafter.''.

AMENDMENT NO. 548

(Purpose: To limit the application of the bill)

At the appropriate place, add the following:

''SEC. . (a) Whereas the Bible is the best selling, most widely read, and most influential book in history;

(b) Whereas familiarity with the nature of religious beliefs is necessary to understanding history and contemporary events;

(c) Whereas the Bible is worthy of study for its literary and historic qualities;

(d) Whereas many public schools throughout America are currently teaching the Bible as literature and/or history;

SEC. . It is the sense of the Senate that nothing in this Act or any provision of law shall discourage the teaching of the Bible in any public school.''.

AMENDMENT NO. 415

(Purpose: To establish a grant program)

On page 565, between lines 18 and 19, insert the following:

''SEC. 4126. GRANTS FOR THE INTEGRATION OF SCHOOLS AND MENTAL HEALTH SYSTEMS.

''(a) IN GENERAL.—The Secretary shall award grants, contracts, or cooperative agreements to State educational agencies, local educational agencies, or Indian tribes, for the purpose of increasing student access to quality mental health care by developing innovative programs to link local school systems with the local mental health system.

''(b) DURATION.—With respect to a grant, contract, or cooperative agreement awarded under this section, the period during which payments under such award are made to the recipient may not exceed 5 years.

''(c) INTERAGENCY AGREEMENTS.—

''(1) DESIGNATION OF LEAD AGENCY.—The recipient of each grant, contract, or cooperative agreement shall designate a lead agency to direct the establishment of an interagency agreement among local educational agencies, juvenile justice authorities, mental health agencies, and other relevant entities in the State, in collaboration with local entities and parents and guardians of students.

''(2) CONTENTS.—The interagency agreement shall ensure the provision of the services to a student described in subsection (e) specifying with respect to each agency, authority or entity—

''(A) the financial responsibility for the services;

''(B) the conditions and terms of responsibility for the services, including quality, accountability, and coordination of the services; and

''(C) the conditions and terms of reimbursement among the agencies, authorities or entities that are parties to the interagency agreement, including procedures for dispute resolution.

''(d) APPLICATION.—

''(1) IN GENERAL.—To be eligible to receive a grant, contract, or cooperative agreement under this section, a State educational agency, local educational agency, or Indian tribe shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''(2) CONTENT.—An application submitted under this section shall—

''(A) describe the program to be funded under the grant, contract, or cooperative agreement;

''(B) explain how such program will increase access to quality mental health services for students;

''(C) explain how the applicant will establish a crisis intervention program to provide immediate mental health services to the school community when necessary;

''(D) provide assurances that—

''(i) persons providing services under the grant, contract or cooperative agreement are adequately trained to provide such services;

''(ii) the services will be provided in accordance with subsection (e); and

''(iii) teachers, principal administrators, and other school personnel are aware of the program;

''(E) explain how the applicant will support and integrate existing school-based services with the program to provide appropriate mental health services for students; and

''(F) explain how the applicant will establish a program that will support students and the school in maintaining an environment conducive to learning.

''(e) USE OF FUNDS.—A State educational agency, local educational agency, or Indian tribe, that receives a grant, contract, or cooperative agreement under this section shall use amounts made available through such grant, contract or cooperative agreement to—

''(1) enhance, improve, or develop collaborative efforts between school-based service systems and mental health service systems to provide, enhance, or improve prevention, diagnosis, and treatment services to students;

''(2) enhance the availability of crisis intervention services, appropriate referrals for students potentially in need of mental health services and on going mental health services;

''(3) provide training for the school personnel and mental health professionals who will participate in the program carried out under this section;

''(4) provide technical assistance and consultation to school systems and mental health agencies and families participating in the program carried out under this section;

''(5) provide linguistically appropriate and culturally competent services; and

''(6) evaluate the effectiveness of the program carried out under this section in increasing student access to quality mental health services, and make recommendations to the Secretary about sustainability of the program.

''(f) DISTRIBUTION OF AWARDS.—The Secretary shall ensure that grants, contracts, and cooperative agreements awarded under subsection (a) are equitably distributed among the geographical regions of the United States and between urban and rural populations.

''(g) OTHER SERVICES.—Any services provided through programs established under this section must supplement and not supplant existing Mental Health Services, including any services required to be provided under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

''(h) EVALUATION.—The Secretary shall evaluate each program carried out by a State educational agency, local educational agency, or Indian tribe, under this section and shall disseminate the findings with respect to each such evaluation to appropriate public and private entities.

''(i) REPORTING.—Nothing in Federal law shall be construed—

''(1) to prohibit an entity involved with the program from reporting a crime that is committed by a student, to appropriate authorities; or

''(2) to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a student.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 2002, and such sums as may be necessary for fiscal years 2003 through 2005.

AMENDMENT NO. 404, AS MODIFIED

Mr. MURKOWSKI. Madam President, every year, thousands of youth die in the United States, not from cancer or car accidents, but by their own hand, they make the choice that they want to die, and they take their own life. Statistics show that suicide is the 3rd leading cause of death among those 15 to 25 years of age, and it is the 6th leading cause of death among those 5 to 14 years of age. 5 year old children, killing themselves! But it's the truth. Statistics show that more than 13 of every 100,000 teenagers took their life in 1990, and that number's rising every year. Many think that these are isolated incidents, but they aren't. It is estimated that 500,000 teenagers try to kill themselves every year, and about 5,000 succeed.

In my home State of Alaska, suicide is the greatest cause of death among high school age youths. In fact, Alaska's suicide rate is more than twice the rate for the entire United States. Recent studies have shown that girls are more likely to report suicide thoughts, plans, and attempts than are boys. Among Alaskan girls, 24.9 percent have seriously thought about suicide, 20.5 percent have made a plan for suicide, and 10 percent have reported a suicide attempt. Among Alaskan boys, 12.5 percent have seriously thought about suicide, 10.8 percent have made a plan for suicide, and 5.3 percent have reported a suicide attempt. Alarmingly, Alaska Native teens attempt suicide at four times the rate of non-Native teens.

Only recently have the knowledge and tools become available to approach suicide as a preventable problem with realistic opportunities to save lives. Last month the Surgeon General issued a ''National Strategy for Suicide Prevention.'' The ''National Strategy'' requires a variety of organizations and individuals to become involved in suicide prevention and emphasizes coordination of resources and culturally appropriate services at all levels of government—Federal, State, tribal and community.

One of the objectives included in the Surgeon General's ''National Strategy'' is developing and implementing suicide prevention programs. His goal is to ensure the integration of suicide prevention into organizations and agencies that have access to groups that may be at risk. The objectives also address the need for planning at both the State and local levels, the need for technical assistance in the development of suicide

prevention programs and the need for ongoing evaluation. The amendment I am proposing today would help implement these objectives. It would allow for state and local educational agencies to create suicide prevention programs through the Safe and Drug Free School and Communities Program. Research has shown that many suicides are preventable; however, effective suicide prevention programs require commitment and resources. I feel that the Federal Government should provide the resources and support to States and localities.

My amendment would allow the Secretary of Education to award $25 million worth of grants to elementary and secondary schools for the purpose of: (1) developing and implementing suicide prevention programs; and (2) provide for the training of school administrators, faculty and staff with respect to identifying the warning signs of suicide and creating a plan of action for helping those at risk.

This is a small step in the right direction. It is time that we do something to fight the suicide epidemic. With an unacceptably high suicide rate, more attention must be focused on both the causes and solutions to this growing tragedy. I urge my colleagues to support this amendment. America's youth are crying out for help.

AMENDMENT NO. 624, AS MODIFIED

Mr. HOLLINGS. Mr. President, I rise today to thank the distinguished Senator from Massachusetts and the distinguished Senator from New Hampshire for accepting amendment No. 624, an amendment to continue the Blue Ribbon Schools program and authorize a demonstration program to investigate how we can implement the best practices of Blue Ribbon Schools in schools that this bill identifies as needing improvement.

The United States Department of Education awarded the first Blue Ribbon designations to middle and high schools in 1982. The first elementary schools received the designation in 1985. Since that time, we have identified thousands of exemplary schools that have undergone a thorough self-assessment involving parents, teachers, and community members; evaluated their practices in areas such as school leadership, professional development, curriculum, and student support services; and proven that these practices work through performance on standardized tests and other indicators. I think every member of this body can attest to the quality of the Blue Ribbon Schools in his or her state.

The legislation before the Senate would create two new awards programs, the Achievement in Education Awards and the No Child Left Behind Awards. Mr. President, I did not offer this amendment in opposition to the Department offering these awards. In fact, I support the recognition of schools that significantly improve student achievement. However, these two awards are outcomes-based, focused on which schools improve test scores from one year to another. The Blue Ribbon program offers a contrast. It recognizes schools that work with parents and community members to identify shortcomings within the school and design programs to successfully address those shortcomings. I believe that we should continue to recognize these schools.

For the Blue Ribbon Program to continue and thrive, we must commit to applying the information we gather from Blue Ribbon designees to offer schools in need of improvement. This process works. Beaufort Elementary School was included in a list of the 200 worst schools in South Carolina during the 1994–95 school year. Yet instead of relying on an academic or bureaucratic improvement process, the school constructed a road map for reform using the successful practices of Blue Ribbon Schools. Less then six years later, Beaufort Elementary received a Blue Ribbon designation of its own, symbolizing a 180-degree turnaround. Another school that has successfully used this process to generate positive school reform is Handle Middle School in Columbia, SC. I hope all of my colleagues will take the time to read the May 21, 2001 issue of Time magazine that recognizes Hand Middle School as the Middle School of the Year. The article does a much better job than I could of describing a school that implemented changes based on the successful practices of Blue Ribbon schools and rallied the community to create a better, more productive learning environment for students. These schools now serve as a model for other low-performing schools who are working tirelessly to reverse their fortunes.

I have included new authorization in my amendment to allow the Department of Education to initiate demonstration projects that would use the best practices of Blue Ribbon Schools to turn around schools that fail to make average yearly progress. This is an area that the Department has neglected since the inception of the Blue Ribbon Program. As we speak, filing cabinets full of Blue Ribbon applications containing information on research-based educational practices that work are doing little else but gathering dust. Let's take this information and get it out to schools in need of improvement and see how it works.

This is not a bureaucratic or regimented process. This is not a process that involves Federal or state governments mandating one approach over another. This is not a process that attempts to reinvent the wheel. This would be a process that disseminates information on practices that we know are effective. I envision schools first identifying an area for development—whether it be a new reading curriculum, teacher mentoring or a drop-out prevention program. Next, they are able to examine records from Blue Ribbon Schools that have implemented similar programs and decide which approach best fits their own needs. Because these programs come from Blue Ribbon Schools, they are researched-based and have been favorably reviewed by educational experts. I have also required the Secretary to report to Congress on the effectiveness of these demonstration projects 3 years after the demonstration begins, so we will know if this process is working.

Mr. KENNEDY. I thank our colleagues for their cooperation. We have been making important progress. I am not sure we can say yet tonight that the end is quite in sight, but hopefully we can say that at the early part at the end of the day on Tuesday we might be able to see a glimmer of hope for reaching a final disposition of this legislation.

I thank all colleagues for their cooperation, and I thank my friend from New Hampshire, Senator GREGG, and, as always, the Senator from Nevada, Mr. REID.

Mr. REID. Madam President, before going to morning business, I compliment the managers of this legislation. It is obvious they are both veterans and understand the legislative process. We have made great progress the last 2 days.

As Senator KENNEDY has said, next week we should be able to finish this bill with a little bit of luck.

MORNING BUSINESS

Mr. REED. I ask unanimous consent we now go into a period of morning business, with Senators allowed to speak for up to 10 minutes, with the exception of Senator MURRAY, who wishes 15 minutes, and Senator FEINGOLD for 15 minutes.

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

(The remarks of Mrs. MURRAY pertaining to the submission of S. Con. Res. 47 are printed in today's RECORD under ''Submission of Concurrent and Senate Resolutions.)

The PRESIDING OFFICER. The Senator from Wisconsin.

THE FEDERAL DEATH PENALTY SYSTEM

Mr. FEINGOLD. Madam President, I rise today to speak with grave concern about a report released by the Justice Department yesterday on our Federal Government's administration of the death penalty. In that report and in his testimony before the House Judiciary Committee yesterday, Attorney General John Ashcroft said that he now concludes that ''there is no evidence of racial bias in the administration of the federal death penalty.'' I am seriously, seriously concerned about and, frankly, disappointed by the Attorney General's statements. The report he released yesterday is not the in-depth analysis of the federal death penalty ordered by his predecessor, Attorney General Reno, and President Clinton.

This is a very urgent matter because the Federal Government, in a matter of days, is about to resume executions for the first time in decades, including that of Juan Raul Garza. He is scheduled to be executed by the United States of America on June 19. Mr. Garza's case has not received the level of intense scrutiny or legal representation that his more notorious death row colleague, Timothy McVeigh, has received. But Mr. Garza's case, and his possible execution, should cause the Attorney General, President Bush, and our Nation even deeper soul-searching than that which has begun with respect to the scheduled execution of Mr. McVeigh.

A survey on the Federal death penalty system was released by the U.S. Department of Justice in September 2000. That report showed racial and regional disparities in the Federal Government's administration of the death penalty. In other words, who lives and who dies in the Federal system appears to relate to the color of the defendant's skin or the region of the country where the defendant is prosecuted. Attorney General Reno, Deputy Attorney General Holder, and President Clinton all said they were ''troubled'' or ''disturbed'' by the results of that report.

In fact, Attorney General Reno was so troubled by the report that she immediately ordered the collection of additional data from U.S. attorney offices and, most importantly, the National Institute of Justice to conduct an in-depth examination in cooperation with outside experts.

I would like to take a moment to read what Attorney General Reno said that day in September:

> There are important limitations on the scope of our survey. The survey only captures data currently available beginning when a U.S. attorney submits a capital eligible case to the review committee and to me for further review. This survey, therefore, does not address a number of important issues that arise before the U.S. attorney submits a case: Why did the defendant commit the murder? Why did the defendant get arrested and prosecuted by Federal authorities rather than by state authorities? Why did the U.S. attorney submit the case for review rather than enter a plea bargain? . . . More information is needed to better understand the many factors that effect how homicide cases make their way into the Federal system, and once in the Federal system, why they follow different paths. An even broader analysis must therefore be undertaken to determine if bias does, in fact, play any role in the Federal death penalty system.
>
> I've asked the National Institute of Justice to solicit research proposals from outside experts, to study the reasons why, under existing standards, homicide cases are directed to the state or Federal systems, and charged either as capital cases or non-capital cases, as well as the factors accounting for the present geographic pattern of submissions by the U.S. Attorney's Offices. The department will also welcome related research proposals that outside experts may suggest.

In December, President Clinton, citing this ongoing review by the Justice Department, then delayed the execution of Mr. Garza until June 19 to allow the Justice Department time to complete its review. President Clinton also ordered the Justice Department to report to the President by April of this year on the results of its further review. President Clinton anticipated that this would have been sufficient time for the President to review the results of the review before deciding whether to proceed with Mr. Garza's execution on June 19.

On January 10 of this year, before the new administration took office, the NIJ began its in-depth analysis by convening a meeting of outside experts, defense counsel and prosecutors to discuss the questions that should form the basis for the research proposals.

Later in January, during his confirmation hearing, Attorney General Ashcroft promised to continue and not terminate the NIJ study.

At that hearing, I asked him if he would support the effort of the National Institute of Justice already underway to undertake the study of racial and regional disparities in the Federal death penalty system that President Clinton deemed necessary.

Attorney General Ashcroft said, unequivocally and emphatically, ''yes.''

I then asked him whether he would continue and support all efforts initiated by Attorney General Reno's Justice Department to undertake a thorough review and analysis of the Federal death penalty system.

Attorney General Ashcroft said, ''. . . the studies that are under way, I'm grateful for them. When the material from those studies comes, I will examine them carefully and eagerly to see if there are ways for us to improve the administration of justice.''

I then followed up with yet a third question on this subject: ''So those studies will not be terminated?''

Attorney General Ashcroft responded: ''I have no intention of terminating those studies.''

In response to written questions I provided to him following his live testimony, I asked the Attorney General a number of related questions about the need to eliminate racial or regional bias from our system of justice. He replied that he believed the Department of Justice should undertake ''all reasonable and appropriate research necessary to understand the nature of the problem.''

It is clear that Attorney General Ashcroft said he would continue and not terminate the NIJ study initiated by the Reno administration. I was pleased to hear him make this commitment.

But, since the new administration took office, no steps have been taken to move forward with the NIJ study. Rather, the Attorney General now believes it would take much too long to conduct this in-depth analysis of disparities and that it would provide indefinite answers. To say that the NIJ research should not be undertaken because it may take more than a year and provide inconclusive answers is just baffling. I am absolutely confounded by the Attorney General's unwillingness to take such a simple step to ensure fairness and to promote public confidence in the Federal system.

Now, Attorney General Ashcroft did say yesterday that he would order the National Institute of Justice to study the effectiveness of Federal, state and local law enforcement in the investigation and prosecution of murder in American and how death penalty cases are brought into the Federal system. While this review may provide some additional insight into the functioning of our criminal justice system, it is not the NIJ review of racial and geographic disparities ordered by Attorney General Reno.

The supplemental report released yesterday lacks credibility: it is a case of ''we looked at ourselves and there's no evidence of bias.'' Instead of completing a thorough analysis of the racial and regional disparities with outside experts, as outlined by Attorney General Reno, Attorney General Ashcroft collected the additional data—also ordered separately by Attorney General Reno—threw in some statements that there is no evidence of bias and released it as a supplemental report. This report does not dig behind the raw data in the way that an in-depth research and analysis could do.

To her credit, Attorney General Reno recognized the need for input from outside experts. That is why she ordered the National Institute of Justice to undertake the review of racial and regional disparities. While I commended Attorney General Reno for her action in ordering further studies, I thought she should have gone one step further and establish an independent, blue ribbon commission to review the Federal system. That's what Governor George Ryan did in Illinois, and the independent panel there has been doing some goodwork. I've introduced a bill that applies Governor Ryan's example to the Federal Government, the National Death Penalty Moratorium Act. We should demand the highest standards of fairness and credibility in our Nation's administration of the ultimate punishment.

Attorney General Ashcroft's actions are wholly unsatisfactory and inconsistent with the promises he made to the Senate and the Nation during his confirmation hearing.

I was pleased to hear Attorney General Ashcroft say on Friday, May 11:

> Our system of justice requires basic fairness, evenhandedness and dispassionate evaluate of the evidence and the facts. These fundamental requirements are essential to protecting the constitutional rights of every citizen and to sustaining public confidence in the administration of justice. . . . It is my responsibility to promote the sanctity of the rule of law and justice. It is my responsibility and duty to protect the integrity of our system of justice.

The basic fairness, evenhandedness and dispassionate evaluation of the evidence and facts, about which he spoke,

extend to the troubling racial and regional disparities in the Federal system, as documented by the Department of Justice September 2000 report.

As my colleagues are aware, I oppose the death penalty. I have never made any bones about that. But this is not really about just being opposed to the death penalty. This is about bias-free justice in America. I am certain that not one of my colleagues in the Senate—not a single one—no matter how strong a proponent of the death penalty, would defend racial discrimination in the administration of that ultimate punishment. The most fundamental guarantee of our Constitution is equal justice under law, equal protection of the laws. To be true to that central precept of our national identity, we have to take extremely seriously allegations that the death penalty is being administered in a discriminatory fashion.

So I urge the Attorney General, in the strongest possible terms, to reconsider his actions and direct the National Institute of Justice to continue its study, with outside experts, of the racial and regional disparities in the Federal death penalty system. I also urge him to provide the NIJ whatever resources may be needed to complete this study. This is the only course consistent with the promises he made during his confirmation hearing.

Furthermore, with Mr. Garza's execution still scheduled to take place and the NIJ study at a standstill, I urge the Attorney General to postpone Mr. Garza's execution until these questions of fairness are fully answered. The case of Mr. Garza—a Hispanic and convicted in Federal court in Texas—implicates the very issues at the center of the unfairness reflected in the DOJ report. It would be wholly illogical and unjust to go forward with plans for the execution of Mr. Garza and subsequent executions until the NIJ's study is completed and fully reviewed. It would be a great travesty of justice, as well as a great diminution in the public's trust in the Federal criminal justice system, if the Federal Government executed Mr. Garza and the NIJ later completed its study, which corroborated racial or regional bias in the administration of the Federal death penalty.

The integrity of our system of justice demands no less.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

COMMENDING SENATOR FEINGOLD

Mr. REID. Before my friend from Wisconsin leaves the Chamber, I would like to say that I have always been very impressed with the Senator from Wisconsin. I may not always agree with him on the issues—but most of the time I do—but one reason I am so impressed with him is he is always so thorough and has such a conviction about the issue of which he speaks. Whether it is an issue dealing with foreign policy or a country the name of which most of us have trouble pronouncing, he understands what is going on in that country and the human rights violations that take place.

I never had the opportunity to say publicly to my friend from Wisconsin how impressed I am with his intellectual capabilities and his ability to express them in this Chamber. I do that now and congratulate him.

Mr. FEINGOLD. I thank the Senator very much.

SENATE PAGE RECOGNITION

Mr. LOTT. Madam President, this Friday is graduation day for the Senate pages. These young men and women are some of the hardest working employees of the Senate. They have a grueling schedule. Many people don't know that the pages go to school from 6:00 a.m. until the Senate opens, and are here even past the time the Senate gavels out. In the past few weeks we have had several late evenings, sometimes not leaving until after midnight. While most of the Senate employees go home and go to sleep, the pages do not. After work the pages have homework and studying to do. Their work is never done.

They do an invaluable service for the United States Senate and get little acclaim. However the experience is extraordinary and one they will remember for the rest of their lives.

Over the past semester the pages have been witness to several historical events. The State of the Union, the passing of the largest tax cut in history and being a part of an evenly divided Senate.

I would like to take this opportunity to recognize each page and the State that they represent.

Republicans: Kendall Fitch, South Carolina; Jackie Grave, Missouri; Elizabeth Hansen, Utah; Joshua Hanson, Indiana; JeNel Holt, Alaska; Adrian Howell, Mississippi; Eddie McGaffigan, Virginia; Mary Hunter (Mae) Morris, Alabama; Jennifer Ryan, Idaho; Megan Smith, Kentucky; O. Dillion Smith, Vermont; Garrett Young, New Hampshire;

Democrats: Libby Benton, Michigan; Steve Hoffman, Vermont; Alexis Gassenhuber, Wisconsin; Kelsey Walter, South Dakota; Michael Henderson, South Dakota; Kathryn Bangs, South Dakota; Tristan Butterfield, Montana; Lyndsey Williams, Illinois; Joshua Baca, New Mexico; Andrew Smith, Texas.

Congratulations to you all on a successful semester as a Senate page. We wish you the best of luck as you encounter all future challenges. Thank you for your patronage and service to the U.S. Senate.

IN HONOR OF MR. WILLIAM T. KOOT

Mr. REID. Madam President, I rise today to honor a distinguished Nevadan, a good man, and a good friend, Mr. William T. Koot. On June 8, 2001, Bill will be retiring from the Clark County District Attorney's office after nearly 30 years of service.

When Chief Deputy District Attorney William T. Koot retires on Friday, the people of Clark County, NV, will lose a wonderful advocate.

Bill has been the heart and soul of the Clark County District Attorney's Office for decades. The leadership that he has provided, the examples that he has set, the standards of integrity that he has insisted upon for himself and for others, are immeasurable. He is a terrific trial lawyer, an outstanding legal scholar, a leader in the community, an effective prosecutor, and most importantly, a good friend.

Bill's legacy of service to the State of Nevada is long and remarkable. He joined the Office of the District Attorney in 1972, after having served 3 years in the United States Marine Corps and acquiring his law degree from the University of San Diego.

During his nearly 30 years of service, Bill has tried literally thousands of cases. Of his 132 jury trials, Bill has successfully prosecuted and obtained 93 guilty verdicts. He has supervised with distinction dozens of prosecutors, and during the past 6 years, he has headed the office's major violators unit.

As Clark County District Attorney Stewart Bell has said, Bill Koot will truly be missed. I extend to him my most sincere congratulations and the appreciation of all Nevadans for his good work on our behalf.

KIDS AND GUNS

Mr. LEVIN. Madam President, the June issue of the journal Pediatrics reports the results of a disturbing study on children and guns. A journal article describes an experiment conducted by researchers from Emory University School of Medicine and Children's Healthcare of Atlanta-Egleston Hospital. The researchers wanted to determine how sixty four eight to twelve year old boys would behave when they found a handgun in a presumably unthreatening environment.

Researchers placed groups of two or three boys in a room with a one way mirror. Two water pistols and an actual .380 caliber handgun were concealed in separate drawers in the room. When left alone for a mere 15 minutes, nearly three quarters of the groups found the handgun. Of those groups, more than three quarters handled the guns. And 16 boys—one out of every four in the study—actually pulled the trigger. And none of these boys knew that the gun was not loaded. Perhaps most distressing is the fact that more than 90 percent of those who handled the gun or pulled the trigger had some form of gun safety instruction.

Despite this study and countless other examples of the potentially lethal implications of mixing kids and guns, the National Rifle Association

has not strayed from its mantra. When asked about the Emory study, an NRA spokesman was reported to have said simply ''You can certainly assume that the findings are artificial.''

But I think Emory's Dr. Arthur Kellermann, a co-author of the study, had it right. Dr Kellerman said, ''Since we can't make kids gun proof, why can't we make guns kid proof?'' That makes sense to me. So while the NRA is free to bury its head in the sand, we are not. We in the Congress have a moral responsibility to stand up for what's right, close the loopholes in our gun laws, and make our nation a little safer for our children and our grandchildren.

THE OKLAHOMA CITY BOMBING CASE

Mr. LEAHY. Madam President, we are all familiar with the recent developments in the Oklahoma City bombing case. Last month, just 6 days before Timothy McVeigh was to be executed, we learned that the FBI had withheld thousands of pages of documents from McVeigh's defense team. The execution was then postponed until June 11 to give McVeigh and his lawyers time to review the evidence that should have been provided to them before the trial began.

The bombing of the Oklahoma City Federal Building 6 years ago left 168 people dead and hundreds more injured.

The Federal Government spent millions investigating and prosecuting McVeigh, and millions more on his defense. The prosecution and the courts bent over backwards to ensure that he got a fair trial—one in whose outcome all Americans would have confidence. A member of the prosecution team once called McVeigh's trial ''a shining example . . . of how the criminal justice system should work.''

I have great respect for the dedicated team of prosecutors and law enforcement agents who worked on the Oklahoma City bombing case. I honor their commitment and I commend their accomplishments. But I agree with the trial judge that the FBI's belated discovery of thousands of pages of documents that were not turned over to the defense was ''shocking.'' And I believe that this shocking incident holds some lessons for us about our criminal justice system.

First, something we all know, even if we do not want to admit: Mistakes happen. Even in the highest of high profile cases, where the world is watching every step of the way, and even when the government devotes its most talented personnel and spares no expense, you cannot eliminate the possibility of human error or, as appears to be the case here, an unreliable computer system.

That should tell us something about other less infamous cases. The average case, even the average death penalty case, does not get the benefit of intense media scrutiny, and is not litigated by the best lawyers in the land. In the average death penalty case in Alabama, for example, the defense does not get millions of public dollars. Sometimes, defense lawyers are paid less than the minimum wage for defending a man's life. Too often, in the average death penalty case, corners are cut.

We saw what comes of corner cutting last month, when Jeffrey Pierce was released from prison in Oklahoma. He served 15 years of a 65-year sentence for a rape he did not commit, because a police chemist claimed his hair was ''microscopically consistent'' with hair found at the crime scene. Turns out it was someone else's hair. Whoops: Mistakes happen.

The second lesson to be learned from the McVeigh case is this: Process matters. The new documents that the FBI discovered may have no bearing on McVeigh's guilt or sentence, but that does not excuse the FBI's initial oversight in failing to produce them.

The right to a fair trial is not some arcane legal technicality. It is the bedrock constitutional guarantee that protects us all against wrongful convictions. The fair trial violation in Jeffrey Pierce's case did have a bearing on his guilt or innocence, and cost an innocent man 15 years of his life.

Finally, the McVeigh case reminds us that however much we may long for finality and closure in criminal cases, our first duty must always be to the truth. While I am dismayed by the FBI's failure to produce evidence 6 years ago, I would be far more troubled if it had tried to cover up its mistake. It appears that the FBI and the Department of Justice acted responsibly under the circumstances, by turning over the materials in an orderly manner and giving McVeigh time to consider his response. The Government's willingness to acknowledge its mistake and uphold the rule of law was proper and commendable.

It also stands in sharp contrast to the actions of certain State and local authorities. The sad truth is that in America in the 21st Century, with the most sophisticated law enforcement and truth-detection technologies that the world has ever seen, there are still some law enforcers who would rather keep out critical evidence, and hide the system's potential mistakes from the public, than make sure of the truth. There are still people playing ''tough on crime'' politics with people's lives, at the expense of truth and justice.

A prosecutor's duty is to the truth, the whole truth, and nothing but the truth. That duty does not end just because the defendant has been convicted. As Attorney General Ashcroft said in announcing the postponement of McVeigh's execution: ''If any questions or doubts remain about this case, it would cast a permanent cloud over justice, diminishing its value and questioning its integrity.''

One cannot think of the Oklahoma bombing case without thinking of the hundreds of victims whose lives that bomb shattered. We as a society cannot give the families back their loved ones, but we can and should give them closure. As the Attorney General acknowledged, you cannot have real closure without a fair and complete legal process that ensures that all of the evidence has been properly examined.

We cannot achieve infallibility in our criminal justice system, and we cannot spend millions of dollars on every trial. No one suggests that we should. But if we want real justice for those defendants, like Jeffrey Pierce, who happen to be innocent, and real closure for victims of violent crime, we must ensure that we as a society do not cut corners in the administration of criminal justice. That requires, at a minimum, that we provide competent counsel to capital defendants and make DNA testing available in all cases where it could demonstrate the defendant's innocence.

Process matters, for victims and defendants alike, and I hope that we will take real action in this Congress to pass the Innocence Protection Act and stop cutting the corners.

I ask unanimous consent to print in the RECORD a recent Wall Street Journal article discussing the growing support for stronger protections against wrongful executions.

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

DESPITE MCVEIGH CASE, CURBS ON EXECUTIONS ARE GAINING SUPPORT

(By John Harwood)

WASHINGTON.—Americans last year elected an enthusiastic proponent of capital punishment to the White House. And they're applauding the resumption of federal executions next month, when mass murderer Timothy McVeigh is scheduled to die by lethal injection.

Yet, paradoxically, the dawn of George W. Bush's presidency is bringing a swing in the pendulum away from executions in America. Though most Americans continue to back capital punishment, support has been dropping in recent years in tandem with declining rates of violent crime. Advances in DNA testing and scandals involving the prosecution of major offenses have underscored the fallibility of evidence in capital cases.

One state, Illinois, has placed a moratorium on the death penalty. Others, including Arkansas and North Carolina, have indirectly curbed its application by beefing up standards or taxpayer funds for the representation of indigent defendants. The number of people annually sentenced to death in the U.S. has fallen in three of the last four years for which statistics are available, to 272, in 1999, since peaking at 319 in 1994 and 1995.

Just last week, the Texas House voted to create the state's first standards for court-appointed lawyers. The Texas Senate had already passed similar legislation. The Supreme Court this fall is scheduled to revisit whether to bar the execution of mentally retarded inmates. In the Republican-controlled Congress, support is building for stronger protections against the execution of defendants who may be innocent.

SHIFT IN OKLAHOMA

The pendulum swing is occurring even in Oklahoma City, where Mr. McVeigh bombed the Alfred P. Murrah Federal Building six years ago, killing 168 people. There is early evidence that Oklahoma convicts are receiving fewer death sentences in the wake of the

state's decision to improve legal counsel for poor defendants and expand access to DNA testing. Recent allegations of misleading testimony by an Oklahoma police chemist who served as a frequent prosecution witness, as well as the FBI's mishandling of records in the McVeigh case, are only adding to pressure for better safeguards.

''The politics of the death penalty are clearly changing . . . because of the blunders of the system,'' says Oklahoma Gov. Frank Keating. Though he staunchly supports capital punishment, the conservative Republican says he favors establishing a higher standard of proof in capital cases, even if that makes death sentences more difficult to obtain.

Just five years ago, such a change was unthinkable. But it reflects a broader reconsideration taking place across the spectrum of criminal-justice issues.

Since crime rates began to soar in the 1960s, voters and politicians have responded with an increasing array of get-tough measures, from more-aggressive police practices to longer sentences to sterner jails. But now, questions about the wisdom of America's get-tough approach are coming from state officials straining to finance the prison boom, leaders of poor neighborhoods depleted by the incarceration of rising numbers of drug offenders and criminologists concerned about the long-term effect of inmates of harsher jail practices.

''Maybe we have gone too far,'' says U.S. Rep. Ray LaHood, a member of the GOP leadership on Capitol Hill, whose downstate Illinois district includes a federal prison. He is co-sponsoring the Innocence Protection Act, which would encourage states to provide capital defendants with ''competent counsel'' and death-row convicts with access to DNA testing.

Mr. LaHood says federal judges—both Republicans and Democrats—are urging him to ease stiff ''mandatory-minimum'' drug-sentencing laws and the 1987 U.S. sentencing guidelines that took away most discretion from judges. One of those judges, Michael Mihm of Peoria, Ill., a Ronald Reagan appointee, says that with experience on the bench, he has concluded that some mandatory minimums are excessive. At sentencing time, ''I am saying, 'All right . . . could we accomplish all of the legitimate concerns of the society with 10 years rather than 20, with 10 years rather than 30?' ''

''We're filling up our prisons,'' Mr. LaHood adds. More than 1.9 million people reside in the nation's prisons and jails. ''When people think about the number of prisons,'' the congressman says, ''they really wonder if this is what we should be doing.''

LOOKING AT MINIMUMS

President Bush himself has raised similar questions about prison policy. ''Long minimum sentences may not be the best way to occupy jail space and/or heal people from their disease,'' he told a CNN interviewer just before taking office in January. ''And I'm willing to look at that.'' The administration is expected to propose sentencing changes later this year.

On capital punishment, the shift has occurred in spite of Mr. Bush, not because of him. In Texas, he presided over 152 executions, more than any other U.S. governor in the last quarter-century. He said earlier this month that the one-month delay in Mr. McVeigh's execution is ''an example of the system being fair,'' as he has long maintained.

But that hasn't stopped the development of an unusual community of interest across the political spectrum as debate has shifted from whether capital punishment should exist to how it is applied in practice. Opponents want stronger safeguards because it will mean fewer executions. Supporters will tolerate fewer executions as a means of stemming the erosion of public confidence in the death penalty. The result is an emerging consensus resembling a goal former President Bill Clinton once articulated concerning abortion, which he said should be ''safe, legal and rare.''

It isn't the first time that post-World War II America has reconsidered capital punishment. Before public attention focused on the rising crime rates of the 1960s, and amid that decade's optimism about liberal social goals, support for capital punishment dropped below 50%, notes Pew Center public-opinion analyst Andrew Kohut. The supreme Court halted executions across the country in 1972, declaring the death penalty's application arbitrary and capricious.

But that was followed by years of steadily increasing support for capital punishment, as crime levels rose. In the 1970s, state legislatures scrambled to pass new death-penalty statutes designed to meet the Supreme Court's constitutional objections. Today, capital punishment is legal in 38 states. In 1977, Utah became the first state to resume executions after the high-court ruling, and 30 others have followed suit.

In the late 1980s, moderate Democratic strategists said fielding a presidential nominee who supported the death penalty was crucial to the party's hopes of recapturing the White House after three consecutive Republican victories. They found such a candidate in then-Arkansas Gov. Clinton, who left the campaign trail at one point in 1992 specifically to preside over the execution of murderer Ricky Ray Rector.

Public support for the death penalty crested at 80% in 1994, following another decade of rising violent-crime rates. Legislation passed that year by a Democratic-controlled Congress and signed by Mr. Clinton made some 60 additional categories of crime, such as major narcotics trafficking, subject to the federal death penalty. Two years later, an antiterrorism bill signed by Mr. Clinton placed new limitations on federal appeals by death-row inmates, while the new GOP majority in Congress cut federal funding that aided defense lawyers in capital cases in many states.

THEMES OF THE 1990S

But the tide of opinion turned under the influence of two of the most powerful themes running through American society in the late 1990s. One was improving social trends, including a steady drop in rates of murder, rape and assault. Fear of violent crime likewise fell. The other was technological advancement, which in the forensic field led to DNA evidence being used to exonerate some long-serving inmates, including some on death row.

In 1996, two death-row prisoners in Illinois were freed after an investigation by journalism students at Northwestern University led to DNA testing that exonerated the inmates. A year later, the American Bar Association called for a national moratorium on the imposition of the death penalty.

Increasing opposition to capital punishment among religious leaders helped fuel the shift in opinion. Catholic bishops have called for the abolition of capital punishment as part of the ''ethic of life'' that leads to their opposition to abortion. In early 1999, then-Missouri Gov. Mel Carnahan commuted the death sentence of one inmate after receiving a personal plea from the Pope. Last year, televangelist Pat Robertson, a former-Republican presidential candidate, called for a moratorium on capital punishment, after earlier unsuccessfully lobbying Mr. Bush to spare the life of convicted Texas murderer Karla Faye Tucker.

Messages in popular culture, including films such as ''The Green Mile'' and ''Dead Man Walking,'' also helped soften attitudes by depicting the humanity of prisoners facing execution. Sixteen months ago, opponents of capital punishment claimed a striking breakthrough when Republican Gov. George Ryan of Illinois imposed a death-penalty moratorium in the sate amid mounting evidence of botched cases.

In Congress, legislation that would create financial incentives for states to expand access to DNA testing and set standards for legal representation of defendants in capital cases is gathering support in both parties. In the Senate, its 19 co-sponsors include four Republicans and last year's Democratic vice presidential candidate, Joseph Lieberman, who declined to back the bill a year earlier. Its 191 co-sponsors in the House include several members of the GOP's conservative wing.

GOP Rep. Mark Souder of Indiana, one of the co-sponsors, says, ''I support he death penalty, [but] I'm a little uncomfortable. We want to be more sure.''

There's no sign of White House support for such legislation, which if implemented could have the effect of significantly decreasing the number of death sentences handed down. But one Bush adviser says the president ''would probably have to sign'' a death-penalty-reform bill if it reached his desk.

Moderate GOP lawmaker Sherwood Boehlert of New York says Mr. Bush should affirmatively embrace the cause to ''soften'' his image after his narrow presidential-election victory. Among other things, such a move could help tamp down hostility among black voters, who are far more inclined to oppose the death penalty than are whites. Though African-Americans make up just 12% of the nation's population, they represent 43% of American inmates now on death row.

States aren't waiting for action from Washington. Florida this year became the 15th state to bar the execution of mentally retarded inmates, in legislation now awaiting the promised signature of Gov. Jeb Bush, the president's brother. Gov. Jim Gilmore of Virginia, whom Mr. Bush made chairman of the Republican National Committee earlier this year, signed a statute to improve access to DNA testing. In Texas, Mr. Bush's gubernatorial successor has also signed DNA legislation, while lawmakers in Austin move forward on improvements in the state's indigent-defense system.

Perhaps most striking, neighboring Oklahoma, the focus of national attention because of the McVeigh execution plans, began taking similar steps four years ago. A state board controlled by Gov. Keating hired Jim Bednar to run the state agency that provides lawyers for poor defendants. Mr. Bednar had formerly sought the death penalty as a state prosecutor and presided over its imposition as a judge.

In the past, if a lawyer assigned to represent an indigent defendant ''had vital signs, he was determined to be competent,'' says Mr. Bednar. ''In theory I'm not opposed to the death penalty. But it's the practice we need to look at. The system is flawed.''

He began to overhaul the indigent-defense agency by winning funding increases to hire better-quality lawyers. The agency is now sending the message that attorneys for poor inmates ''are really going to show up and do our job,'' Mr. Bednar says.

Because of stiffer opposition, prosecutors are becoming ''more hesitant to seek the death penalty,'' he adds. In fiscal year 1998, as Mr. Bednar was beginning to reorganize his agency, prosecutors in the area served by his Norman office, which covers roughly the western half of the state, sought death sentences in 36 cases. They obtained the punishment in four cases. Last year, prosecutors

sought 26 death sentences and obtained only one.

Doubts about the validity of some prosecution evidence—sown most recently by the scandal involving alleged flaws in the work of Oklahoma City police chemist Joyce Gilchrist—may have also made juries more reluctant to impose the death penalty in the state. Oklahoma Attorney General Drew Edmondson, whose office is reviewing the cases of all 121 death-row inmates in the state to see if additional DNA testing is called for, has declined to set an execution date for any of the 12 against whom Ms. Gilchrist had testified. Ms. Gilchrist, who was suspended by the Oklahoma City police department in March and now faces a state investigation of her work, said in an interview, ''I stand by my testimony.''

Republican Gov. Keating says further steps are needed. He proposes a higher standard of proof—''moral certainty'' of guilt—for capital cases, instead of the families absence-of-reasonable-doubt standard used in criminal trials. ''The people now expect moral certainty,'' says Mr. Keating. ''No system can survive if it's fallible.''

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Madam President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY last month. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred August 19, 2000, in San Francisco, California. Two men were arrested on charges of stalking, assaulting and robbing men in gay bars in what police say was a ''brazen, bicoastal crime spree that included four robberies in Maine and vicious attacks on gays,'' including slashing one victim's throat, in California. The perpetrators were arrested after a bouncer at a gay bar recognized their distinctive Boston accents after reading about them in a warning flier distributed by police.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

TWO-YEAR ANNIVERSARY OF THE BELLINGHAM WASHINGTON PIPELINE EXPLOSION

Mrs. MURRAY. Madam President, on June 10th families in Bellingham, WA and throughout my home State will mark the 2-year anniversary of a pipeline explosion that killed three young people.

That tragic explosion changed three families forever. It shattered a community's sense of security. It showed us the dangers posed by aging, uninspected oil and gas pipelines. That disaster in Bellingham led me to learn about pipeline safety, to testify before Congress, to introduce the first pipeline safety bill of the 106th Congress, and ultimately to pass legislation in the Senate in September 2000 and again in February of this year.

The Senate has done its job. Twice the Senate has passed the strongest pipeline safety measures to ever pass either chamber of Congress. Now it's time for the House and President Bush to do their part.

The bill we passed in the Senate is a major step forward. It isn't everything everyone could want, but it is a significant move in the right direction. Specifically, the bill: Improves the Qualification and Training of Pipeline Personnel, Improves Pipeline Inspection and Prevention Practices, Requires internal inspection at least once every five years, Expands the Public's Right to Know about Pipeline Hazards, Raises the Penalties for Safety Violators, Enables States to Expand their Safety Efforts, Invests in New Technology to Improve Safety, Protects Whistle blowers, and Increases Funding for Safety Efforts by $13 billion.

Here we are, 2 years after that disaster in Bellingham and the legislation we've passed in the Senate still hasn't become law. That is inexcusable. The Bush Administration just issued an energy plan that calls for 38,000 new miles of pipeline. As I told the Vice President in a letter recently, before we build thousands of miles of pipelines through our backyards, our neighborhoods and our communities, we must make sure those pipelines are safe.

Unfortunately, the President's energy plan offered some rhetoric about pipeline safety, but no clear progress. I believe he missed an opportunity to articulate the Administration's specific proposals to make pipelines safer. I hope President Bush will agree that we shouldn't replace our current energy crisis with a pipeline safety crisis.

Let me offer three ways President Bush can show his commitment to public safety. The first one is simple. We shouldn't backtrack on safety. Comprehensive new legislation which has passed the Senate and is pending in the House should represent the new minimum of safety standards. President Bush should not send us a proposal that is less stringent than this bill. President Bush should not undo the progress we made last year. And I hope he'll show a sensitivity to safety and environmental concerns that have been absent from his discussions on this issue to date.

Second, President Bush should signal his support of pipeline safety legislation, which I hope will ultimately take the form of him signing a bill into law.

Finally, President Bush's Department of Transportation should continue to issue administrative rules to make pipelines safer. The Clinton administration took several important administrative steps. I hope the Bush administration will show the same level of commitment.

We do need to address our energy needs, but not at the expense of our safety. Let's make pipelines safe first, before we lay down more pipelines.

If we learned anything last year, it's that we must not wait for another tragedy to force us to act. We must pass a comprehensive pipeline safety bill this year.

In the coming weeks and months, as a member of Senate Transportation Appropriations Subcommittee, I will continue to do everything I can to improve pipeline safety by making sure that pipeline regulators have the resources they need to do their jobs effectively.

I know that we can't undo what happened in Bellingham, but we can take the lessons from the Bellingham tragedy and put them into law so that families will know the pipelines near their homes are safe. Two years after the Bellingham disaster they deserve nothing less.

NATIONAL CORRECTION OFFICERS AND EMPLOYEES WEEK

Mr. HUTCHINSON. Madam President, I am proud to rise today as an original cosponsor of Senator JEFFORDS' and Senator FEINSTEIN's resolution designating this week as ''National Correction Officers and Employees Week.'' I commend them for their efforts to honor the 200,000 men and women who work in our Federal and State correctional institutions. Too often, American citizens overlook the importance of these men and women who must work with society's most hardened and dangerous criminals under difficult circumstances.

Today, I want them to know how much I admire and appreciate them for their willingness to face danger daily as they work to enforce our Nation's laws and ensure the safety of all American citizens. At this time, I also offer my condolences to the families and friends of the 11 correctional officers who died in the line of duty last year. I am deeply appreciative of their sacrifices and am sorry for their loss.

TAIWAN PRESIDENT CHEN SHUI-BIAN'S HISTORIC VISIT

Mr. ALLEN. Madam President, as President Chen Shui-bian of the Republic of China on Taiwan made his historic visit to the United States last month, I would like to congratulate him on his leadership and vision for Taiwan. President Chen became the second democratically-elected President in Chinese history little over one year ago, and his election was certainly a milestone in Taiwan's continued adherence to democracy and freedom.

I believe that President Chen's historic visit deserves the notice and respect of the U.S. Senate. Congress has long supported democratic development around the world, and Taiwan is no exception. Taiwan today is a notable model of rapid and successful democratic reform, as well as an important

trading partner of the United States, having maintained amicable ties with our Nation for decades. What may also not be known is that Taiwan imports over 1.6 times as many goods from the United States as does the People's Republic of China. Taiwan is a vital economic partner for the United States.

Taiwan's economy offers its people one of the highest standards of living in Asia, including universal education, excellent medical care, and a well-developed social welfare policy. Moreover, Taiwan's Constitution is exemplary, guaranteeing full political freedoms and basic human rights to all citizens. As Taiwan continues its democratic development, President Chen and the people of Taiwan deserve our most sincere praise for their exemplary adherence to individual liberty and freedom.

In the future, Taiwan's continued achievements and development will reinforce its regional position and strengthen the good relationship between our two countries.

CHAMPLAIN COLLEGE, BURLINGTON, VERMONT

Mr. LEAHY. Mr. President. I rise today to talk about a unique education program nestled in the hills of Burlington, VT. Champlain College is one of the many higher education institutions in my home State and it has distinguished itself as a leader in career-oriented education. Under the leadership of President Roger Perry, Champlain College provides its students with innovative distance learning and workforce development programs to build the skills of Vermonters. While I have long known of the quality offerings of Champlain College, I was very pleased to see a story in the Los Angeles Times recently about one program in particular that serves single parents on welfare who want to earn a college degree.

With the recent reform by the Federal Government of our Nation's welfare system, many individuals are seeking training that can lead to better jobs and ultimately to increased wages. In response to this growing need, an 11-year-old program at Champlain College aimed at moving single parents off welfare is receiving attention nationwide. The impressive statistics from this public-private partnership clearly indicate its success—less than 10 percent of those participating in the program drop out; most in the program earn a 2-year associate degree; and, many even go on to receive a 4-year bachelor's degree. According to President Roger Perry, more than 90 percent of the single parents who graduate from this program have not returned to the welfare program. This program is helping single parents break the welfare cycle and show their children the importance of getting a college degree as a step toward supporting themselves and their family. Its success also reinforces Champlain College's role in Vermont as a leader in career-oriented education. I commend President Roger Perry, the faculty and staff, and especially the students for continuing to make Champlain College a model for quality higher education.

I ask unanimous consent that the following article from the May 13, 2001 issue of the Los Angeles Times be printed in the RECORD.

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

[From the Los Angeles Times, May 13, 2001]

(By Elizabeth Mehren)

VT. COLLEGE SINGLES OUT PARENTS EDUCATION: UNIQUE CURRICULUM THAT HELPS WELFARE MOTHERS GET JOB TRAINING HAS BECOME A NATIONAL MODEL

BURLINGTON, Vt.—What galls Dulcie Christian is when her Champlain College classmates say they didn't get their papers done because they were out drinking all night.

''I think, well, I was up all night with two sick kids and I did get mine done,'' Christian said. ''Plus, I did the laundry.''

As a participant in an unusual state-supported college program geared to move single parents off welfare, Christian, 33, is well aware of how her life diverges from the conventional undergraduate path. There's no room for wild parties. And instead of spring breaks in Jamaica, Christian uses time off to double up on hours working at the local Social Security office. Her old Subaru just better hold itself together, because there's no deep-pockets daddy to bail her out. More than once, in a pinch, Christian has brought Justin, 9, or Shelby, 5, to class with her.

FEWER THAN 10% DROP OUT

For Christian and the 60 or so other single parents enrolled at Champlain this semester, the challenges are immense. And yet, said program director Carol Moran-Brown, ''The retention rate for these single parents is higher than the school average. You wouldn't believe the motivation.''

With federal welfare reform providing an impetus for recipients to train for better jobs, the 11-year-old program at this private college has emerged as a national model.

Typically, college officials say, fewer than 10% of these students drop out; most in the program earn a two-year associate of arts degree and many go on for a four-year bachelor's degree. More than 90% of the single-parent graduates have not returned to welfare rolls, said Champlain College President Roger H. Perry.

Those are strong indicators, Perry said, that the program is achieving its goal of helping to shatter the cycle of single parents living off government assistance.

State money pays the salaries of Champlain's two full-time social workers devoted to single-parent students—almost always women, through the occasional single dad enrolls. State subsidies also fund the day care that enables these parents to take classes at the 1,400-student campus. The program is labor intensive, with workshops and weekly social hours at which single parents trade everything from outgrown snowsuites to names of kid-friendly professors.

For a group often made up of first-generation college students, social workers focus on time and stress management, as well as study skills. The students and social workers often meet daily, discussing what's going on academically—and also addressing such outside issues as abusive boyfriends, nasty landlords and sick babies. Budgets are a big topic, as many single parents struggle to get by on welfare payments while attending the four-year college. When it all becomes too much, ''that's when I show up at their door, saying, 'I'm concerned about you, what's going on? Can I lend a hand?' '' social worker Felicia Messuri said.

Champlain is a career-oriented school where most students easily step into jobs upon graduation. But Moran-Brown said the 97% job placement rate in the single-parent program stands out. A state study is underway to determine how well the single-parent graduates do over time—and how their experience compares to single parents who do not finish college.

Last year, Champlain received $96,000 in state money to run the program. An experimental seven-year federal waiver allowing Vermont to use special support funds for the single-parent college program expires in June. Eager to continue the program, the state Legislature passed a measure allowing the state's social welfare agency—Prevention, Assistance, Training and Health Access—to allocate discretionary funds for single parents in college.

At Champlain, single-parent students pay full $10,000-a-year tuition. But they are eligible for grants and loans. Under state rules, their welfare checks are not in jeopardy if they also hold down jobs.

When state supplements for transportation, caseworker salaries and incidentals are factored in, supporting each single-parent college student costs about $500 per year above the normal welfare allotment, Moran-Brown said. ''It's cheap,'' she said.

PARENTS AND KIDS DO HOMEWORK TOGETHER

In Vermont, an unemployed single parent with one child usually receives about $557 each month, she said.

Noting that the endeavor benefits the state and students alike, PATH's deputy commissioner, Sandy Dooley, said her office views the single-parent college program as ''a work-force development strategy'' that could easily be replicated elsewhere.

For 23-year-old Cindy Sarault, it was dissatisfaction with a $5.65-an-hour job as a grocery clerk that pushed her to study accounting at Champlain. Now she and her 5-year-old daughter, Brooke, often do homework together.

Like Sarault, classmate Heidi McMann, 21, got pregnant as a high school senior. After two years as a low-wage office assistant, McMann signed on at Champlain to study computer networking.

''Partly it was about getting somewhere in life, so I could get a decent job,'' she said. ''But also I wanted Taylor, my daughter, to learn from me, not just see me working in dead-end, low-wage positions forever.''

Only a few miles from campus, in the small apartment she shares with her two children, Christian agreed that a big payoff is ''setting an example of how important school is.''

As the first member of her family to graduate from high school, Christian said it never crossed her mind to continue her own education. ''I thought college was for people who can write papers,'' she said.

Then someone mentioned the single-parents program at Champlain. She tried a class and liked it so much she quit her clerical job. To the horror of her working-class parents, she went on welfare and sought out state child-care subsidies.

Soon Christian was set on a career in social work, and earning a 3.97 grade point average. Graduation is a year away, and Christian has a job lined up at the Social Security Administration. She said that after juggling school, a job and two kids, she is unfazed by the prospect of paying off college debt of at least $25,000.

For her, the biggest obstacle has been ''making it through the tough times, when

the money is short and your temper is short because you're worrying about the money, and the kids have problems at school and you have problems at school. You just want to crawl off somewhere. But you can't.''

''I DO THINK I'M BREAKING THE CYCLE''

At school, Christian said, she talks about her kids constantly. At home, she talks about school. Better yet, her kids see her hunkering down with a book, and it makes them want to do the same. When they complain that they don't like a teacher, Christian says, guess what, she doesn't like all her professors either. Then they all do their homework together.

''So I do think I'm breaking the cycle,'' Christian said. ''It feels great.''

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, June 6, 2001, the Federal debt stood at $5,669,404,114,473.96, five trillion, six hundred sixty-nine billion, four hundred four million, one hundred fourteen thousand, four hundred seventy-three dollars and ninety-six cents.

One year ago, June 6, 2000, the Federal debt stood at $5,647,514,000,000, five trillion, six hundred forty-seven billion, five hundred fourteen million.

Five years ago, June 6, 1996, the Federal debt stood at $5,139,284,000,000, five trillion, one hundred thirty-nine billion, two hundred eighty-four million.

Ten years ago, June 6, 1991, the Federal debt stood at $3,494,333,000,000, three trillion, four hundred ninety-four billion, three hundred thirty-three million.

Fifteen years ago, June 6, 1986, the Federal debt stood at $2,052,917,000,000, two trillion, fifty-two billion, nine hundred seventeen million, which reflects a debt increase of more than $3.5 trillion, $3,616,487,114,473.96, three trillion, six hundred sixteen billion, four hundred eighty-seven million, one hundred fourteen thousand, four hundred seventy-three dollars and ninety-six cents during the past 15 years.

ADDITIONAL STATEMENTS

POLSON HIGH SCHOOL ''WE THE PEOPLE'' GROUP

• Mr. BAUCUS. Mr. President, on April 21–23, 2001 more than 1200 students from across the country came to Washington, D.C. to compete in the national finals of the ''We the People . . . The Citizen and the Constitution program.'' I am proud to announce that one of the classes that competed was from Polson High School in Polson, MT.

The students that participated are: Curt Bertsch, Luke Bradshaw, Brad Briney, Amy Herak, Jackie Johnson, Ray Kneeland, Mindy Koopmans, Maggie Liebschutz, Tim Mains, Levi Mazurek, Ashley Miedinger, Joey Moholt, Cuinn Morgen, Nolan Mowbray, Toby Nelson, Kevin O'Brien, Kati O'Toole, Becky Owen, Stephen Pitts, Jeri Rafter, Kate Tiskus, Luke Venters, and Jason Wies.

I would also like to recognize, their teacher, Bob Hislop. Bob brings students to the national competition almost every year; his efforts have been a major asset to Polson High School and the State of Montana.

For the students involved, the national competition was the culmination of months spent studying the Constitution. It lasted three days, and was modeled after a Congressional hearing. Students were the ''witnesses,'' and they made oral presentations before a panel of judges—the ''committee.'' Afterwards, the judges asked questions designed to probe each competitor's knowledge of several different Constitution-related categories.

In addition, the Polson High group got an opportunity to meet members of Congress and visit sites of historic and cultural significance in Washington, D.C. The competition may have been the highlight, but for most students the trip itself was an educational and exciting experience.

The ''We the People'' program is directed by the Center for Civic Education, and it has been extremely successful. Several studies show that students who participate in We the People are substantially better informed about American Politics than those who do not. They are also more likely to register to vote, be more confident in their rights as citizens, and be more tolerant of other's viewpoints.

Let me again congratulate the Polson High group for their hard work. Montana is proud of them.•

J. WESLEY WATKINS III

• Mr. COCHRAN. Mr. President, it is with a feeling of deep regret that I bring to the attention of the Senate the death of my friend, J. Wesley Watkins III. He died on Monday, June 4, at George Washington University Hospital. He was 65 years old and was a victim of cancer.

Wes and I were classmates at the University of Mississippi. As a matter of fact, we were cheerleaders for the Ole Miss football team in 1956–1957, and I succeeded him as head cheerleader in 1957.

During the 1960's Wes became actively involved in the effort to extend all the benefits of citizenship to African Americans. He was a leader in our State in this cause, and he demonstrated great courage and determination.

He had an engaging personality, a winning smile, and he loved people. It was always a pleasure to be with him. He truly will be missed by his many friends. I'm glad I was one of them.

His hard work to assure equal rights and help make a difference in the lives of others who needed help is described in a newspaper article about his death. I ask that a copy of the obituary that appeared on Wednesday, June 6, in the Washington Post be printed in the RECORD.

The obituary follows:

J. WESLEY WATKINS III, 65, DIES; CIVIL LIBERTIES LAWYER, ACTIVIST

(By Bart Barnes)

J. Wesley Watkins III, 65, a Washington-based lawyer who specialized in civil rights and civil liberties issues in a career that spanned almost 40 years, died of pneumonia June 4 at George Washington University Hospital. He had cancer.

At his death, Mr. Watkins was a senior fellow at the Center for Policy Alternatives and founding director of the Flemming Fellows Leadership Institute, a program that assists and trains state legislators on such issues as family and medical leave, community reinvestment and motor-voter registration.

He was a former director of the American Civil Liberties Union of the National Capital Area, a Washington-based southern regional manager of Common Cause and a management consultant to various nonprofit organizations.

In the late 1960's and the 1970s, he had a private law practice in Greenville, Miss. His cases included winning the right for African American leaders to speak to on-campus gatherings at previously all-white universities; the seating of a biracial Mississippi delegation at the 1968 Democratic National Convention and removal of various barriers and impediments to voting.

Mr. Watkins, a resident of Washington, was born in Greenville and grew up in Inverness, Miss. He attended the U.S. Naval Academy, graduated from the University of Mississippi and served in the Navy at Pearl Harbor from 1957 to 1959. He graduated from the University of Mississippi Law School in 1962. During the Kennedy and Johnson administrations, he was a Justice Department lawyer and tried cases throughout the South.

In 1967, he returned to Greenville as a partner in the law firm of Wynn and Watkins. Until 1975, he was the attorney for the Loyal Democrats, the movement to establish a biracial Democratic Party in a state where black residents had been effectively excluded from the political process for generations. The loyalists were seated at the Democratic National Convention in Chicago as the official Democratic Party of Mississippi. In the years after 1968, Mr. Watkins held negotiations with Mississippi's Old Guard Democrats that led to a unified Democratic Party by the national convention of 1976.

Hodding Carter III, the former editor of Greenville's Delta Democrat Times newspaper and a Mississippi contemporary of Mr. Watkins's, described him as ''one of those southerners who loved this place so much that he had to change it. He had to do what he knew was the right and necessary thing in a very hard time. He had to break with so much that was basic to his past.'' Carter is president of the John S. and James L. Knight Foundation in Miami.

In 1975, Mr. Watkins returned to Washington and joined the Center for Policy Alternatives and helped found the Flemming Leadership Institute.

There, Linda Tarr-Whelan, the organization's board chairman, called him a ''larger-than-life figure with a thick Mississippi accent, a magnetic personality and a gift for telling stories.''

He habitually wore cowboy boots and a ten-gallon hat. When chemotherapy treatments for his cancer caused some of his hair to fall out, Mr. Watkins simply shaved his head and started wearing an earring.

In the 1980s, Mr. Watkins was task force director for the Commission on Administrative Review of the U.S. House of Representatives, which also was known as the Obey Commission. He was a former legislative assistant to Rep. Frank E. Smith (D–Miss.).

He Served on the boards of Common Cause, Americans for Democratic Action and Mid-

Delta Head Start, and most recently he was a board member of Planned Parenthood of Metropolitan Washington.

He was a former vestryman and a teacher in the Christian education program of St. Mark's Episcopal Church in Washington.

His marriage to Jane Magruder Watkins ended in divorce.

Survivors include his companion, Anita F. Gottlieb of Washington; two children, Gordon Watkins of Parthenon, Ark., and Laurin Wittig of Williamsburg, two sisters, Mollye Lester of Inverness and Ann Stevens of Newark; a brother, William S. Watkins of Alexandria; and four grandchildren.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 3:48 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 37. An act to amend the National Trails System Act to update the feasibility and suitability studies of 4 national historic trails and provide for possible additions to such trails.

H.R. 640. An act to adjust the boundaries of Santa Monica Mountains National Recreation Area, and for other purposes.

H.R. 1000. An act to adjust the boundary of the William Howard Taft National Historic Site in the State of Ohio, to authorize an exchange of land in connection with the historic site, and for other purposes.

H.R. 1209. An act to amend the Immigration and Nationality Act to determine whether an alien is a child, for purposes of classification as an immediate relative, based on the age of the alien on the date the classification petition with respect to the alien is filed, and for other purposes.

H.R. 1661. An act to extend indefinitely the authority of the States of Washington, Oregon, and California to manage a Dungeness crab fishery until the effective date of a fishery management plan for the fishery under the Magnuson-Stevens Fishery Conservation and Management Act.

H.R. 1699. An act to authorize appropriations for the Coast Guard for fiscal year 2002.

H.R. 1914. An act to extend for 4 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 150. Concurrent resolution expressing the sense of Congress that Erik Weihenmayer's achievement of becoming the first blind person to climb Mount Everest demonstrates the abilities and potential of all blind people and other individuals with disabilities.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 37. An act to amend the National Trails System Act to update the feasibility and suitability studies of 4 national historic trails and provide for possible additions to such trails; to the Committee on Energy and Natural Resources.

H.R. 640. An act to adjust the boundaries of Santa Monica Mountains National Recreation Area, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1000. An act to adjust the boundary of the William Howard Taft National Historic Site in the State of Ohio, to authorize and exchange of land in connection with the historic site, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 1209. An act to amend the Immigration and Nationality Act to determine whether an alien is a child, for purposes of classification as an immediate relative, based on the age of the alien on the date the classification petition with respect to the alien is filed, and for other purposes; to the Committee on the Judiciary.

H.R. 1661. An act to extend indefinitely the authority of the States of Washington, Oregon, and California to manage a Dungeness crab fishery until the effective date of a fishery management plan for the fishery under the Magnuson-Stevens Fishery Conservation and Management Act; to the Committee on Commerce, Science, and Transportation.

H.R. 1699. An act to authorize appropriations for the Coast Guard for fiscal year 2002; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 56 Concurrent resolution expressing the sense of the Congress regarding National Pearl Harbor Remembrance Day; to the Committee on the Judiciary.

H. Con. Res. 100. Concurrent resolution commending Clear Channel Communications and the American Football Coaches Association for their dedication and efforts for protecting children by providing a vital means for locating the Nation's missing, kidnapped, and runaway children; to the Committee on the Judiciary.

H. Con. Res. 150. Concurrent resolution expressing the sense of Congress that Erik Weihenmayer's achievement of becoming the first blind person to climb Mount Everest demonstrates the abilities and potential of all blind people and other individuals with disabilities; to the Committee on Health, Education, Labor, and Pensions.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

H.R. 6. An act to amend the Internal Revenue Code of 1986 to reduce the marriage penalty by providing for adjustments to the standard deduction, 15-percent rate bracket, and earned income credit and to allow the nonrefundable personal credits against regular and minimum tax liability.

H.R. 10. An act to provide for pension reform, and for other purposes.

H.R. 586. An act to amend the Internal Revenue Code of 1986 to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualified placement agencies, and for other purposes.

H.R. 622. An act to amend the Internal Revenue Code of 1986 to expand the adoption credit, and for other purpose.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 503. An act to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes.

H.R. 1885. An act to expand the class of beneficiaries who may apply for adjustment of status under section 245(i) of the Immigration and Nationality Act by extending the deadline for classification petition and labor certification filings, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2230. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Audio Service Division, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''An Inquiry Into the Commission's Policies and Rules Regarding AM Radio Service Directional Antenna Performance Verification'' (Doc. No. 93–177) received May 31, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2231. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (McCook, Alliance, Imperial, NE; Limon, Parker, Aspen, Avon, Westcliffe, CO)'' (Doc. No. 00–6) received on May 31, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2232. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (McKinleyville, California)'' (Doc. No. 00–216) received on May 31, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2233. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Royston and Arcade, Georgia)'' (Doc. No. 00–165) received on May 31, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2234. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Young Harris, Georgia)'' (Doc. No. 01–35) received on May 31, 2001; to

the Committee on Commerce, Science, and Transportation.

EC–2235. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Willow Creek, CA)'' (Doc. No. 01–4) received on May 31, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2236. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Charleroi and Duquesne, Pennsylvania)'' (Doc. No. 00–42) received on May 31, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2237. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Patterson, Georgia)'' (Doc. No. 01–26) received on May 31, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2238. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Alexandria, Sauk Centre, MN)'' (Doc. No. 00–250) received on May 31, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2239. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Laurie, Missouri)'' (Doc. No. 97–86) received on May 31, 2001 ; to the Committee on Commerce, Science, and Transportation.

EC–2240. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Paradise, MI and Lynchburg, TN)'' (Doc. Nos. 00–194; 00–196) received on May 31, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2241. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations (Bozeman, MT)'' (Doc. No. 01–30) received on May 31, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2242. A communication from the Acting Director of the National Institute of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Procedures for Implementation of the Fastener Quality Act'' (RIN0693–AB47) received on May 31, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2243. A communication from the Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Improve Individual Fishing Quota Program'' (RIN0648–AK50) received on May 31, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2244. A communication from the Attorney–Advisor of the National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Brake Testing Procedures'' (RIN2127–AH64) received on May 31, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2245. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Hydraulics Systems Airworthiness Standards To Harmonize with European Airworthiness Standards for Transport Category Airplanes'' ((RIN2120–AF79)(2001–0001) received on May 31, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2246. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revised Landing Gear Shock Absorption Test Requirements'' (RIN2120–AG72) received on May 31, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2247. A communication from the Attorney-Advisor of the National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Interior Trunk Release'' (RIN2127–AH83) received on May 31, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2248. A communication from the Trial Attorney of the Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Power Brake Regulations: Freight Power Brake Revisions—Delay of Compliance Date'' ((RIN2130–AB16)(2001–0003)) received on May 31, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2249. A communication from the Attorney-Advisor of the National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''High-Theft Lines for Model Year 2001'' (RIN2127–AH78) received on May 31, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2250. A communication from the Acting Assistant Administrator for Fisheries, National Marine Fisheries Service, Staff Office for Intergovernmental and Recreational Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Coastal Fisheries Cooperative Management Act Provisions; Horseshoe Crab Fishery; Closed Area'' (RIN0648–AO02) received on June 1, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2251. A communication from the Acting Director of the National Institute of Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''National Voluntary Laboratory Accreditation Program; Operating Procedures'' (RIN0693–ZA39) received on June 1, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2252. A communication from the Acting Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the Annual Report Regarding Atlantic Highly Migratory Species for 2001; to the Committee on Commerce, Science, and Transportation.

EC–2253. A communication from the Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Priorities and Allocations'' (48 CFR Part 1811) received on June 1, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2254. A communication from the Acting Chief Executive Officer of the United States Olympic Committee, transmitting, pursuant to law, the Four Year Report for the period 1997–2000; to the Committee on Commerce, Science, and Transportation.

EC–2255. A communication from the Deputy Director, Enforcement Policy, Wage and Hour Division, Employment Standards Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Nondisplacement of Qualified Workers Under Certain Contracts; Rescission of Regulations Pursuant to Executive Order 13204'' received on June 4, 2001; to the Committee on Health, Education, Labor, and Pensions.

EC–2256. A communication from the Army Federal Register Liaison Officer, Office of the Assistant Secretary of the Army, Department of the Army, transmitting, pursuant to law, the report of a rule entitled ''Report on the Use of Employees of Non-Federal Entities to Provide Services to the Department of the Army'' (RIN0702–AA33) received on June 5, 2001; to the Committee on Armed Services.

EC–2257. A communication from the Secretary of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–2258. A communication from the Acting Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Salable Quantities and Allotment Percentages for the 2001–2002 Marketing Year'' (Doc. No. FV01–985–1 FR) received on June 6, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2259. A communication from the Acting Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Olives Grown in California; Increased Assessment Rate'' (Doc. No. FV01–932–1 FIR) received on June 6, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2260. A communication from the Mayor of the District of Columbia, transmitting, a draft of proposed legislation entitled ''Fiscal Year 2002 Budget Request Act''; to the Committee on Governmental Affairs.

EC–2261. A communication from the Secretary of the Department of Agriculture, transmitting, pursuant to law, the report under the Office of the Inspector General for the period October 1, 2000 through March 31, 2001; to the Committee on Governmental Affairs.

EC–2262. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Change in Definition of Compensation to Reflect 132(f) Salary Reduction'' (Notice 2001–37) received on June 5, 2001; to the Committee on Finance.

EC–2263. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Captive Insurance Companies'' (Rev. Rul. 2001–31) received on June 5, 2001; to the Committee on Finance.

EC–2264. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule

entitled ''Reconsideration of Rev. Rul. 73–236'' (Rev. Rul. 2001–29, –26) received on June 5, 2001; to the Committee on Finance.

EC–2265. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Frivolous Filing Position Based on Section 861'' (Notice 2001–40) received on June 6, 2001; to the Committee on Finance.

EC–2266. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Montana; Emergency Episode Avoidance Plan and Cascade County Open Burning Rule'' (FRL6991–1) received on June 6, 2001; to the Committee on Environment and Public Works.

EC–2267. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Indiana'' (FRL6990–1) received on June 6, 2001; to the Committee on Environment and Public Works.

EC–2268. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Minnesota'' (FRL6991–7) received on June 6, 2001; to the Committee on Environment and Public Works.

EC–2269. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Ohio'' (FRL6991–9) received on June 6, 2001; to the Committee on Environment and Public Works.

EC–2270. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Primary Drinking Water Regulations: Filter Backwash Recycling Rule'' (FRL6989–5) received on June 6, 2001; to the Committee on Environment and Public Works.

EC–2271. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Priorities List for Uncontrolled Hazardous Waste Sites'' (FRL6994–4) received on June 6, 2001; to the Committee on Environment and Public Works.

EC–2272. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District'' (FRL6990–9) received on June 6, 2001; to the Committee on Environment and Public Works.

EC–2273. A communication from the Principal Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978; Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units'' (FRL6995–2) received on June 6, 2001; to the Committee on Environment and Public Works.

EC–2274. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: San Juan Harbor, San Juan, Puerto Rico'' ((RIN2115–AA97)(2000–0008)) received on June 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2275. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; SLR; South Carolina Aquarium Grand Opening Fireworks Display, Charleston Harbor, Charleston, SC'' ((RIN2115–AE46)(2001–0010)) received on June 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2276. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; IB 909 Barge Conducting Outfall Pipe Construction in Massachusetts Bay'' ((RIN2115–AA97)(2000–0053)) received on June 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2277. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Navy Pier, Lake Michigan, Chicago Harbor, IL'' ((RIN2115–AA97)(2000–0055)) received on June 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2278. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Oil Spill Cleanup Zone, Middletown, Rhode Island'' ((RIN2115–AA97)(2001–0015)) received on June 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2279. A communication from the Chief of the Office of Regulations and Administrative Law, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations: Atlantic Intercostal Waterway, Miami, Dade County, FL'' ((RIN2115–AE47)(2001–0045)) received on June 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2280. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Flight Crewmember Flight Time Limitations and Rest Requirements; Notice of Enforcement Policy; Correction'' ((RIN2120–ZZ35)(2001–0002)) received on June 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2281. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eagle Aircraft Pty. Lrd. Model 150B Airplanes'' ((RIN2120–AA64)(2001–0235)) received on June 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2282. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 767–200, 300, 300F Series Airplanes'' ((RIN2120–AA64)(2001–0236)) received on June 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2283. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737–200 and 3 Series Airplanes Equipped with Cargo Doors Installed in Accordance with STC SA 29969A0'' ((RIN2120–AA64)(2001–0234)) received on June 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2284. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Honeywell KC 225 Automatic Flight Control System; Request for Comments'' ((RIN2120–AA64)(2001–0233)) received on June 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2285. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: GE Engines CJ610 Series Turbojet and CF700 Turbofan Engines'' ((RIN2120–AA64)(2001–0232)) received on June 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2286. A communication from the Program Analyst of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Rolladen Schneider Flugzeugbau GmbH Models LS 3, LS 4, LS 6c Sailplanes'' ((RIN2120–AA64)(2001–0231)) received on June 5, 2001; to the Committee on Commerce, Science, and Transportation.

EC–2287. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Review of the Commission's Regulations Governing Television Broadcasting'' (Doc. No. 91–221, 87–8) received on June 5, 2001; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–77. A resolution adopted by the Board of Trustees of the Incorporated Village of East Rockaway, New York relative to Project Impact; to the Committee on Appropriations.

POM–78. A joint resolution adopted by the Town Council and School Committee of Kittery, Maine relative to the education of children with disabilities; to the Committee on Appropriations.

POM–79. A resolution adopted by the City Council of Prosser, Washington relative to energy; to the Committee on Energy and Natural Resources.

POM–80. A resolution adopted by the City Commission of Hollywood, Florida relative to Beach Erosion Control Projects; to the Committee on Environment and Public Works.

POM–81. A resolution adopted by the City Council of Brook Park, Ohio relative to the Steel Industry; to the Committee on Finance.

POM–82. A concurrent resolution adopted by the House of the Legislature of the State of Louisiana relative to the United States Postal Service; to the Committee on Governmental Affairs.

HOUSE CONCURRENT RESOLUTION NO. 5

Whereas, the original Purple Heart, designated as the Badge of Military Merit, was established by General George Washington on August 7, 1782, during the Revolutionary

War, when he wrote, ''Whenever any singularly meritorious action is performed, the author of it shall be permitted to wear on his facings over the left breast, the figure of a heart in purple cloth of silk, edged with narrow lace or binding. Not only instances of unusual gallantry, but also of extraordinary fidelity and essential service in any way shall meet with a due reward''; and

Whereas, the Purple Heart is the oldest military decoration in the world in present use and the first award given to a common soldier; a Purple Heart is an eloquent and forceful symbol of each man and woman who has stepped forward in a time of national crisis to defend the values of the United States; and

Whereas, the Purple Heart is a combat decoration awarded in the name of the President of the United States to members of the armed forces who are wounded by an instrument of war in the hands of the enemy; and

Whereas, an effort is currently underway to petition the United States Postal Service to authorize the issuance of an official United States postal stamp displaying the image of the Purple Heart medal; and

Whereas, in recent years, the United States Postal Service has issued stamps honoring comic strips, movie monsters, and cartoon characters but has opted not to issue a Purple Heart stamp honoring American soldiers wounded in battle; and

Whereas, the Purple Heart stamp would serve as a permanent and long-overdue honor for the one million eight hundred thousand recipients of the Purple Heart, half of whom are still alive today, and to remind the nation of the monumental sacrifices veterans have made in the service and defense of the United States of America. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby urge and request the United States Congress to take appropriate steps to cause the United States Postal Service to issue a Purple Heart stamp to recognize the tremendous valor and fortitude displayed by wounded soldiers and to express the enduring appreciation of the citizens of the United States of America for the sacrifices that members of the armed forces have made in the name of freedom. Be it further

Resolved, That suitable copies of this Resolution be transmitted to the Speaker of the United States House of Representatives; the President of the United States Senate; James Tolbert, Jr., Executive Director of Stamp Services for the United States Postal Service; and The Honorable William J. Henderson, Postmaster General and Chief Executive Officer of the United States Postal Service.

POM–83. A concurrent resolution adopted by the House of the Legislature of the State of Louisiana relative to the Railroad Retirement and Survivor's Improvement Act of 2001; to the Committee on Finance.

HOUSE CONCURRENT RESOLUTION NO. 7

Whereas, the Railroad Retirement and Survivor's Improvement Act was approved in a bipartisan effort by three hundred ninety-one members of the United States House of Representatives in the 106th Congress, including every member of the Louisiana delegation; and

Whereas, more than eighty United States senators, including both Louisiana senators, signed letters of support for this legislation in 2000, but despite strong support for the Railroad Retirement and Survivor's Improvement Act of 2000, the legislation did not become law as the Senate did not vote on it before adjournment; and

Whereas, the Railroad Retirement and Survivor's Improvement Act of 2001, authored by Don Young, Chairman of the House Committee on Transportation and Infrastructure, provides for the modernization of the railroad retirement system for its seven hundred forty-eight thousand beneficiaries nationwide, including nine thousand four hundred people in Louisiana; and

Whereas, railroad management, labor, and retiree organizations have agreed to support the Railroad Retirement and Survivor's Improvement Act of 2001; and

Whereas, the Railroad Retirement and Survivor's Improvement Act of 2001 would provide tax relief to freight railroads, Amtrak, and commuter lines; and

Whereas, the Railroad Retirement and Survivor's Improvement Act of 2001 would provide benefit improvements for surviving spouses of rail workers, who currently suffer deep cuts in income when the rail retiree dies; and

Whereas, no outside contributions from taxpayers are needed to implement the changes called for in the Railroad Retirement and Survivor's Improvement Act of 2001; and

Whereas, all changes will be paid for from within the railroad industry, including a full share by active employees. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby urge and request the United States Congress to enact the Railroad Retirement and Survivor's Improvement Act of 2001. Be it further

Resolved, That suitable copies of this Resolution be transmitted to President George W. Bush, the president of the United States Senate, the speaker of the United States House of Representatives, and the members of the Louisiana congressional delegation.

POM–84. A concurrent resolution adopted by the House of the Legislature of the State of Louisiana relative to natural gas and liquids pipeline operations; to the Committee on Energy and Natural Resources.

HOUSE CONCURRENT RESOLUTION NO. 9

Whereas, the nation's natural gas and liquids pipeline facilities provide critical service to all citizens of this nation; and

Whereas, the state of Louisiana has a vital interest in the integrity and safety of the interstate natural gas and liquids pipelines within the state; and

Whereas, recent incidents of pipeline leaks and ruptures have led to heightened concern for the health and welfare of the citizens of Louisiana; and

Whereas, these incidents have led to intense discussion about the reliability of the natural gas supply and prevention, mitigation, and response to pipeline incidents; and

Whereas, enhancements to federal pipeline safety requirements can translate into enhanced safety requirements for state-regulated facilities within the state of Louisiana. Therefore, be it

Resolved, That the Louisiana Legislature does hereby memorialize the United States Congress to support federal legislation to strengthen the rules regarding the safety of natural gas and liquids pipeline operations. Be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–85. A concurrent resolution adopted by the House of the Legislature of the State of Louisiana relative to Ministers Appreciation Week; to the Committee on the Judiciary.

HOUSE CONCURRENT RESOLUTION NO. 50

Whereas, throughout this nation's long history of praise and worship, the citizens of the United States of America have been guided with outstanding commitment and dedicated leadership by their ministers, who have paved the way for the leaders and members of their churches to be graced with the blessings they enjoy today; and

Whereas, the ministers of the United States of America merit a sincere measure of commendation for the noble achievements and exemplary strides that they have taken in their guidance of the nation's loving and dedicated spiritual communities; and

Whereas, the ministers of the nation serve not only as spiritual leaders, but they serve individual members of their spiritual communities on a daily basis, counseling them, giving them guidance in handling personal crises, visiting them in sickness, helping them bear the sorrow of the death of a loved one, and being a source of strength and help in countless situations; and

Whereas, it is appropriate to commend the ministers of the United States of America for their remarkable devotion to God and to their congregations, to extend sincere and heartfelt congratulations to all ministers, and to recognize the ministers of the nation in a special way. Therefore be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to recognize the final week in April of every year as Minister Appreciation Week and does hereby commend and congratulate all ministers of the United States of America for their important service to the people of the nation. Be it further

Resolved, That copies of this Resolution shall be transmitted to the presiding officer of each house of the United States Congress and to each member of the Louisiana delegation of the United States Congress.

POM–86. A resolution adopted by the Senate of the Legislature of the State of Georgia relative to agricultural equipment; to the Committee on Commerce, Science, and Transportation.

SENATE RESOLUTION 193

Whereas, water well drilling contractors are extremely small construction contractors who drill water wells for individuals, cities, counties, industry, and farmers; and

Whereas, federal law requires all persons operating vehicles in excess of 26,000 pounds transporting people or property to have a commercial driver's license (CDL); and

Whereas, this act is primarily for the common or contractor carrier; and

Whereas, agricultural vehicles are exempt from the requirements of the commercial driver's license statute; and

Whereas, water well drilling contractors rarely travel more than 150 miles from their home office, which is one of the criteria of agricultural vehicles contained in the commercial driver's license statute; and

Whereas, these contractors rarely travel across state boundaries; and

Whereas, the requirements of the commercial driver's license statute are extremely difficult to pass; and

Whereas, it is a tremendous burden on these small businesses to find, hire, and pay employees who have a commercial driver's license; and

Whereas, this requirement adds a great deal of unnecessary expense to the price of a well for the well owner. Now, therefore, be it

Resolved by the Senate, That the members of this body respectfully reuest that the United States Congress enact legislation reclassifying water well drilling vehicles and equipment as agricultural equipment under the federal commercial driver's license laws. Be it further

Resolved, That the Secretary of the Senate is authorized and directed to transmit appropriate copies of this resolution to the Clerk

of the United States House of Representatives and the Secretary of the United States Senate.

POM–87. A concurrent resolution adopted by the Senate of the Legislature of the State of Hawaii relative to special education and children with disabilities; to the Committee on Appropriations.

SENATE CONCURRENT RESOLUTION 97

Whereas, the Individuals with Disabilities Education Act (IDEA) passed by the United States Congress, finds that disability is a natural part of the human experience and does not take away or minimize the right of those individuals to participate in, or contribute to, society; and

Whereas, Congress further found that improving educational results for disabled children is an essential part of our national policy of ensuring equal opportunity, full participation, independent living, and economic self-sufficiency for disabled individuals; and

Whereas, currently there are special education students in every school in this State and with the rising cost of special education, it is a heavy burden on Hawaii's already financially challenged public education system; and

Whereas, the Department of Education's January 2001 Quarterly Report on the Status of the State's Progress in meeting the Requirements of the Felix v. Cayetano Consent Decree (hereinafter DOE Quarterly Report) reported a total of 22,962 students identified for special education services, 13,146 children registered for services with the Child and Adolescent Mental Health Division (CAMHD), and 1,962 children identified for zero-to-three related mental health services; and

Whereas, the DOE Quarterly Report further reported that of the $154,035,838 appropriated to the Department of Education for the 2000–2001 school year, $75,838,006 already was expended by December 31, 2000 and of the $102,227,071 appropriated to the Department of Health's CAMHD, $76,111,621 was already expended by December 31, 2000; and

Whereas, according to the Court Monitor's Felix Consent Decree Quarterly Status Report, August 2000 to November 2000, over the six-year period from 1994 to 2000, the number of children served by the Department of Education increased from 12,000 to over 22,000 while the number provided mental health services by CAMHD increased from 1,800 to 11,000; and

Whereas, these dramatic increases have resulted in an increase in the combined mental health and special education costs by over $150 million, prompting the Court Monitor to note that ''[n]o other state or school district in the United States of America has undergone such expansion and dramatic redesign in six years''; and

Whereas, despite earnest efforts to control the Felix program costs, and the over $250 million combined appropriations to the Department of Education and Department of Health for the current fiscal year, the Governor has requested the 2001 Legislature to appropriate $107 million in emergency funds to address Felix program costs overruns; and

Whereas, Congress in Title 20, section 1411(a) of the United States Code committed to providing up to forty percent of the cost states would incur in providing special education; and

Whereas, in fiscal year 1999–2000 federal funding of the Department of Education special education program amounted to a meager 10% of cost and has never exceeded 14% in any given year. Now, therefore, be it

Resolved by the Senate of the Twenty-first Legislature of the State of Hawaii, Regular Session of 2001, the House of Representatives concurring, That the Hawaii Congressional delegation is urged to coordinate efforts in the United States Congress to obtain funding for forty percent of the cost of special education and related services for children with disabilities; and be it further

Resolved, That certified copies of this Concurrent Resolution be transmitted to the Speaker of the United States House of Representatives, the President pro tempore of the United States Senate, the Vice President of the United States, and the members of Hawaii's congressional delegation.

POM–88. A concurrent resolution adopted by the Senate of the State Louisiana relative to Louisiana farmers; to the committee on appropriations.

SENATE CONCURRENT RESOLUTION 64

Whereas, many farmers in Louisiana are suffering the consequences of low prices for their commodities, illustrated by a market in which the price of soybeans is at a twenty-seven year low, the price of cotton is at a twenty-five year low, the price of wheat and corn is selling at a fourteen year low, and the price of rice is at an eight year low; and

Whereas, Louisiana farmers are trying to overcome the onslaughts of nature, characterized by a devastating drought in 2000 which followed a disappointing crop year in which many farmers were left in financial trouble; and

Whereas, the existing federal farm bill has not adequately addressed the current circumstances and needs of farmers in Louisiana as well as farmers across the United States; and

Whereas, hopes for a widespread opening of foreign markets and the implementation of measures to stimulate commodity exports have not materialized; and

Whereas, it is estimated that $9 billion above the projected budget baseline is needed in federal farm payments this year to assist farmers if they are to survive; and

Whereas, an increase in farm payments is critical to the agriculture industry given agriculture's vital importance to the sustenance of all people and to the economy of our state; and

Whereas, many farmers have no other choice but to rely on assistance payments to stay in business. Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the congress of the United states to increase federal aid to Louisiana farmers. Be it further

Resolved, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United states House of Representatives and to each member of the Louisiana delegation to the Congress of the United States.

POM–89. A concurrent resolution adopted by the Senate of the Legislature of the State of Louisiana relative to a national energy policy; to the Committee on Energy and Natural Resources.

SENATE CONCURRENT RESOLUTION 32

Whereas, the Louisiana ammonia industry accounts for forty percent of the domestic production of ammonia; and

Whereas, natural gas makes up ninety percent of the costs of producing ammonia; and

Whereas, in the last year alone the prices of natural gas have almost tripled and the cost of producing ammonia has risen substantially; and

Whereas, high natural gas prices led the members of the Louisiana Ammonia Producers to temporarily shut down all or part of their ammonia production units; and

Whereas, two Louisiana companies have gotten out of the ammonia business completely, while others have had to resort to layoffs; and

Whereas, the majority of the ammonia produced in Louisiana is used to make fertilizer; and

Whereas, there are numerous untapped natural gas reserves in the United States. Therefore, be it

Resolved, That the Legislature of Louisiana memorializes the Congress of the United States to use the powers at its disposal to commission the United States Department of Energy to establish a national energy policy, which should pursue a long-term remedy to these problems by providing incentives for immediate domestic natural gas exploration and production, including opening untapped natural gas reserves. Be it further

Resolved, That a copy of this Resolution be transmitted to the president of the United States, the secretary of the United States Senate, the clerk of the United States House of Representatives, the secretaries of the Department of Energy and the Department of the Interior, and to each member of the Louisiana delegation to the United States Congress.

POM–90. A resolution adopted by the Legislature of Guam relative to the Tax Relief Proposal; ordered to lie on the table.

RESOLUTION 66

Whereas, Federal taxes are the highest they have ever been during peacetime; and

Whereas, all taxpayers should be allowed to keep more of their own money; and

Whereas, the best way to encourage economic growth is to cut marginal tax rates across all tax brackets; and

Whereas, under current tax law, low income workers often pay the highest marginal tax rates; and

Whereas, the American people have not received any real tax relief in a generation; and

Whereas, President George W. Bush's Tax Relief Plan will contribute to raising the standard of living for all Americans, including the people of Guam; and

Whereas, President Bush's Tax Relief Plan will increase access to the middle class for hard-working families, treat all middle class families more fairly, encourage entrepreneurship and growth, and promote charitable giving and education; and

Whereas, under President Bush's Tax Relief Plan, the largest percentage reductions will go to the lowest income earners; now therefore, be it

Resolved, That I Mina'Bente Sais Na Liheslaturan Guåhan does hereby, on behalf of the people of Guam, urge our elected representatives in the United States Congress, including Guam's Delegate to the U.S. Congress, to support and pass the Tax Relief Plan introduced by President George W. Bush, which includes an across-the-board reduction in marginal rates, eliminates the ''death tax'' and reduces the marriage penalty; and be it further

Resolved, That the Speaker certify, and the Legislative Secretary attests to, the adoption hereof and that copies of the same be thereafter transmitted to the Honorable George W. Bush, President of the United States of America; to the Honorable Richard Cheney, President, United States Senate; to the Honorable J. Dennis Hastert, Speaker, United States House of Representatives; to the Honorable Robert A. Underwood, Guam's Delegate to the United States House of Representatives; and to the Honorable Carl T.C. Gutierrez, I Maga'lahen Guåhan (Governor of Guam).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second times by unanimous consent, and referred as indicated:

By Mr. SCHUMER (for himself, Mr. SMITH of Oregon, Mr. AKAKA, Mr. ALLARD, Mr. ALLEN, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. CAMPBELL, Ms. CANTWELL, Mrs. CARNAHAN, Mr. CLELAND, Mrs. CLINTON, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DASCHLE, Mr. DAYTON, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. ENSIGN, Mrs. FEINSTEIN, Mr. FRIST, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mr. HUTCHINSON, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MILLER, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Ms. SNOWE, Ms. STABENOW, Mr. THOMAS, Mr. TORRICELLI, Mr. VOINOVICH, Mr. WARNER, Mr. WELLSTONE, Mr. WYDEN, and Mr. FITZGERALD):

S. 994. A bill to amend the Iran and Libya Sanctions Act of 1996 to extend authorities under that Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. AKAKA (for himself, Mr. LEVIN, and Mr. GRASSLEY):

S. 995. A bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in non-disclosure policies, forms, and agreements that such policies, forms and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes; to the Committee on Governmental Affairs.

By Mr. ALLARD:

S. 996. A bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the Colorado Springs, Colorado, metropolitan area; to the Committee on Veterans' Affairs.

By Mrs. BOXER:

S. 997. A bill to direct the Secretary of Agriculture to conduct research, monitoring, management, treatment, and outreach activities relating to sudden oak death syndrome and to establish a Sudden Oak Death Syndrome Advisory Committee; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. COLLINS (for herself and Mr. FEINGOLD):

S. 998. A bill to expand the availability of oral health services by strengthening the dental workforce in designated underserved areas; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself and Mr. ROBERTS):

S. 999. A bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War; to the Committee on Armed Services.

By Mr. REED (for himself, Mr. DODD, Mr. KENNEDY, Mrs. MURRAY, Mr. KERRY, and Mr. CORZINE):

S. 1000. A bill to amend the Child Care and Development Block Grant Act of 1990 to provide incentive grants to improve the quality of child care; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SESSIONS (for himself, Mr. HUTCHINSON, and Mr. SHELBY):

S. 1001. A bill to amend title XVIII of the Social Security Act to establish a floor on area wage adjustment factors used under the medicare prospective payment system for inpatient and outpatient hospital services; to the Committee on Finance.

By Ms. SNOWE (for herself, Mrs. LINCOLN, Mr. MURKOWSKI, Mr. BREAUX, Mr. HUTCHINSON, Mr. MILLER, Mr. CRAIG, Ms. LANDRIEU, Mr. SMITH of Oregon, and Ms. COLLINS):

S. 1002. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities; to the Committee on Finance.

By Mr. JEFFORDS (for himself and Mr. DODD):

S. 1003. A bill to ensure the safety of children placed in child care centers in Federal facilities, and for other purposes; to the Committee on Governmental Affairs.

By Mr. JEFFORDS (for himself and Mr. DODD):

S. 1004. A bill to provide for the construction and renovation of child care facilities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. JEFFORDS (for himself, Mr. STEVENS, Mr. KENNEDY, Mr. CLELAND, and Mr. DODD):

S. 1005. A bill to provide assistance to mobilize and support United States communities in carrying out community-based youth development programs that assure that all youth have access to programs and services that build the competencies and character development needed to fully prepare the youth to become adults and effective citizens, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. MURRAY (for herself, Mr. STEVENS, Mrs. FEINSTEIN, and Mr. BREAUX):

S. Con. Res. 47. A concurrent resolution recognizing the International Olympic Committee for its work to bring about understanding of individuals and different cultures, for its focus on protecting the civil rights of its participants, for its rules of intolerance against discriminatory acts, and for its goal of promoting world peace through sports; to the Committee on Commerce, Science, and Transportation.

ADDITIONAL COSPONSORS

S. 104

At the request of Ms. SNOWE, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 104, a bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.

S. 121

At the request of Mrs. FEINSTEIN, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 121, a bill to establish an Office of Children's Services within the Department of Justice to coordinate and implement Government actions involving unaccompanied alien children, and for other purposes.

S. 127

At the request of Mr. MCCAIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 127, a bill to give American companies, American workers, and American ports the opportunity to compete in the United States cruise market.

S. 131

At the request of Mr. JOHNSON, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 131, a bill to amend title 38, United States Code, to modify the annual determination of the rate of the basic benefit of active duty educational assistance under the Montgomery GI Bill, and for other purposes.

S. 170

At the request of Mr. REID, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 170, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 256

At the request of Ms. SNOWE, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 256, a bill to amend the Civil Rights Act of 1964 to protect breastfeeding by new mothers.

S. 258

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 258, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of annual screening pap smear and screening pelvic exams.

S. 271

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 271, a bill to amend title 5, United States Code, to provide that the mandatory separation age for Federal firefighters be made the same as the age that applies with respect to Federal law enforcement officers.

S. 321

At the request of Mr. GRASSLEY, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 321, a bill to amend title XIX of the Social Security Act to provide families of disabled children with the opportunity to purchase coverage under the medicaid program for such children, and for other purposes.

S. 345

At the request of Mr. ALLARD, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to strike the limitation that permits interstate movement of live birds, for the purpose of

fighting, to States in which animal fighting is lawful.

S. 349

At the request of Mr. HUTCHINSON, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 349, a bill to provide funds to the National Center for Rural Law Enforcement, and for other purposes.

S. 351

At the request of Ms. COLLINS, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 351, a bill to amend the Solid Waste Disposal Act to reduce the quantity of mercury in the environment by limiting use of mercury fever thermometers and improving collection, recycling, and disposal of mercury, and for other purposes.

S. 484

At the request of Ms. SNOWE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 484, a bill to amend part B of title IV of the Social Security Act to create a grant program to promote joint activities among Federal, State, and local public child welfare and alcohol and drug abuse prevention and treatment agencies.

S. 501

At the request of Mr. GRAHAM, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 501, a bill to amend titles IV and XX of the Social Security Act to restore funding for the Social Services Block Grant, to restore the ability of States to transfer up to 10 percent of TANF funds to carry out activities under such block grant, and to require an annual report on such activities by the Secretary of Health and Human Services.

S. 505

At the request of Mrs. FEINSTEIN, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 505, a bill to amend the Internal Revenue Code of 1986 to regulate certain 50 caliber sniper weapons in the same manner as machine guns and other firearms, and for other purposes.

S. 570

At the request of Mr. BIDEN, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 570, a bill to establish a permanent Violence Against Women Office at the Department of Justice.

S. 573

At the request of Mr. HELMS, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 573, a bill to amend title XIX of the Social Security Act to allow children enrolled in the State children's health insurance program to be eligible for benefits under the pediatric vaccine distribution program.

S. 582

At the request of Mr. GRAHAM, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 582, a bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance program.

S. 592

At the request of Mr. SANTORUM, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 592, a bill to amend the Internal Revenue Code of 1986 to create Individual Development Accounts, and for other purposes.

S. 672

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 672, a bill to amend the Immigration and Nationality Act to provide for the continued classification of certain aliens as children for purposes of that Act in cases where the aliens ''age-out'' while awaiting immigration processing, and for other purposes.

S. 678

At the request of Mr. BOND, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 678, a bill to amend the Federal Water Pollution Control Act to establish a program for fisheries habitat protection, restoration, and enhancement, and for other purposes.

S. 738

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 738, a bill to amend the Voting Rights Act of 1965 to protect the voting rights of members of the Armed Forces.

S. 739

At the request of Mr. WELLSTONE, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 739, a bill to amend title 38, United States Code, to improve programs for homeless veterans, and for other purposes.

S. 801

At the request of Mr. JEFFORDS, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 801, a bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the use of foreign tax credits under the alternative minimum tax.

S. 803

At the request of Mr. LIEBERMAN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 803, a bill to enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes.

S. 836

At the request of Mr. CRAIG, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 836, a bill to amend part C of title XI of the Social Security Act to provide for coordination of implementation of administrative simplification standards for health care information.

S. 852

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 852, a bill to support the aspirations of the Tibetan people to safeguard their distinct identity.

S. 862

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 862, a bill to amend the Immigration and Nationality Act to authorize appropriations for fiscal years 2002 through 2006 to carry out the State Criminal Alien Assistance Program.

S. 866

At the request of Mr. REID, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 866, a bill to amend the Public Health Service Act to provide for a national media campaign to reduce and prevent underage drinking in the United States.

S. 885

At the request of Mr. HUTCHINSON, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 885, a bill to amend title XVIII of the Social Security Act to provide for national standardized payment amounts for inpatient hospital services furnished under the medicare program.

S. 887

At the request of Mr. WELLSTONE, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 887, a bill to amend the Torture Victims Relief Act of 1986 to authorize appropriations to provide assistance for domestic centers and programs for the treatment of victims of torture.

S. 910

At the request of Mr. ROCKEFELLER, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 910, a bill to provide certain safeguards with respect to the domestic steel industry.

S. 924

At the request of Mr. BIDEN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 924, a bill to provide reliable officers, technology, education, community prosecutors, and training in our neighborhoods.

S. 948

At the request of Mr. LOTT, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 948, a bill to amend title 23, United States Code, to require the Secretary of Transportation to carry out a grant

program for providing financial assistance for local rail line relocation projects, and for other purposes.

S. 955

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 955, a bill to amend the Immigration and Nationality Act to modify restrictions added by the Illegal Immigration Reform and Immigration Responsibility Act of 1996.

S. 982

At the request of Mr. GRAHAM, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 982, a bill to promote primary and secondary health promotion and disease prevention services and activities among the elderly, to amend title XVIII of the Social Security Act to add preventive health benefits, and for other purposes.

S. 992

At the request of Mr. NICKLES, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 992, a bill to amend the Internal Revenue Code of 1986 to repeal the provision taxing policy holder dividends of mutual life insurance companies and to repeal the policyholders surplus account provisions.

S. RES. 16

At the request of Mr. THURMOND, the names of the Senator from Utah (Mr. BENNETT) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. Res. 16, a resolution designating August 16, 2001, as ''National Airborne Day''.

S. RES. 71

At the request of Mr. HARKIN, the names of the Senator from Hawaii (Mr. AKAKA) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. Res. 71, a resolution expressing the sense of the Senate regarding the need to preserve six day mail delivery.

S. RES. 92

At the request of Mrs. FEINSTEIN, the names of the Senator from Georgia (Mr. CLELAND) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. Res. 92, a resolution to designate the week begining june 3, 2001, as ''National Correctional Officers and Employees Week''.

S. CON. RES. 3

At the request of Mr. FEINGOLD, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Con. Res. 3, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. *Wisconsin* and all those who served aboard her.

S. CON. RES. 4

At the request of Mr. NICKLES, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. Con. Res. 4, a concurrent resolution expressing the sense of Congress regarding housing affordability and ensuring a competitive North American market for softwood lumber.

S. CON. RES. 28

At the request of Ms. SNOWE, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. Con. Res. 28, a concurrent resolution calling for a United States effort to end restrictions on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

S. CON. RES. 43

At the request of Mr. LEVIN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Con. Res. 43, a concurrent resolution expressing the sense of the Senate regarding the Republic of Korea's ongoing practice of limiting United States motor vehicles access to its domestic market.

AMENDMENT NO. 385

At the request of Mrs. CARNAHAN, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of amendment No. 385.

AMENDMENT NO. 466

At the request of Mr. WELLSTONE, the names of the Senator from Minnesota (Mr. DAYTON), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Minnesota (Mr. DAYTON), the Senator from New York (Mrs. CLINTON), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from New York (Mrs. CLINTON) were added as cosponsors of amendment No. 466.

At the request of Mr. DODD, his name was added as a cosponsor of amendment No. 466, supra.

AMENDMENT NO. 540

At the request of Mrs. HUTCHISON, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of amendment No. 540.

AMENDMENT NO. 573

At the request of Mr. HELMS, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of amendment No. 573, intended to be proposed to S. 1, an original bill to extend programs and activities under the Elementary and Secondary Education Act of 1965.

AMENDMENT NO. 648

At the request of Mr. HELMS, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of amendment No. 648.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCHUMER (for himself, Mr. SMITH of Oregon, Mr. AKAKA, Mr. ALLARD, Mr. ALLEN, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. CAMPBELL, Ms. CANTWELL, Mrs. CARNAHAN, Mr. CLELAND, Mrs. CLINTON, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DASCHLE, Mr. DAYTON, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. EDWARDS, Mr. ENSIGN, Mrs. FEINSTEIN, Mr. FRIST, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mr. HUTCHINSON, Mr. INOUYE, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. MILLER, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. SANTORUM, Mr. SARBANES, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Ms. SNOWE, Ms. STABENOW, Mr. THOMAS, Mr. TORRICELLI, Mr. VOINOVICH, Mr. WARNER, Mr. WELLSTONE, Mr. WYDEN, and Mr. FITZGERALD):

S. 994. A bill to amend the Iran and Libya Sanctions Act of 1996 to extend authorities under that Act; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SCHUMER. Mr. President, I rise today to announce the introduction of the Iran-Libya Sanctions Extension Act, which extends American sanctions against foreign companies which invest in Iran and Libya's oil sectors for 5 years.

At a time when many people in Washington are seeking to review America's sanctions policies, this bill—with its 74 original cosponsors—says that sanctions against the world's worst rogue states will remain firmly in place. I hope that President Bush will recognize the message sent by the overwhelming support for this legislation, and will put to rest the idea that the Iran-Libya Sanctions Act might expire or be weakened.

ILSA has been one of America's best weapons in our war against terrorism, because it is aimed at cutting off the flow of money that terrorist groups depend on to fund their attacks and operations.

Over the past 5 years, ILSA has effectively deterred foreign investment in Iran's oil fields: of the 55 projects for which Iran sought foreign investment, only 6 have been funded, and none have been completed.

That's what ILSA's all about: it limits the ability of Iran and Libya to reap oil profits that can be spent funding terrorism and for weapons of mass destruction.

Even with ILSA in place, Iran continues to supply upwards of $100 million to Hezbollah, Islamic Jihad and Hamas—which claimed responsibility for the suicide bombing last week in Tel Aviv that killed 20 Israeli children.

Can you imagine how much more Iran would be spending on terrorism

and weapons of mass destruction if they had billions more in oil profits rolling in?

The truth is, ILSA is needed now more than ever.

Despite the election of the so-called ''moderate'' President Mohammad Khatami in 1997, Iran remains the world's most active state sponsor of terrorism, and has been feverishly seeking to develop weapons of mass destruction.

And on the eve of another election in Iran, Khatami continues to vilify the United States, and in his most recent call for the destruction of Israel, referred to Israel as ''a parasite in the heart of the Muslim world.'' These are not the words of a moderate, worthy of American concessions.

As far as Libya is concerned, we all learned recently that the Libyan government was directly involved in the bombing of Pan Am 103—one of the most heinous acts of terrorism in history.

Yet Libya obstinately refuses to abide by U.N. Security Council resolutions requiring it to formally renounce terrorism, accept responsibility for the government officials convicted of masterminding the bombing, and compensate the victims' families.

Some say we should lift sanctions on rogue nations like Iran and Libya first, and decent, moral, internationally-acceptable behavior will follow.

I say that is twisted logic.

If these nations are serious about entering the community of nations, and seeing their economies benefit from global integration, they must change their behavior first.

They must adapt to the world community, the world community does not need to adapt to them.

The bottom line is that these sanctions must remain in place until Iran ends its support of international terrorism, and ends its dangerous quest for catastrophic weapons.

For Libya, it means full acceptance of responsibility for the Pan Am 103 bombing and full compensation for the families of the victims.

If that day arrives, ILSA will no longer be needed and will be terminated. Unfortunately, that day is not yet in sight.

Finally, I would urge the Bush Administration, as it reviews American sanctions policies, to consider that letting ILSA expire would send the wrong message to Iran and Libya.

This is not the time to weaken sanctions and permit investment that can be used to fund terrorist acts like the one we saw in Israel last week.

Mr. MCCAIN. Mr. President, I join my colleagues in support of renewing the Iran-Libya Sanctions Act to protect American interests in the Middle East. Despite promising changes within Iranian society, Iran's external behavior remains provocative and destabilizing. Iran continues to aggressively foment terrorism beyond its borders and develop weapons of mass destruction as a matter of national policy. Consistent calls from its leaders for Israel's destruction, and the Iranian government's bankrolling of murderous behavior by Hezbollah, Hamas, and other terrorist groups, should make clear to all friends of peace where Iran stands, and what role it has played, in the conflagration that threatens to consume an entire region.

Of grave concern are recent revelations that implicate Iran's most senior leaders in the 1996 terrorist attack on Khobar Towers, which took the lives of 19 U.S. service men. If true, America's response should extend far beyond renewing ILSA.

The successful conclusion of the Lockerbie trial, which explicitly implicated Libya's intelligence services in the attack, does not absolve Libya of its obligations to meet fully the terms of the U.N. Security Council resolutions governing the multilateral sanctions regime against it. Libya has not done so. Libya's support for state terrorism, as certified again this year by our State Department, and its aggressive efforts to develop chemical and potentially nuclear weapons, exclude Libya from the ranks of law-abiding nations.

Lifting sanctions on Iran and Libya at this time would be premature and would unjustly reward their continuing hostility to basic international norms of behavior. Overwhelming Congressional support for renewing the Iran-Libya Sanctions Act reflects a clear, majority consensus on U.S. relations with these rogue regimes. Were the foreign and national security policies of Iran and Libya truly responsive to the will of their people, our relationship with their nations would be far different. But Libya's Qaddafi and Iran's ruling clerics hold their citizens hostage by their iron grip on power. Supporting their replacement by leaders elected by and accountable to their people should be a priority of American policy.

By Mr. AKAKA (for himself, Mr. LEVIN, and Mr. GRASSLEY):

S. 995. A bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in non-disclosure policies, forms, and agreements that such policies, forms and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes; to the Committee on Governmental Affairs.

Mr. AKAKA. Mr. President, today I am introducing amendments to the Whistleblower Protection Act, WPA, that will strengthen protections for federal employees who disclose waste, fraud, and abuse. I am proud to be joined by Senators LEVIN and GRASSLEY, two of the Senate's leaders in protecting employees from retaliatory actions. The Senators from Michigan and Iowa were the primary sponsors of the original 1989 Act, as well as the 1994 amendments, both of which were passed unanimously by Congress.

One of the basic obligations of public service is to disclose waste, fraud, abuse, and corruption to appropriate authorities. The WPA was intended to protect federal employees, those often closest to wrongdoing, from workplace retaliation as a result of making such disclosures. The right of federal employees to be free from workplace retaliation, however, has been diminished by a pattern of court rulings that have narrowly defined who qualifies as a whistleblower under the WPA, and what statements are considered protected disclosures. These rulings are inconsistent with congressional intent. There is little incentive for federal employees to come forward because doing so could put their careers at substantial risk.

The bill we introduce today will restore congressional intent regarding who is entitled to relief under the WPA, and what disclosures are protected. In addition, it codifies certain anti-gag rules, extends independent litigating authority to the Office of Special Counsel, OSC, and ends the sole jurisdiction of the United States Court of Appeals for the Federal Circuit over whistleblower cases.

In the Civil Service Reform Act of 1978, CSRA, Congress included statutory whistleblower rights for ''a'' disclosure evidencing a reasonable belief of specified misconduct, with certain listed statutory exceptions—classified or other information whose release was specifically barred by other statutes. Unexpectedly, the court and administrative agencies created several loopholes that limited employee protections. With the WPA, Congress closed these loopholes by changing protection of ''a'' disclosure to ''any'' disclosure meeting the law's standards. However, in both formal and informal interpretations of the Act, loopholes continued to proliferate.

Congress strengthened its scope and protections by passing 1994 amendments to the WPA. The Governmental Affairs Committee report on the 1994 amendments refuted prior interpretations by the Federal Circuit and the Merit Systems Protection Board, MSPB, as well as subsequent enforcement action by the Office of Special Counsel that there were exceptions to ''any.'' The Committee report concluded, ''The plain language of the Whistleblower Protection Act extends to retaliation for 'any disclosure,' regardless of the setting of the disclosure, the form of the disclosure, or the person to whom the disclosure is made.''

Since the 1994 amendments, both OSC and MSPB generally have honored congressional boundaries. However, the Federal Circuit continues to disregard clear statutory language that the Act covers disclosures such as those made to supervisors, to possible wrongdoers, or as part of an employee's job duties.

In order to protect the statute's foundation that ''any'' lawful disclosure that the employee or applicant reasonably believes is credible evidence of waste, fraud, abuse, or gross mismanagement is covered by the WPA, our bill codifies the repeated and unconditional statements of congressional intent and legislative history. It amends sections 2302(b)(8)(A) and 2302(b)(8)(B) of title 5, U.S.C., to cover any disclosure of information ''without restriction to time, place, form, motive or context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties that the employee or applicant reasonably believes is credible evidence of'' any violation of any law, rule, or regulation, or other misconduct specified in section 2302(b)(8).

The bill also codifies an ''anti-gag'' provision that Congress has passed annually since 1988 as part of the appropriations process. It bans agencies from implementing or enforcing any nondisclosure policy, form or agreement that does not contain specified language preserving open government statutes such as the WPA, the Military Whistleblower Protection Act, and the Lloyd Lafollette Act, which prohibits discrimination against government employees who communicate with Congress. Gag orders imposed as a precondition for employment and resolution of disputes, as well as general agency policies barring employees from communicating directly with Congress or the public, are a prior restraint that not only has a severe chilling effect, but strikes at the heart of this body's ability to perform its oversight duties. Congress repeatedly has reaffirmed its intent that employees should not be forced to sign agreements that supercede an employee's rights under good government statutes. Moreover, Congress unanimously has supported the concept that federal employees should not be subject to prior restraint from disclosing wrongdoing nor suffer retaliation for speaking out.

The measure also provides the Special Counsel with greater litigating authority for merit system principles that the office is responsible to protect. Under current law, the OSC plays a central role as public prosecutor in cases before the MSPB, but cannot choose to defend the merit system in court. Our legislation recognizes that providing the Special Counsel this authority to seek such review, in precedential cases, is crucial to ensuring the promotion of the public interests furthered by these statutes.

Lastly, the bill would end the Federal Circuit's monopoly over whistleblower cases by allowing appeals to be filed in the Federal Circuit or the circuit in which the petitioner resides. This restores normal judicial review, and provides employees in states such as my home state of Hawaii, the option of a more convenient forum, rather than necessitating a 10,000 mile round trip from Hawaii to Washington, D.C.

This bill will begin the needed dialogue to guarantee that any disclosures within the boundaries of the statutory language are protected. As the Chairman of the Federal Services Subcommittee, I plan to hold a hearing on the Whistleblower Protection Act and the amendments we are proposing today.

Protection of Federal whistleblowers is a bipartisan effort. Enactment of the original bill in 1989 and the 1994 amendments enjoyed unanimous bicameral support, and I am pleased that Representatives MORELLA and GILMAN will introduce identical legislation in the House of Representatives in the near future. I also wish to note that our bill enjoys the strong support of the Government Accountability Project and the National Whistleblower Center, and I commend both of these organizations for their efforts in protecting the public interest and promoting government accountability by defending whistleblowers.

I urge my colleagues to join in the effort to ensure that the congressional intent embodied in the Whistleblower Protection Act is codified and that the law is not weakened further. I ask unanimous consent that letters in support of our bill from the National Whistleblower Center and the Government Accountability Project and the text of the bill be printed in the RECORD.

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

S. 995

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROTECTION OF CERTAIN DISCLOSURES OF INFORMATION BY FEDERAL EMPLOYEES.

(a) CLARIFICATION OF DISCLOSURES COVERED.—Section 2302(b)(8) of title 5, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking ''which the employee or applicant reasonably believes evidences'' and inserting '', without restriction to time, place, form, motive, context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties that the employee or applicant reasonably believes is credible evidence of''; and

(B) in clause (i), by striking ''a violation'' and inserting ''any violation'';

(2) in subparagraph (B)—

(A) by striking ''which the employee or applicant reasonably believes evidences'' and inserting '', without restriction to time, place, form, motive, context, or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information that the employee or applicant reasonably believes is credible evidence of''; and

(B) in clause (i), by striking ''a violation'' and inserting ''any violation''; and

(3) by adding at the end the following:

''(C) a disclosure that—

''(i) is made by an employee or applicant of information required by law or Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs that the employee or applicant reasonably believes is credible evidence of—

''(I) any violation of any law, rule, or regulation;

''(II) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or

''(III) a false statement to Congress on an issue of material fact; and

''(ii) is made to—

''(I) a member of a committee of Congress having a primary responsibility for oversight of a department, agency, or element of the Federal Government to which the disclosed information relates;

''(II) any other Member of Congress who is authorized to receive information of the type disclosed; or

''(III) an employee of the executive branch or Congress who has the appropriate security clearance for access to the information disclosed.''.

(b) COVERED DISCLOSURES.—Section 2302(b) of title 5, United States Code, is amended—

(1) in the matter following paragraph (12), by striking ''This subsection'' and inserting the following:

''This subsection''; and

(2) by adding at the end the following:

''In this subsection, the term 'disclosure' means a formal or informal communication or transmission.''.

(c) NONDISCLOSURE POLICIES, FORMS, AND AGREEMENTS.—

(1) PERSONNEL ACTION.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(A) in clause (x), by striking ''and'' after the semicolon; and

(B) by redesignating clause (xi) as clause (xii) and inserting after clause (x) the following:

''(xi) the implementation or enforcement of any nondisclosure policy, form, or agreement; and''.

(2) PROHIBITED PERSONNEL PRACTICE.—Section 2302(b) of title 5, United States Code, is amended—

(A) in paragraph (11), by striking ''or'' at the end;

(B) in paragraph (12), by striking the period and inserting ''; or''; and

(C) by inserting after paragraph (12) the following:

''(13) implement or enforce any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following statement:

'' 'These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse, or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosures that could compromise national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling.' ''.

(d) AUTHORITY OF SPECIAL COUNSEL RELATING TO CIVIL ACTIONS.—

(1) REPRESENTATION OF SPECIAL COUNSEL.—Section 1212 of title 5, United States Code, is amended by adding at the end the following:

''(h) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Special Counsel may appear for the Special Counsel and represent the Special Counsel in any civil action brought in connection with section 2302(b)(8) or subchapter III of chapter 73, or as otherwise authorized by law.''.

(2) JUDICIAL REVIEW OF MERIT SYSTEMS PROTECTION BOARD DECISIONS.—Section 7703 of title 5, United States Code, is amended by adding at the end the following:

''(e) The Special Counsel may obtain review of any final order or decision of the Board by filing a petition for judicial review in the United States Court of Appeals for the Federal Circuit if the Special Counsel determines, in the discretion of the Special Counsel, that the Board erred in deciding a case arising under section 2302(b)(8) or subchapter III of chapter 73 and that the Board's decision will have a substantial impact on the enforcement of section 2302(b)(8) or subchapter III of chapter 73. If the Special Counsel was not a party or did not intervene in a matter before the Board, the Special Counsel may not petition for review of a Board decision under this section unless the Special Counsel first petitions the Board for reconsideration of its decision, and such petition is denied. In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceedings before the Court of Appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.''.

(e) JUDICIAL REVIEW.—Section 7703 of title 5, United States Code, is amended—

(1) in the first sentence of subsection (b)(1) by inserting before the period ''or the United States court of appeals for the circuit in which the petitioner resides''; and

(2) in subsection (d)—

(A) in the first sentence by striking ''the United States Court of Appeals for the Federal Circuit'' and inserting ''any appellate court of competent jurisdiction as provided under subsection (b)(2)''; and

(B) in the third and fourth sentences by striking ''Court of Appeals'' each place it appears and inserting ''court of appeals'' in each such place.

NATIONAL WHISTLEBLOWER CENTER,
Washington, DC, June 6, 2001.

Hon. DANIEL K. AKAKA,
Chairman, Subcommittee on International Security, Proliferation, and Federal Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The National Whistleblower Center is pleased to announce its support for your bill to update and strengthen the Whistleblower Protection Act (WPA). We would like to commend your leadership in introducing this significant and important legislation.

The National Whistleblower Center was established because of the critical role that credible whistleblowers play in the effective functioning of our system of checks and balances. Despite this critical role, federal whistleblowers have not always enjoyed the same rights as other citizens. The Center has therefore maintained an on-going vigilance and commitment to preserving the integrity of the whistleblower process.

In recent years, protections for whistleblowers have eroded. This is mainly due to recent decisions in cases before the U.S. Court of Appeals for the Federal Circuit, which presently holds a monopoly on appeals under the WPA. The Center is therefore enthusiastic in its support of the provision in your bill that offers employees an additional venue for appeals.

Your bill would also codify so-called ''anti-gag'' language that has been included each year for the past twelve years in appropriations bills. The language has been needed to avoid ambiguity in the government's efforts to prevent improper disclosures of information. The ambiguity created a chilling effect for employees who otherwise had the right to make proper disclosures to Congress and elsewhere. This provision would clear a major hurdle in protecting the rights of employees to disclose instances of wrongdoing by government officials.

The Center is concerned that, in the larger picture, improvements in the whistleblower protection system require more fundamental changes. For instance, there should be tougher provisions to hold accountable those managers who retaliate against whistleblowers. In addition, those who bring their cases under laws other than the WPA have had much greater success. This is in part because of adverse decisions by the Federal Circuit, but it also suggests that the WPA is not as whistleblower-friendly in practice as we hoped it would be when we passed and amended the WPA. These are issues to be addressed down the road, and the Center would be happy to provide you the benefit of our experience in these matters.

Nonetheless, your bill, if passed, would make an important and necessary contribution toward improvements in the protection of whistleblowers under the WPA. Again, we commend your leadership in the introduction of this bill, and we look forward to working with you and your co-sponsors during the hearing process and throughout the legislative process.

Sincerely,

KRIS J. KOLESNIK,
Executive Director.

GOVERNMENT ACCOUNTABILITY PROJECT,
Washington, DC, June 7, 2001.

Hon. DANIEL K. AKAKA,
Chairman, Subcommittee on International Security, Proliferation and Federal Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Government Accountability Project (GAP) commends your leadership in sponsoring legislation to revive and strengthen the Whistleblower Protection Act (WPA). This is the primary civil service law applying merit system rights to good government safeguards. Your initiative is indispensable to restore legitimacy for the law's unanimous congressional mandate, both in 1989 when it was passed originally and in 1994 when it was unanimously strengthened. We similarly appreciate the partnership of original cosponsors Senators Levin and Grassley. They remain visible leaders from the pioneer campaigns that earned this legislative mandate.

GAP is a non-partisan, non-profit public interest organization whose mission is supporting whistleblowers, those employees who exercise free speech rights to challenge betrayals of the public trust about which they learn on the job. We advocated initial passage of whistleblower rights as part of the Civil Service Reform Act of 1978, and have led outside campaigns for passage of the WPA, as well as analogous laws for military service members, state, municipal and corporate employees in industries ranging from airlines to nuclear energy. Last year GAP drafted a model whistleblower law approved by the Organization of American States (OAS) for implementation of the Inter-American Convention Against Corruption.

Unfortunately, your leadership is a necessity for the Act to regain legitimacy. In 1994 on paper it reflected the state of the art for whistleblower rights. Despite pride in helping to win its passage, GAP now must warn those seeking help that the law is more likely to undermine than reinforce their rights. This is because the Federal Circuit Court of Appeals, which has a monopoly on appellate judicial review, has functionally erased basic statutory language and implicitly added new provisions that threaten those seeking help. Your legislation both solves the specific problems, and includes structural reform to prevent their recurrence by restoring normal judicial review. Congress had to approve both the 1989 and 1994 legislation to cancel previous instances of judicial activism by this same court. This pattern must end for the law again to become functional.

Your bill also incorporates an appropriations rider approved for the last 13 years, known as the ''anti-gag statute.'' This provision requires agencies to notify employees that any restrictions on disclosures do not override their rights under the WPA, or other open government laws such as the Lloyd Lafollette Act protecting communications with Congress. The rider has worked. It has proven effective and practical against agency attempts to impose secrecy through orders or nondisclosure agreements that cancel Congress and the public's right to know. It is time to institutionalize this success story.

Even if implemented as intended, the 1989 and 1994 legislation was a beginning, rather than a panacea. More work is necessary to disrupt the deeply ingrained tradition of harassing whistleblowers. Based on our experience, issues such as the following must be addressed for the law to fulfill its promise—closing the ''security clearance loophole'' that permits merit system rights to be circumvented through removing clearances that are a condition for employment; providing meaningful relief for those who win their cases; preventing retaliation by creating personal accountability for those who violate the merit system; and giving whistleblowers access to jury trials to enforce their rights.

Your legislation is a reasonable and essential first step on the road to recovery for whistleblower rights in the merit system. It sends a clear message that congress was serious when it passed this law in 1989 and strengthened it in 1994. Congressional persistence is a prerequisite for those who defend the public to have a decent chance of defending themselves. We look forward to working with you and your co-sponsors in passing this legislation.

Sincerely,

TOM DEVINE,
Legal Director.
DOUG HARTNETT,
National Security Director.

Mr. LEVIN. Mr. President, I am pleased to join Senators AKAKA and GRASSLEY today in sponsoring amendments to the Whistleblower Protection Act that will strengthen the law protecting employees who blow the whistle on fraud, waste, and abuse in federal programs. I sponsored the Whistleblower Protection Act in 1989 which strengthened and clarified the intent of whistleblower rights in the merit system. But recent holdings by the United States Court of Appeals for the Federal Circuit have corrupted the intent of Congress, with the result that additional clarifying language is sorely needed. The Federal Circuit has seriously misinterpreted key provisions of the whistleblower law, and the bill we are introducing today is intended to correct those misinterpretations.

Congress has long recognized the obligation we have to protect a Federal

employee when he or she discloses evidence of wrongdoing in a Federal program. If an employee reasonably believes that a fraud or mismanagement is occurring, and that employee has the courage and the sense of responsibility to make that fraud or mismanagement known, it is our duty to protect the employee from any reprisal. We want Federal employees to identify problems in our programs so we can fix them, and if they fear reprisal for doing so, then we are not only failing to protect the whistleblower, but we are also failing to protect the taxpayer. We need to encourage, not discourage, disclosures of fraud, waste and abuse.

Today, however, the effect of the Federal Circuit decisions is to discourage the Federal employee whistleblower and overturn Congressional intent. The Federal Circuit has misinterpreted the plain language of the law on what constitutes protected disclosure under the Whistleblower Protection Act. Most notably, in the case of Lachance versus White, decided on May 14, 1999, the Federal Circuit imposed an unfounded and virtually unattainable standard on Federal employee whistleblowers in proving their cases. In that case, John E. White was an education specialist for the Air Force who spoke out against a new educational system that purported to mandate quality standards for schools contracting with the Air Force bases. White criticized the new system as counterproductive because it was too burdensome and seriously reduced the education opportunities available on base. After making these criticisms, local agency officials reassigned White, removing his duties and allegedly isolating him. However, after an independent management review supported White's concerns, the Air Force canceled the program White had criticized. White appealed the reassignment in 1992 and the case has been in litigation ever since.

The administrative judge initially dismissed White's case, finding that his disclosures were not protected by the Whistleblower Protection Act. The MSPB, however, reversed the administrative judge's decision and remanded it back to the administrative judge holding that since White disclosed information he reasonably believed evidenced gross mismanagement, this disclosure was protected under the Act. On remand, the administrative judge found that the Air Force had violated the Whistleblower Protection Act and ordered the Air Force to return White to his prior status; the MSPB affirmed the decision of the administrative judge. OPM petitioned the Federal Circuit for a review of the board's decision. The Federal Circuit reversed the MSPB's decision, holding that there was not adequate evidence to support a violation under the Whistleblower Protection Act. The Federal Circuit held that the evidence that White was a specialist on the subject at issue and aware of the alleged improper activities and that his belief was shared by other employees was not sufficient to meet the ''reasonable belief'' test in the law. The court held that ''the board must look for evidence that it was reasonable to believe that the disclosures revealed misbehavior [by the Air Force] . . .'' The court went on to say:

> In this case, review of the Air Force's policy and implementation via the QES standards might well show them to be entirely appropriate, even if not the best option. Indeed, this review would start out with a ''presumption that public officers perform their duties correctly, fairly, in good faith, and in accordance with the law and governing regulations. . . . And this presumption stands unless there is 'irrefragable proof to the contrary'.''

The fact that the Federal Circuit remanded the case to the MSPB to have the MSPB reconsider whether it was reasonable to believe that what the Air Force did in this case involved gross mismanagement was appropriate. But, the Federal Circuit went on to impose a clearly erroneous and excessive standard on the employee in proving ''reasonable belief,'' requiring ''irrefragable'' proof that there was gross mismanagement. Irrefragable means ''undeniable, incontestable, incontrovertible, incapable of being overthrown.'' How can a Federal employee meet a standard of ''irrefragable'' in proving gross mismanagement? Moreover, there is nothing in the law or the legislative history that even suggests such a standard with respect to the Whistleblower Protection Act. The intent of the law is not for the employee to act as an investigator and compile evidence to have ''irrefragable'' proof that there is fraud, waste or abuse. The employee, under the clear language of the statue, need only have ''a reasonable belief'' that there is fraud, waste or abuse occurring before making a protected disclosure. This bill will clarify the law so this misinterpretation will not happen again.

The bill addresses a number of other important issues as well. For example, the bill adds a provision to the Whistleblower Protection Act that provides specific protection to a whistleblower who discloses evidence of fraud, waste, and abuse involving classified information if that disclosure is made to the appropriate committee of Congress or Federal executive branch employee authorized to receive the classified information.

In closing, I want to thank Senator AKAKA for his leadership in this area.

Mr. GRASSLEY. Mr. President, I rise with determination to join Senators AKAKA and LEVIN introducing legislation on an issue that should concern us all: the integrity of the Whistleblower Protection Act of 1989. I enclose editorials and op-ed commentaries, ranging from the New York Times to the Washington Times highlighting the needs for this law to be reborn so that it achieves its potential for public service. Unfortunately, it has become a Trojan horse that may well be creating more reprisal victims than it protects. The impact for taxpayers could be to increase silent observers who passively conceal fraud, waste and abuse. That is unacceptable.

I was proud to be an original co-sponsor of this law when it was passed unanimously by Congress in 1989, and when it was unanimously strengthened in 1994. Both were largely passed to overturn a series of hostile decisions by administrative agencies and an activist court with a monopoly on the statute's judicial review, the Federal Circuit Court of Appeals. The administrative agencies, the U.S. Office of Special Counsel and the Merit Systems Protection Board, appear to have gotten the point. They have been operating largely within statutory boundaries. Despite the repeated unanimous congressional mandates, however, the Federal Circuit has stepped up its attacks on the Whistleblower Protection Act. Enough is enough.

The legislation we are introducing today has four cornerstones, closing loopholes in the scope of WPA protection; restoring a realistic test for when reprisal protection is warranted; restoring the normal structure for judicial review; and codifying the anti-gag statute passed as an appropriations rider for the last 13 years. Each is summarized below.

As part of 1994 amendments unanimously passed by Congress to strengthen the Act, the legislative history emphasized, ''[I]t also is not possible to further clarify the clear language in section 2302(b)(8) that protection for 'any' whistleblowing disclosure truly means 'any.' A protected disclosure may be made as part of an employee's job duties, may concern policy or individual misconduct, and may be oral or written and to any audience inside or outside the agency, without restriction to time, place, motive or content.''

Somehow the Federal Circuit did not hear our unanimous voice. Without commenting on numerous committee reports and floor statements emphasizing this cornerstone, it has been creating new loopholes at an accelerated pace. Its precedents have shrunk the scope of protected whistleblowing to exclude disclosures made as part of an employee's job duties, to a co-worker, boss, others up the chain of command, or even the suspected wrongdoer to check facts. Under these judicial loopholes, the law does not cover agency misconduct with the largest impact, policies that institutionalize illegality or waste and mismanagement. Last December it renewed a pre-WPA loophole that Congress has specifically outlawed. The court decreed that the law only covers the first person to place evidence of given misconduct on the record, excluding those who challenge long term abuses, witnesses whose testimony supports pioneer whistleblowers, or anyone who is not the Christopher Columbus for any given scandal.

There is no legal basis for any of these loopholes. None of these loopholes came from Congress. In fact, all

contradict express congressional intent. Since 1978, the point of Federal whistleblower protection has been to give agencies the first crack at cleaning their own houses. These loopholes force them to either remain silent, sacrifice their rights, or go behind the back of institutions and individuals if they want to preserve their rights when challenging perceived misconduct. They proceed at their own risk if they exercise their professional expertise to challenge problems on the job. They can only challenge anecdotal misconduct on a personal level, rather than institutionalized.

Our legislation addresses the problem by codifying the congressional ''no exceptions'' definition for lawful, significant disclosures. The legislation also reaffirms the right of whistleblowers to disclose classified information about wrongdoing to Congress. National security secrecy must not cancel Congress' right to know about betrayals of the public trust.

In a 1999 decision, the Federal Circuit functionally overturned the standard by which whistleblowers demonstrate their disclosures deserve protection: lawful disclosures which evidence a ''reasonable belief'' of specific misconduct. Congress did not change this standard in 1989 or 1994 for a simple reason: it has worked by setting a fair balance to protect responsible exercises of free speech. Ultimate proof of misconduct has never been a prerequisite for protection. Summarized in lay terms, ''reasonable belief'' has meant that if information would be accepted for the record of related litigation, government investigations or enforcement actions, it is illegal to fire the employee who bears witness by contributing that evidence.

That realistic test no longer exists. In Lachance v. White, the Federal Circuit overturned the victory of an Air Force education specialist challenging a pork barrel program whose concerns were so valid that after an independent management review, the Air Force agreed and canceled the program. Unfortunately, local base officials held a grudge, reassigning Mr. White and stripping him of his duties. He appealed under the WPA and won before the Merit Systems Protection Board. The Federal Circuit, however, held that he did not demonstrated a ''reasonable belief'' and sent the case back. That raises questions on its face, since agencies seldom agree with whistleblowers.

The court accomplished this result disingenuously. While endorsing the existing standard, it added another hurdle. It held that to have a reasonable belief, an employee must overcome the presumption that the government acts fairly, lawfully, properly and in good faith. They must do so by ''irrefragable'' proof. The dictionary defines ''irrefragable'' as ''uncontestable, incontrovertible, undeniable, or incapable of being overthrown.'' The bottom line is that, in the absence of a confession, there is no such thing as a reasonable belief. If there is no disagreement about alleged misconduct, there is no need for whistleblowers.

The court even added a routine threat for employees asserting their rights. Although Congress has repeatedly warned that motives are irrelevant to assess protected speech, the court ordered the MSPB to conduct factfinding for anyone filing a whistleblower reprisal claim, to check if the employee had a conflict of interest for disclosing alleged misconduct in the first place. This means that while whistleblowers have almost no chance of prevailing, they are guaranteed to be placed under investigation for challenging harassment. Ironically, in 1994 Congress outlawed retaliatory investigations, which have now been institutionalized by the court.

In the aftermath, whistleblower support groups like the Government Accountability Project must warn those seeking guidance that if they assert rights, they will be placed under investigation and any eventual legal ruling on the merits inevitably will conclude they deserve punishment and formally endorse the retaliation they suffered. The White case is a decisive reason for those who witness fraud, waste and abuse to remain silent, instead of speaking out. Profiles in Courage are the exception, rather than the rule. Our legislation ends the presumptions of ''irrefragable proof'' and protects any reasonable belief as demonstrated by credible evidence.

This is the third time Congress has had to reenact a unanimous good government mandate thrown out by the Federal Circuit. This is also three strikes for the Federal Circuit's monopoly authority to interpret, and repeatedly veto, this law. It is time to end the broken record syndrome.

The Civil Service Reform Act of 1978 contained normal ''all circuits'' court of appeals judicial review under the Administrative Procedures Act. This was the same structure as all other employment anti-reprisal or anti-discrimination statutes. In 1982, the Federal Circuit was created, with a unique monopoly on appellate review of civil service, patent and copyright, and International Trade Commission decisions. Unfortunately, this experiment has failed. Our amendment restores the normal process of balanced review. Hopefully, that will restore normal respect for the legislative process.

In 1988, I was proud to introduce an appropriations rider to the Treasury, Postal and General Government bill which has been referred to as the ''anti-gag statute.'' It has survived constitutional challenge through the Supreme Court, and been unanimously approved in each of the last 13 appropriations bills. This provision makes it illegal to enforce agency nondisclosure policies or agreements unless there is a specific, express addendum informing employees that the disclosure restrictions do not override their right to communicate with Congress under the Lloyd Lafollette Act or other good government laws such as the Whistleblower Protection Act.

The provision originally was in response to a new, open-ended concept called ''classifiable.'' That term was defined as any information that ''could or should have been classified,'' or ''virtually anything,'' even if it were not market secret. This effectively ended anonymous whistleblowing disclosures, imposed blanket prior restraint, and legalized after-the-fact classification as a device to cover up fraud or misconduct. Since employees no longer were entitled to prior notice that information was secret, the only way they could act safely was a prior inquiry to the agency whether information was classified. That was a neat structure to lock in secrecy when its only purpose is to thwart congressional or public oversight. I am proud that the anti-gag statute has worked, and the strange concept of ''classifiable'' is history. After 13 years and over 6,000 individual congressional votes without dissent, it is time to institutionalize this merit system principle.

It should be beyond debate that the price of liberty is eternal vigilance. I want to recognize the efforts of those whose stamina defending freedom of speech has applied that principle in practice. Senator LEVIN has been my Senate partner from the beginning of legislative initiatives on this issue. His leadership has proved that whistleblower protection is not an issue reserved for conservatives or liberals, Democrats or Republicans. Like the First Amendment, whistleblower protection is a cornerstone right for Americans.

Nongovernmental organizations have made significant contributions as well. The Government Accountability Project, a non-profit, non-partisan whistleblower support group, has been a relentless watchdog of merit system whistleblower rights since they were created by statute in 1978. Thanks to GAP, my staff has not been taken by surprise as judicial activism threatened this good government law. Kris Kolesnick, formerly with my staff and now with the National Whistleblower Center, worked on the original legislation while on my staff and continues to work in partnership with me.

In the decade since Congress unanimously passed this law, it has been a Taxpayer Protection Act. My office has been privileged to work with public servants who exposed indefensible waste and mismanagement at the Pentagon, as well as indefensible abuses of power at the Department of Justice. I keep learning that whistleblowers proceed at their own risk when defending the public. In case after case I have seen the proof of Admiral Rickover's insight that unlike God, the bureaucracy does not forgive. Nor does it forget.

It also has been confirmed repeatedly that whistleblowers must prove their commitment to stamina and persistence in order to make a difference

against ingrained fraud, waste and abuse. There should be no question about Congress', or this Senator's commitment. Congress was serious when it passed the Whistleblower Protection Act unanimously. It is not mere window dressing. As long as whistleblowers are defending the public, we must defend credible free speech rights for genuine whistleblowers. Those who have something to hide, the champions of secrecy, cannot outlast or defeat the right to know both for Congress, law enforcement agencies and the taxpayers. Every time judicial or bureaucratic activists attempt to kill this law, we must revive it in stronger terms. Congress can not watch passively as this law is gutted, or tolerate gaping holes in the shield protecting public servants. The taxpayers are on the other side of the shield, with the whistleblowers.

Mr. President, I ask unanimous consent that the October 13, 1999 article from The Washington Times and the May 1, 1999 article from The New York Times be printed in the RECORD.

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

[From the Washington Times, Oct. 13, 1999]

SILENT WHISTLEBLOWERS

WORKER PROTECTIONS ARE UNDER ATTACK

(By Tom Devine and Martin Edwin Anderson)

Judicial activism is always suspect, but when it overturns laws protecting the public's interest in order to shield bureaucratic secrecy, it makes a mockery of the legal system itself.

The issue has become a front-burner in Congress as it takes a new look at a significant good-government law that twice won unanimous passage. In the aftermath of extremist judicial activism that functionally overturned the statute, a crucial campaign has been launched this week on the Hill to enlist members as friends of the court in a brief seeking Supreme Court review of the circuit court decision.

At issue is a ruling made final in July by the Federal Circuit Court of Appeals, which disingenuously overturned two laws unanimously passed by Congress—the code of Ethics for Government Service and the Whistleblower Protection Act. The decision, White vs. Lachance, was the handiwork of a chief judge whose previous job involved swinging the ax against federal workers who dared to commit the truth.

At issue is the fate of Air Force whistleblower John White, who lost his job in 1991 after successfully challenging a pork-barrel ''quality management'' training program as mismanagement. Government and private sector experts concurred with Mr. White, and universities affected by it began heading for the door. Even the Air Force agreed, canceling it after outside experts agreed with Mr. White.

Thrice the Merit Systems Protection Board (MSPB), an independent federal agency, ruled in Mr. White's favor. Each time the Justice Department appealed on technicalities. Now the federal court went further than asked while speculating that Mr. White's disclosures may not have evidenced a ''reasonable belief''—the test for disclosures to be protected.

The court camouflaged its death-knell for the whistleblower law in banal legalese, defining ''reasonable belief'' as, ''Could a disinterested observer with knowledge of the essential facts reasonably conclude gross mismanagement?'' But the bland explanatory guidance exposed a feudalistic duty of loyalty to shield misconduct by bureaucratic bosses: ''Policymakers have every right to expect loyal, professional service from subordinates.'' So much for the Code of Ethics for Government Service, which establishes the fundamental duty of federal employees to ''put loyalty to the highest moral principles and to country above loyalty to persons, party or Government department.''

The court also disarmed the whistleblower law, claiming it ''is not a weapon in arguments over policy.'' Yet when it unanimously approved 1994 amendments, Congress explicitly instructed, ''A protected disclosure may concern policy or individual misconduct.''

Worse was a court-ordered ''review'' as a prerequisite to find a ''reasonable belief'' of wrongdoing. It must begin with the ''presumption that public officers perform their duties correctly, fairly, in good faith and in accordance with the law. . . . [T]his presumption stands unless there is 'irrefragable' proof to the contrary.''

''Irrefragable,'' according to Webster's Dictionary, means ''incapable of being overthrown, incontestable, undeniable, incontrovertible.'' The court's decision kills freedom of speech if there are two rational sides to a dispute—leaving it easier to convict a criminal than for a whistleblower to be eligible for protection. The irrefragable presumption of government perfection creates a thick shield protecting big government abuses—precisely the opposite of why the law was passed.

Finally, the court ordered the MSPB to facilitate routine illegality by seeking evidence of a whistleblower's conflict of interest during every review. Retaliatory investigations—those taken ''because of'' whistleblowing activities—are tantamount to witchhunts and were outlawed by Congress in 1994. For federal employees, the Big Brother of George Orwell's ''1984'' has arrived 15 years late.

Key to understanding the decision is the role played by Chief Judge Robert Mayer. Previously, Judge Mayer served as deputy special counsel in an era when MSPB's Office of Special Counsel (under its Chief Alex Kozinski, now a 9th Circuit Court of Appeals judge) tutored managers and taught courses on how to fire whistleblowers without leaving fingerprints. Congress passed the WPA in part to deal with these abuses.

Now Judge Mayer's judicial revenge is a near-perfect gambit, as his court has a virtual monopoly on judicial review of MSPB whistleblower decisions.

Congress must act quickly to pass a legislative definition of ''reasonable belief'' that eliminates the certainty of professional suicide for whistleblowers and restores the law's good-government mandate. It also needs to provide federal workers the same legal access enjoyed by private citizens; jury trials and all circuits judicial review in the appeals courts.

It is unrealistic to expect federal workers with second-class rights to provide first-class public service. Returning federal workers to the Dark Ages is an inauspicious way to usher in a new millennium.

[From the New York Times, May 1, 1999]

HELPING WHISTLE-BLOWERS SURVIVE

Jennifer Long, the Internal Revenue Service agent who nearly lost her job two weeks ago after publicly blowing the whistle on abuses at the agency, was rescued at the last minute by the intervention of an influential United States Senator. But the fact that her employers had no inhibitions about harassing her is clear evidence that the laws protecting whistle-blowers need to be strengthened. As they stand, these laws merely invite the kind of retaliation that Mrs. Long endured.

A career tax auditor, Mrs. Long was the star witness at Senate Finance Committee hearings convened in 1997 by William Roth of Delaware to investigate complaints against the I.R.S. She was the only I.R.S. witness who did not sit behind a curtain and use a voice distortion device to hide her identity. She accused the agency of preying on weaker taxpayers and ignoring cheating by those with the resources to fight back. She has since said that she was subject to petty harassments from the moment she arrived back at her district office in Houston. Then, on April 15 of this year, she was given what amounted to a termination notice, at which point Mr. Roth intervened with the I.R.S. commissioner and saved her job—at least for now.

Had he not intervened, Mrs. Long's only hope of vindication would have been the remedies provided by the Civil Service Reform Act of 1978 and the Whistle-Blower Protection Act of 1989. These two statutes prescribe a tortuous and uncertain appeals process that in theory guarantees a whistle-blower free speech without fear of retaliation, but in practice is an exercise in frustration. Despite recent improvements, only a handful of Federal employees, out of some 1,500 who appealed in the last four years, have prevailed in rulings issued by the Government's administrative tribunal, the Merit System Protection Board. Overwhelmingly, the rest of the cases were screened out on technical grounds or were settled informally with token relief.

A few prominent whistle-blowers have won redemption outside the system. Frederic Whitehurst, the chemist who was dismissed after disclosing sloppiness and possible dishonesty in the Federal Bureau of Investigation's crime laboratory, won a sizable cash settlement because he had a first-class attorney who mounted an artful public relations campaign. Ernest Fitzgerald, the Pentagon employee who disclosed massive cost overruns, survived because he was almost inhumanly persistent and because his cause, like Mrs. Long's, attracted allies in high places. But the prominence of an issue does not guarantee survival for the employee who discloses it. Notra Trulock, the senior intelligence official at the Energy Department who tried to alert his superiors to Chinese espionage at a Government weapons laboratory, has since been demoted.

Senator Charles Grassley, an Iowa Republican, has been seeking ways to strengthen the 1989 law with the help of the Government Accountability Project, a Washington advocacy group that assists whistle-blowers. One obvious improvement would be to give whistle-blowers the option to press their claims in the Federal courts, where their cases could be decided by a jury. To guard against clogging the system with frivolous litigation, the cases would first be reviewed by a nongovernment administrative panel. But the point is to give whistle-blowers an avenue of appeal outside the closed loop in which they are now trapped.

A reform bill along these lines passed the House in 1994 but died in the Senate. With Mrs. Long's case fresh in mind, the time has come for both Houses to re-examine the issue.

By Mr. ALLARD:

S. 996. A bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the

Colorado Springs, Colorado, metropolitan area; to the Committee on Veterans' Affairs.

Mr. ALLARD. Mr. President, the Colorado Springs, Colorado metropolitan area is the home of the United States Air Force Academy, the North American Aerospace Defense Command, United States Space Command, Ft. Carson Army Base, Peterson Air Force Base, and Shriever Air Force Base. There are over 30,000 active duty and reserve military personnel in the city. There are nearly 23,000 retired personnel in the 5th Congressional District, which is based around Colorado Springs, the third largest DoD retired community in any Congressional District in the country. There is, however, no National Military Cemetery.

The bill I am introducing today is a companion piece to legislation introduced in the House by my friend and colleague, JOEL HEFLEY. At my annual town meeting in El Paso County on June 1, I discussed this matter with my constituents. There are many of them who feel strongly that a cemetery is needed and I agree. This bill will allow the thousands of eligible Colorado Springs military personnel, both active duty and retired, to have a chance to find their final resting place in the city so many of them love.

I am aware that the Veterans Administration is not known for prompt and easy cemetery construction. I am aware that there are some areas of the country deemed to have cemetery needs more critical than Colorado Springs. But I do not think that should mean that the people of Colorado Springs are denied the ability to chose a cemetery for themselves and their loved ones that properly honors their contributions to the nation.

I look forward to working on this bill and seeing its eventual passage.

By Mrs. BOXER:

S. 997. A bill to direct the Secretary of Agriculture to conduct research, monitoring, management, treatment, and outreach activities relating to sudden oak death syndrome and to establish a Sudden Oak Death Syndrome Advisory Committee; to the Committee on Agriculture, Nutrition, and Forestry.

Mrs. BOXER. Mr. President, I am introducing today a bill that addresses an emerging ecological crisis in California that quite literally threatens to change the face of my State, and perhaps others.

California's beloved oak trees are in grave peril. Thousands of black oak, coastal live oak, tan and Shreve's oak trees, among the most familiar and best loved features of California's landscape are dying from a newly discovered disease known as Sudden Oak Death Syndrome, SODS.

Caused by an exotic species of the Phytophthora fungus, the fungus responsible for the Irish potato famine, SODS first struck a small number of tan oaks in Marin County in 1995. Now the disease has spread to other oak species from Big Sur in the south to Humboldt County in the north. In Marin, Monterey and Santa Cruz counties, desperate local officials are predicting oak mortality rates of 70 to 90 percent unless the deadly fungus is eradicated or its spread is arrested.

The loss of trees is fast approaching epidemic proportions, with tens of thousands of dead trees appearing in thousands of acres of forests, parks, and gardens. As the trees die, enormous expanses of forest, some adjacent to residential areas, are subject to extreme fire hazards. Residents who built their homes around or among oak trees are in particular danger.

Sudden Oak Death Syndrome is already having serious economic and environmental impacts. Both Oregon and Canada have imposed quarantines on the importation of oak products and some nursery stock from California. According to the U.S. Forest Service, removal of dead trees can cost $2,000 or more apiece, and loss of oaks can reduce property values by 3 percent or more. In Marin County alone, tree removal and additional fire fighting needs are expected to cost over $6 million.

Nor is the spread of the Phytophthora fungus limited to oak trees. The fungus has also been found on rhododendron plants in California nurseries, on bay and madrone trees, and on wild huckleberry plants. Due to genetic similarities, this fungus potentially endangers Red and Pin oak trees on the East coast as well as the Northeast's lucrative commercial blueberry and cranberry industries.

If left unchecked, SODS could also cause a broad and severe ecological crisis, with major damage to biodiversity, wildlife habitat, water supplies, forest productivity, and hillside stability. California's oak woodlands provide shelter, habitat and food to over 300 wildlife species. They reduce soil erosion. They help moderate extremes in temperature. And, they aid with nutrient cycling, which ensures that organic matter is broken down and made available for use by other living organisms.

Very little is known about this new species of Phytophthora fungus. Scientists are struggling to better understand Sudden Oak Death Syndrome, how the disease is transmitted, and what the best treatment options might be. The U.S. Forest Service, the University of California, the State Departments of Forestry and Fire Protection, and County Agricultural Commissioners have created an Oak Mortality Task Force in an attempt to half SODS's frightening march across California and into adjoining states.

The Task Force has established a series of objectives leading to the elimination of SODS, but very little can be accomplished without adequate support for ongoing research, monitoring, treatment and education.

In September of last year, I called on the Department of Agriculture, USDA, to provide financial assistance and to create its own task force to work with California's Oak Mortality Task Force. Outgoing Agriculture Secretary Dan Glickman answered the call by releasing $2.1 million in emergency funding and establishing a top-flight task force under the direction of USDA's Animal and Plant Health Inspection Service, APHIS. This was a good first step, but it was just that.

That is why I am introducing today the Sudden Oak Death Syndrome Control Act of 2001. This legislation would authorize over $14 million each year for the next five years in critically needed funding to fight the SODS epidemic. Combined with the efforts of state and local officials, this legislation will help to prevent the dire predictions from becoming a terrible reality.

This bill is endorsed by the California Oak Mortality Task Force, the Marin County Board of Supervisors, the Trust for Public Land, California Releaf, and the International Society of Arboriculturists, Western Chapter.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 997

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Sudden Oak Death Syndrome Control Act of 2001''.

SEC. 2. FINDINGS.

Congress finds that—

(1) tan oak, coast live oak, Shreve's oak, and black oak trees are among the most beloved features of the topography of California and the Pacific Northwest and efforts should be made to protect those trees from disease;

(2) the die-off of those trees, as a result of the exotic Phytophthora fungus, is approaching epidemic proportions;

(3) very little is known about the new species of Phytophthora, and scientists are struggling to understand the causes of sudden oak death syndrome, the methods of transmittal, and how sudden oak death syndrome can best be treated;

(4) the Phytophthora fungus has been found on—

(A) Rhododendron plants in nurseries in California; and

(B) wild huckleberry plants, potentially endangering the commercial blueberry and cranberry industries;

(5) sudden oak death syndrome threatens to create major economic and environmental problems in California, the Pacific Northwest, and other regions, including—

(A) the increased threat of fire and fallen trees;

(B) the cost of tree removal and a reduction in property values; and

(C) loss of revenue due to—

(i) restrictions on imports of oak products and nursery stock; and

(ii) the impact on the commercial rhododendron, blueberry, and cranberry industries; and

(6) Oregon and Canada have imposed an emergency quarantine on the importation of oak trees, oak products, and certain nursery plants from California.

SEC. 3. RESEARCH, MONITORING, AND TREATMENT OF SUDDEN OAK DEATH SYNDROME.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall carry out a sudden oak death syndrome research, monitoring, and treatment program to develop methods to control, manage, or eradicate sudden oak death syndrome from oak trees on both public and private land.

(b) RESEARCH, MONITORING, AND TREATMENT ACTIVITIES.—In carrying out the program under subsection (a), the Secretary may—

(1) conduct open space, roadside, and aerial surveys;

(2) provide monitoring technique workshops;

(3) develop baseline information on the distribution, condition, and mortality rates of oaks in California and the Pacific Northwest;

(4) maintain a geographic information system database;

(5) conduct research activities, including research on forest pathology, Phytophthora ecology, forest insects associated with oak decline, urban forestry, arboriculture, forest ecology, fire management, silviculture, landscape ecology, and epidemiology;

(6) evaluate the susceptibility of oaks and other vulnerable species throughout the United States; and

(7) develop and apply treatments.

SEC. 4. MANAGEMENT, REGULATION, AND FIRE PREVENTION.

(a) IN GENERAL.—The Secretary shall conduct sudden oak death syndrome management, regulation, and fire prevention activities to reduce the threat of fire and fallen trees killed by sudden oak death syndrome.

(b) MANAGEMENT, REGULATION, AND FIRE PREVENTION ACTIVITIES.—In carrying out subsection (a), the Secretary may—

(1) conduct hazard tree assessments;

(2) provide grants to local units of government for hazard tree removal, disposal and recycling, assessment and management of restoration and mitigation projects, green waste treatment facilities, reforestation, resistant tree breeding, and exotic weed control;

(3) increase and improve firefighting and emergency response capabilities in areas where fire hazard has increased due to oak die-off;

(4) treat vegetation to prevent fire, and assessment of fire risk, in areas heavily infected with sudden oak death syndrome;

(5) conduct national surveys and inspections of—

(A) commercial rhododendron and blueberry nurseries; and

(B) native rhododendron and huckleberry plants;

(6) provide for monitoring of oaks and other vulnerable species throughout the United States to ensure early detection; and

(7) provide diagnostic services.

SEC. 5. EDUCATION AND OUTREACH.

(a) IN GENERAL.—The Secretary shall conduct education and outreach activities to make information available to the public on sudden death oak syndrome.

(b) EDUCATION AND OUTREACH ACTIVITIES.—In carrying out subsection (a), the Secretary may—

(1) develop and distribute educational materials for homeowners, arborists, urban foresters, park managers, public works personnel, recreationists, nursery workers, landscapers, naturists, firefighting personnel, and other individuals, as the Secretary determines appropriate;

(2) design and maintain a website to provide information on sudden oak death syndrome; and

(3) provide financial and technical support to States, local governments, and nonprofit organizations providing information on sudden oak death syndrome.

SEC. 6. SUDDEN OAK DEATH SYNDROME ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a Sudden Oak Death Syndrome Advisory Committee (referred to in this section as the ''Committee'') to assist the Secretary in carrying out this Act.

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Committee shall consist of—

(i) 1 representative of the Animal and Plant Health Inspection Service, to be appointed by the Administrator of the Animal and Plant Health Inspection Service;

(ii) 1 representative of the Forest Service, to be appointed by the Chief of the Forest Service;

(iii) 2 individuals appointed by the Secretary from each of the States affected by sudden oak death syndrome; and

(iv) any individual, to be appointed by the Secretary, in consultation with the Governors of the affected States, that the Secretary determines—

(I) has an interest or expertise in sudden oak death syndrome; and

(II) would contribute to the Committee.

(B) DATE OF APPOINTMENTS.—The appointment of a member of the Committee shall be made not later than 90 days after the enactment of this Act.

(3) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Committee have been appointed, the Committee shall hold the initial meeting of the Committee.

(b) DUTIES.—

(1) IMPLEMENTATION PLAN.—The Committee shall prepare a comprehensive implementation plan to address the management, control, and eradication of sudden oak death syndrome.

(2) REPORTS.—

(A) INTERIM REPORT.—Not later than 1 year after the date of enactment of this Act, the Committee shall submit to Congress the implementation plan prepared under paragraph (1).

(B) FINAL REPORT.—Not later than 3 years after the date of enactment of this Act, the Committee shall submit to Congress a report that contains—

(i) a summary of the activities of the Committee;

(ii) an accounting of funds received and expended by the Committee; and

(iii) findings and recommendations of the Committee.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of fiscal years 2002 through 2007—

(1) to carry out section 3, $7,500,000, of which up to $1,500,000 shall be used for treatment;

(2) to carry out section 4, $6,000,000;

(3) to carry out section 5, $500,000; and

(4) to carry out section 6, $250,000.

By Ms. COLLINS (for herself and Mr. FEINGOLD):

S. 998. A bill to expand the availability of oral health services by strengthening the dental workforce in designated underserved areas; to the Committee on Health, Education, Labor, and Pensions.

Ms. COLLINS. Mr. President, I am pleased to join my good friend and colleague from Wisconsin, Senator RUSS FEINGOLD, in introducing legislation to improve access to oral health care by strengthening the dental workforce in our Nation's rural and underserved communities.

Oral and general health are inseparable, and good dental care is critical to our overall physical health and well-being. Dental health encompasses far more than cavities and gum disease. The recent U.S. Surgeon General report Oral Health in America states that ''the mouth acts as a mirror of health and disease'' that can help diagnose disorders such as diabetes, leukemia, heart disease, or anemia.

While oral health in America has improved dramatically over the last 50 years, these improvements have not occurred evenly across all sectors of our population, particularly among low-income individuals and families. Too many Americans today lack access to dental care. While there are clinically proven techniques to prevent or delay the progression of dental health problems, an estimated 25 million Americans live in areas lacking adequate dental services. As a consequence, these effective treatment and prevention programs are not being implemented in many of our communities. Astoundingly, as many as eleven percent of our Nation's rural population has never been to the dentist.

This situation is exacerbated by the fact that our dental workforce is graying and the overall ratio of dentists to population is declining. In Maine, there currently are 393 active dentists, 241 of whom are 45 or older. More than 20 percent of dentists nationwide will retire in the next ten years and the number of dental graduates by 2015 may not be enough to replace these retirees.

As a consequence, Maine, like many States, is currently facing a serious shortage of dentists, particularly in rural areas. While there is one general practice dentist for every 2,286 people in the Portland area, the numbers drop off dramatically in western and northern Maine. In Aroostook County, where I'm from, there's only one dentist for every 5,507 people. Moreover, at a time when tooth decay is the most prevalent childhood disease in America, Maine has fewer than ten specialists in pediatric dentistry, and most of these are located in the southern part of the State.

This dental workforce shortage is exacerbated by the fact that Maine currently does not have a dental school or even a dental residency program. Dental schools can provide a critical safety net for the oral health needs of a state, and dental education clinics can provide the surrounding communities with care that otherwise would be unavailable to disadvantaged and underinsured populations. Maine is just one of a number of predominantly rural States that lacks this important component of a dental safety net.

Maine, like many States, is exploring a number of innovative ideas for increasing access to dental care in underserved areas. In an effort to supplement and encourage these efforts, we

are introducing legislation today to establish a new State grant program designed to improve access to oral health services in rural and underserved areas. The legislation authorizes $50 million over five years for grants to States to help them develop innovative dental workforce development programs specific to their individual needs.

States could use these grants to fund a wide variety of programs. For example, they could use the funds for loan forgiveness and repayment programs for dentists practicing in underserved ares. They could also use them to provide grants and low- or no-interest loans to help practitioners to establish or expand practices in these underserved areas. States, like Maine, that do not have a dental school could use the funds to establish a dental residency program. Other States might want to use the grant funding to establish or expand community or school-based dental facilities or to set up mobile or portable dental clinics.

To assist in their recruitment and retention efforts, States could also use the funds for placement and support of dental students, residents, and advanced dentistry trainees. Or, they could use the grant funds for continuing dental education, including distance-based education, and practice support through teledentistry.

Other programs that could be funded through the grants include: community-based prevention services such as water fluoridation and dental sealant programs; school programs to encourage children to go into oral health or science professions; the establishment or expansion of a State dental office to coordinate oral health and access issues; and any other activities that are determined to be appropriate by the Secretary of Health and Human Services.

The National Health Service Corps is helping to meet the oral health needs of underserved communities by placing dentists and dental hygienists in some of America's most difficult-to-place inner city, rural, and frontier areas. Unfortunately, however, the number of dentists and dental hygienists with obligations to serve in the National Health Service Corps falls far short of meeting the total identified need. According to the Surgeon General, only about 6 percent of the dental need in America's rural and underserved communities is currently being met by the National Health Service Corps.

In my state, approximately 173,000 Mainers live in designated dental health professional shortage areas. While the National Health Service Corps estimates that it will take 33 dental clinicians to meet this need, it currently has only three serving in my State.

The bill we are introducing today would make some needed improvements in this critically important program so that it can better respond to our nation's oral health needs.

First, it would direct the Secretary of Health and Human Services to develop and implement a plan for increasing the participation of dentists and dental hygienists in the National Health Service Corps scholarship and loan repayment programs.

It would also allow National Health Service Corps scholarship and loan repayment program recipients to fulfill their commitment on a part-time basis. Many small rural communities may not have sufficient populations to support a full-time dentist or dental hygienist. This would give the National Health Service Corps additional flexibility to meet the needs of these communities. Moreover, some practitioners may find part-time service more attractive, which in turn could improve both recruitment and retention in these communities.

Last year, after a six-year hiatus, the National Health Service Corps began a two-year pilot program to award scholarships to dental students. While this is a step in the right direction, these scholarships are only being awarded to students attending certain dental schools, none of which are in New England. Moreover, the pilot project requires the participating dental schools to encourage Corps dental scholars to practice in communities near their educational institutions. As a consequence, this program will do nothing to help relieve the dental shortage in Maine and other areas of New England.

The bill we are introducing today would address this problem by expanding the National Health Service Corps Pilot Scholarship Program so that dental students attending any of the 55 U.S. dental schools can apply and require that placements for these scholars be based strictly on community need.

It would also improve the process for designating dental health professional shortage areas and ensure that the criteria for making such designations provides a more accurate reflection of oral health need, particularly in rural areas.

Mr. President, the Dental Health Improvement Act will make critically important oral health care services more accessible in our Nation's rural and underserved communities, and I urge all of my colleagues to sign on as cosponsors. I also ask unanimous consent that letters endorsing the bill from the American Dental Association and the American Dental Education Association be printed in the RECORD.

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

AMERICAN DENTAL ASSOCIATION,
Washington, DC, May 25, 2001.

Hon. SUSAN COLLINS,
Russell Senate Office Building,
Washingtion, DC.

DEAR SENATOR COLLINS: On behalf of the American Dental Association and our 144,000 member dentists, I am delighted to endorse the ''Dental Health Improvement Act,'' which you introduced today. The Association is proud that the oral health of Americans continues to improve, and that Americans have access to the best oral health care in the world.

Having said that, we agree that dental care has not reached every corner of American society to the extent it has reached the majority of Americans. For those Americans who are unable to pay for care, and those with special needs, such as disabled individuals, those with congenital conditions, and non-ambulatory patients, obtaining dental care can be difficult.

Your legislation recognizes several of these problems and goes a long way towards addressing them in a targeted and meaningful way. The section on grant proposals offers states the opportunity to be innovative in their approaches to address specific geographical dental workforce issues. You recognize the need to provide incentives to increase faculty recruitment in accredited dental training institutions, and your support for increasing loan repayment and scholarship programs will provide the appropriate incentives to increase the dental workforce in ''safety net'' organizations.

The ADA is very grateful for your leadership on these issues. Thank you for introducing this legislation. We want to continue to work with you on dental access issues in general and on this legislation as it moves through the Congress.

Sincerely,

ROBERT M. ANDERTON,
President.

AMERICAN DENTAL EDUCATION ASSOCIATION,
Washington, DC, May 23, 2001.

Hon. SUSAN COLLINS,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR COLLINS, I am writing on behalf of the dental education community to commend you for developing and introducing the Dental Health Improvement Act. This legislation, when enacted into law, will expand the availability of oral health care services for the nation's underserved populations, strengthen the dental workforce, as well as maintain the ability of dental schools to produce the necessary manpower to provide oral health care to all Americans.

The American Dental Education Association (ADEA) represents the nation's 55 dental schools, as well as hospital-based dental and advanced dental education programs, allied dental programs and schools, dental research institutions, and the faculty and students at these institutions. ADEA's member schools are dedicated to providing the highest quality education to their students, conducting research and providing oral health care services to Americans from medically unserved and underserved areas, the majority of whom are uninsured or who are from low-income families. Recent downward trends in student enrollment and a growing shortage in dental faculty have caused ADEA serious concern about our ability to fully and competently address these responsibilities.

Therefore, I was delighted to see that the Dental Health Improvement Act directly responds to many of these concerns. If implemented, the Act would expand access to oral health care to thousands of Americans for the first time. When enacted, the provisions of the bill can be instrumental in helping the more than 31 million Americans living in areas that lack access to adequate oral health care services. It can provide much needed help to dental education institutions as we seek to address faculty shortages.

As you know, dental education institutions face a major crisis in the graying of its faculty which threatens the quality of dental education, oral, dental and craniofacial research, and ultimately will adversely impact the health of all Americans. Currently, there are approximately 400 faculty vacancies. Retirements are expected to accelerate in both

private practice as well as teaching faculties in the nation's 55 dental schools. There is a significant decrease in the number of men and women choosing careers in dentistry, teaching and research. Your personal experience in Maine is a perfect example.

Educational debt has increased, affecting both career choices and practice location. Your bill will provide funds to help with recruitment and retention efforts and helps expand dental residency training programs to the 27 states that do not currently have dental schools.

Also important are the incentives you have proposed to expand or establish community-based dental facilities linked with dental education institutions. The need for this is obvious. More than two-thirds of patients visiting dental school clinics are members of families whose annual income is estimated to be $15,000 or below. About half of these patients are on Medicare or Medicaid, while more than a third have no insurance coverage or government assistance program to help them pay for their dental care.

Dental academic institutions are committed to their patient care mission, not only by improving the management and efficiency of patient centered care delivery at the dental school, but through increasing affiliations with and use of satellite clinics. All dental schools maintain at least one dental clinic on-site, and approximately 70% of U.S. dental schools have school sponsored satellite clinics. Delivering patient care in diverse settings demonstrates professional responsibility to the oral health of the public.

Dental schools and other academic dental institutions provide oral health care to underserved and disadvantaged populations. Yet more than 11 percent of the nation's rural population has never been to see a dentist. This bill can have a positive impact on the population by establishing access to oral health care at community based dental facilities and consolidated health center that are linked to dental schools. 100 million Americans presently do not have access to fluoridated water. The bill provides for community-based prevention services such as fluoride and sealants that can cause a dramatic change for nearly a third of the nations's population.

Thank you again for taking such a leadership role in the area of oral health. Please be assured that ADEA looks forward to working closely with you to bring the far-reaching potential of the Dental Health improvement Act to fruition.

Sincerely,

RICHARD W. VALACHOVIC,
Executive Director.

By Mr. BINGAMAN (for himself and Mr. ROBERTS):

S. 999. A bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War; to the Committee on Armed Services.

Mr. BINGAMAN. Mr. President, I rise today with my esteemed colleague, Senator PAT ROBERTS of Kansas, to introduce a bill that would award the Korean Defense Service Medal to all members of the Armed Forces who participated in operations in Korea after the end of the Korean War. Fifty years ago, American men and women were fighting a very tough war in Korea. We commemorate their heroism in many ways half a century later, and pause at the beautiful memorial to those who served in that conflict located here in Washington. That war and those heroes, however, are only the first part of the story. The rest of the story is about the more than 40,000 members of the United States armed forces who have served in Korea since the signing of the cease-fire agreement in July 1953.

Technically speaking, North and South Korea remain at war to this day, and during the intervening cease fire, the uncertain ''peace'' has been challenged many many times. According to statistics I have read, the North Koreans have breached the cease-fire agreement more than 40,000 times since 1954 using virtually every method of limited attacks you could think of. Some 1,239 U.S. service personnel have been killed in Korea during the past 47 years; 87 have been captured, held prisoner, and in many cases, tortured.

During the past five decades, our service men and women in Korea have performed their duties in a virtual tinderbox waiting for a match. There is no question about the danger of their assignment. Some 70 percent of North Korea's active military force, including about 700,000 troops, more than 8,000 artillery systems, and 2000 tanks are within 90 miles of the Demilitarized Zone, DMZ. Military experts estimate that a massive North Korean attack could overrun South Korea's capital at Seoul in a matter of hours or days. A potential frontal assault by North Korean troops would have the backing of more than 500 short range ballistic missiles capable of delivering weapons of mass destruction in addition to conventional warheads.

It is amazing to me to have discovered that despite all of these facts, the Department of Defense has not awarded service awards to those who served in Korea during the Cold War. It should be noted that there have been more casualties in Korea since 1954 that in Sinai, Grenada, Somalia, Haiti, Bosnia, Kosovo, Iraq, and Kuwait, and yet service awards have been presented to participants in each of those operations, but not to those who have served in Korea. General Thomas Schwartz, current Commander-in-Chief of U.S. Forces Korea has recognized this injustice and supports the award I am proposing today.

Representative ELTON GALLEGLY from California introduced this bill in the House recently, and I am honored to do so here in the Senate. I urge my colleagues to join with me to attain swift passage of this measure which is a long overdue expression of recognition and gratitude to the thousands of American men and women in uniform who have put their lives literally on the front line for peace and freedom.

By Mr. REED (for himself, Mr. DODD, Mr. KENNEDY, Mrs. MURRAY, Mr. KERRY, and Mr. CORZINE).

S. 1000. A bill to amend the Child Care and Development Block Grant Act of 1990 to provide incentive grants to improve the quality of child care; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, I rise today to introduce the Child Care Quality Incentive Act of 2001, which seeks to provide incentive grants to improve the quality of child care in this country.

The child care system in this country is in crisis; the need for affordable and accessible high quality child care far exceeds the supply.

As long as an estimated 14 million children under age six, including six million infants and toddlers, spend some part of every day in child care, the availability of quality programs and settings will continue to be a serious issue facing this Nation.

With full-day child care costing as much as $4,000 to $10,000 per year, per child, and with Federal assistance severely limited, many working families cannot afford quality child care. For low-income families with young children, the cost of child care can consume anywhere from 25 to 45 percent of their monthly income.

And the demand for all types of child care is likely to increase, as maternal employment continues to rise, as well as the need to meet the requirements of welfare reform. At the same time the need for care is growing, we must focus on the quality of care provided for our children.

Many studies, including research findings from the National Institute for Child Health and Development, show that quality early care and education leads to increased cognitive abilities, positive classroom learning behavior, an increased likelihood of long-term school success, and consequently, a greater likelihood of long-term and social self-sufficiency.

High quality child care not only prepares children for school, it helps them succeed in life. We must therefore be more diligent in our efforts to improve the quality of child care in this country.

Quality of care means providing a safe, healthy environment for our children; well-trained providers; good staff-to-child ratios so staff can interact with the children in a developmental setting; low staff turnover that fosters a sense of security for the children; and age-appropriate activities that enhance learning.

When we look at the quality of our current system, the findings are appalling. A study of Federal, nonprofit, for-profit, and in-home child care settings conducted by the U.S. Consumer Product Safety Commission found that two-thirds of these child care settings had at least one major safety hazard. The study documented at least 56 deaths among children in child care settings since 1990, and reported that in 1997, 31,000 children ages four and younger received emergency room treatment for injuries in child care centers or schools.

Another study in four States found that only 1 in 7 child care centers provide care that promotes healthy development, while 1 in 8 child care centers provide care that actually threatens the safety and health of children.

The results of a very recent study conducted by the Center for the Child Care Workforce are also startling. It finds that the child care industry is losing well-educated teaching staff and administrators at an alarming rate and hiring replacement teachers with less training and education.

This study, conducted over a six-year period from 1994 to 2000, found that 76 percent of the teaching staff employed in the centers surveyed in 1996, and 82 percent of those working in the centers in 1994 were no longer on the job in 2000. And of those teaching staff who left, nearly half had completed a bachelor's degree, compared to only one-third of the new teachers who replaced them.

Furthermore, the study found that director turnover rates were exceedingly high, contributing to staff instability. Teaching staff and directors reported that high turnover among their colleagues negatively affected their ability to do their jobs.

We frequently hear of the critical shortage of qualified elementary and secondary school teachers. In contrast, the staffing crisis in early care barely registers in the public awareness, but is equally important and worthy of our attention.

The inability of many child care centers to offer competitive salaries is a serious obstacle to attracting and retaining qualified staff. Despite recognition that higher wages contribute to greater staff stability, compensation for the majority of teaching positions has not kept pace with the cost of living over the last six years.

Wages, when adjusted for inflation, have actually decreased six percent for day care teaching staff, and K–12 teachers earn up to twice as much as child care providers with equivalent education and experience. At present, there is little economic incentive to begin or continue a career in child care.

Researchers have consistently found that the cornerstone of quality child care is the presence of sensitive, consistent, well-trained and well-compensated caregivers. Yet many centers are unable to provide children with even this most essential component of early care.

This high rate of safety hazards and unstable workforce results significantly from low payment or reimbursement rates for the provision of child care. Prior to October 1996, states were required to make payments to (or subsidize) child care providers based on the 75th percentile of the market rate, or the level at which parents can afford 75 out of 100 local providers.

However, with the passage of welfare reform legislation, this requirement, which had not been effectively enforced in the first place, completely vanished. Currently, federal Child Care Development Fund regulations require states to conduct market rate surveys every other year, but there is no requirement for States to actually use the market rate surveys to set payment rates.

Indeed, according to a February 1998 report by the Department of Health and Human Services, 29 out of the 50 States and the District of Columbia did not make payment rates that were based on the 75th percentile of the current market rate, often asserting that budget constraints prevented them from doing so.

Furthermore, a January 1998 General Accounting Office report noted that while states conduct biennial market surveys, some set reimbursement rates based on older surveys. And when States set reimbursement rates significantly lower than actual costs, child care choices for families become severely limited.

When States set low rates or fail to update rates, they force working families into a difficult dilemma, they must either place their children into lower cost, lower quality child care programs that will accept the State subsidy or come up with extra dollars to supplement the State subsidy and buy better quality child care.

The Children's Defense Fund, in a March 1998 report entitled, ''Locked Doors: States Struggling to Meet the Child Care Needs of Low-Income Working Families,'' noted that when rates are set below the market rate, child care providers are forced to cut corners ''in ways that lower the quality of care for children.''

And when rates fall below the real cost of providing care, child care providers who do not choose to reduce staff or lower salaries and benefits, allow physical conditions to deteriorate, forgo educational book, toy, and equipment purchases, may simply not accept children with subsidies, or may go out of business. These dilemmas can be avoided if we help States set payment rates that keep up with the market.

Recently, Rhode Island and many other States celebrated the sixth annual national Provider Appreciation Day, which presented us with an opportunity to honor one of the most underrecognized and under-compensated professions. I am therefore pleased to be joined by Senator CHRIS DODD, a leader in improving child care, along with Senators KENNEDY, MURRAY, KERRY, and CORZINE in introducing the Child Care Quality Incentive Act, which seeks to redouble our child care efforts and renew the child care partnership with the states by providing incentive funding for States to increase payment rates.

Our legislation establishes a new, mandatory pool of funding under the Child Care and Development Block Grant, CCDBG. This new funding, coupled with mandatory, current market rate surveys, will form the foundation for significant increases in state payment rates for the provision of quality child care.

Increasing payment rates for the provision of child care is the key to quality. Better payment rates lead to higher quality child care as child care providers are able to attract and retain qualified staff, maintain a safe and healthy environment, and purchase age-appropriate educational materials.

At the same time, increased payment rates expand the number of choices parents have in finding quality child care, as providers are able to accept children whose parents had previously been unable to afford the cost of care.

While there is currently money available through the CCDBG that may be spent for quality initiatives, most states opt to expand availability of care rather than focus on quality. This bill allows funding to be used only for quality initiatives.

We have received overwhelming support for this bill from the child care community, including endorsements from USA Child Care, the Children's Defense Fund, Catholic Charities of USA, YMCA of USA, the National Child Care Association, and a host of organizations and agencies across the country.

Children are the hope of America, and they need the best of America. We cannot ask working families to choose between paying the rent, buying food, and being able to afford the quality care their children need. We've made a lot of progress in improving the health, safety, and well-being of children in this country. But as we approach the 21st century, we need to do more. If we are serious about putting parents to work and protecting children, we must invest more in child care help for families.

Our youngest and most vulnerable citizens, our children, deserve better from us. I urge my colleagues to join Senators DODD, KENNEDY, MURRAY, KERRY, CORZINE, and me in this endeavor to improve the quality of child care by cosponsoring the Child Care Quality Incentive Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Child Care Quality Incentive Act of 2001''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Recent research on early brain development reveals that much of a child's growth is determined by early learning and nurturing care. Research also shows that quality early care and education leads to increased cognitive abilities, positive classroom learning behavior, increased likelihood of long-term school success, and greater

likelihood of long-term economic and social self-sufficiency.

(2) Each day an estimated 13,000,000 children, including 6,000,000 infants and toddlers, spend some part of their day in child care. However, a study in 4 States found that only 1 in 7 child care centers provide care that promotes healthy development, while 1 in 8 child care centers provide care that threatens the safety and health of children.

(3) Full-day child care can cost $4,000 to $10,000 per year.

(4) Although Federal assistance is available for child care, funding is severely limited. Even with Federal subsidies, many families cannot afford child care. For families with young children and a monthly income under $1,200, the cost of child care typically consumes 25 percent of their income.

(5) Payment (or reimbursement) rates, which determine the maximum the State will reimburse a child care provider for the care of a child who receives a subsidy, are too low to ensure that quality care is accessible to all families.

(6) Low payment rates directly affect the kind of care children get and whether families can find quality child care in their communities. In many instances, low payment rates force child care providers to cut corners in ways that lower the quality of care for children, including reducing number of staff, eliminating staff training opportunities, and cutting enriching educational activities and services.

(7) Children in low quality child care are more likely to have delayed reading and language skills, and display more aggression toward other children and adults.

(8) Increased payment rates lead to higher quality child care as child care providers are able to attract and retain qualified staff, provide salary increases and professional training, maintain a safe and healthy environment, and purchase basic supplies and developmentally appropriate educational materials.

(b) PURPOSE.—The purpose of this Act is to improve the quality of, and access to, child care by increasing child care payment rates.

SEC. 3. INCENTIVE GRANTS TO IMPROVE THE QUALITY OF CHILD CARE.

(a) FUNDING.—Section 658B of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended—

(1) by striking ''There'' and inserting the following:

''(a) AUTHORIZATION OF APPROPRIATIONS.—There'';

(2) in subsection (a), by inserting ''(other than section 658H)'' after ''this subchapter''; and

(3) by adding at the end the following:

''(b) APPROPRIATION OF FUNDS FOR GRANTS TO IMPROVE THE QUALITY OF CHILD CARE.—Out of any funds in the Treasury that are not otherwise appropriated, there are authorized to be appropriated and there are appropriated, $500,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year, for the purpose of making grants under section 658H.''.

(b) USE OF BLOCK GRANT FUNDS.—Section 658E(c)(3) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(3)) is amended—

(1) in subparagraph (B), by striking ''under this subchapter'' and inserting ''from funds appropriated under section 658B(a)''; and

(2) in subparagraph (D), by inserting ''(other than section 658H)'' after ''under this subchapter''.

(c) ESTABLISHMENT OF PROGRAM.—Section 658G(a) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858e(a)) is amended by inserting ''(other than section 658H)'' after ''this subchapter''.

(d) GRANTS TO IMPROVE THE QUALITY OF CHILD CARE.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is amended by inserting after section 658G the following:

''SEC. 658H. GRANTS TO IMPROVE THE QUALITY OF CHILD CARE.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary shall use the amount appropriated under section 658B(b) for a fiscal year to make grants to eligible States in accordance with this section.

''(2) ANNUAL PAYMENTS.—The Secretary shall make an annual payment for such a grant to each eligible State out of the allotment for that State determined under subsection (c).

''(b) ELIGIBLE STATES.—

''(1) IN GENERAL.—In this section, the term 'eligible State' means a State that—

''(A) has conducted a survey of the market rates for child care services in the State within the 2 years preceding the date of the submission of an application under paragraph (2); and

''(B) submits an application in accordance with paragraph (2).

''(2) APPLICATION.—

''(A) IN GENERAL.—To be eligible to receive a grant under this section, a State shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, in addition to the information required under subparagraph (B), as the Secretary may require.

''(B) INFORMATION REQUIRED.—Each application submitted for a grant under this section shall—

''(i) detail the methodology and results of the State market rates survey conducted pursuant to paragraph (1)(A);

''(ii) describe the State's plan to increase payment rates from the initial baseline determined under clause (i); and

''(iii) describe how the State will increase payment rates in accordance with the market survey results.

''(3) CONTINUING ELIGIBILITY REQUIREMENT.—The Secretary may make an annual payment under this section to an eligible State only if—

''(A) the Secretary determines that the State has made progress, through the activities assisted under this subchapter, in maintaining increased payment rates; and

''(B) at least once every 2 years, the State conducts an update of the survey described in paragraph (1)(A).

''(4) REQUIREMENT OF MATCHING FUNDS.—

''(A) IN GENERAL.—To be eligible to receive a grant under this section, the State shall agree to make available State contributions from State sources toward the costs of the activities to be carried out by a State pursuant to subsection (d) in an amount that is not less than 25 percent of such costs.

''(B) DETERMINATION OF STATE CONTRIBUTIONS.—State contributions shall be in cash. Amounts provided by the Federal Government may not be included in determining the amount of such State contributions.

''(c) ALLOTMENTS TO ELIGIBLE STATES.—The amount appropriated under section 658B(b) for a fiscal year shall be allotted among the eligible States in the same manner as amounts are allotted under section 658O(b).

''(d) USE OF FUNDS.—

''(1) PRIORITY USE.—An eligible State that receives a grant under this section shall use the funds received to significantly increase the payment rate for the provision of child care assistance in accordance with this subchapter up to the 100th percentile of the market rate survey described in subsection (b)(1)(A).

''(2) ADDITIONAL USES.—An eligible State that demonstrates to the Secretary that the State has achieved a payment rate of the 100th percentile of the market rate survey described in subsection (b)(1)(A) may use funds received under a grant made under this section for any other activity that the State demonstrates to the Secretary will enhance the quality of child care services provided in the State.

''(3) SUPPLEMENT NOT SUPPLANT.—Amounts paid to a State under this section shall be used to supplement and not supplant other Federal, State, or local funds provided to the State under this subchapter or any other provision of law.

''(e) EVALUATIONS AND REPORTS.—

''(1) STATE EVALUATIONS.—Each eligible State shall submit to the Secretary, at such time and in such form and manner as the Secretary may require, information regarding the State's efforts to increase payment rates and the impact increased rates are having on the quality of, and accessibility to, child care in the State.

''(2) REPORTS TO CONGRESS.—The Secretary shall submit biennial reports to Congress on the information described in paragraph (1). Such reports shall include data from the applications submitted under subsection (b)(2) as a baseline for determining the progress of each eligible State in maintaining increased payment rates.

''(f) PAYMENT RATE.—In this section, the term 'payment rate' means the rate of reimbursement to providers for subsidized child care.''.

(e) PAYMENTS.—Section 658J(a) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858h(a)) is amended by inserting ''from funds appropriated under section 658B(a)'' after ''section 658O''.

(f) ALLOTMENT.—Section 658O of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''this subchapter'' and inserting ''section 658B(a)''; and

(B) in paragraph (2), by striking ''section 658B'' and inserting ''section 658B(a)'';

(2) in subsection (b)(1), in the matter preceding subparagraph (A), by inserting ''each subsection of'' before ''section 658B''; and

(3) in subsection (e)—

(A) in paragraph (1), by striking ''the allotment under subsection (b)'' and inserting ''an allotment made under subsection (b)''; and

(B) in paragraph (3), by inserting ''corresponding'' before ''allotment''.

By Ms. SNOWE (for herself, Mrs. LINCOLN, Mr. MURKOWSKI, Mr. BREAUX, Mr. HUTCHINSON, Mr. MILLER, Mr. CRAIG, Ms. LANDRIEU, Mr. SMITH of Oregon, and Ms. COLLINS):

S. 1002. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the Reforestation Tax Credit Incentives Act of 2001, and I am pleased to be joined by Senators LINCOLN, MURKOWSKI, BREAUX, HUTCHINSON, MILLER, CRAIG, LANDRIEU, GORDON SMITH, and COLLINS.

The U.S. forest products industry is essential to the health of the U.S. economy. It employs approximately 1.5 million people, supports an annual payroll of $40.8 billion, and ranks among the top ten manufacturing employers in 46 States. This includes the State of Maine where 89.2 percent of the land is forested. Without fair tax laws, future

growth in the industry will occur overseas and more and more landowners will be forced to sell their land for some other higher economic value such as development. The loss of a healthy and strong forest products industry will have a long-term negative impact on both the economy and the environment.

The legislation I am introducing today partially restores the balance between corporate and private landowners in terms of capital gains tax treatment, reducing the capital gains paid on timber for individuals and corporations. The bill is also intended to encourage the reforestation of timberland, whether it has been harvested or previously cleared for other uses, such as agriculture.

Trees take a long time to grow, anywhere from 15 years to, more typically in Maine, 40 to 50 years. During these years, the grower faces huge risks from fire, pests, weather and inflation, all of which are uninsurable. This legislation helps to mitigate these risks by providing a sliding scale reduction in the amount of taxable gain based on the number of years the asset is held.

The bill would change the way that capital gains are calculated for timber by taking the amount of the gain and subtracting three percent for each year the timber was held. The reduction would be capped at 50 percent bringing the effective capital gains tax rate to 10 percent for non-corporate holdings and 17.5 percent for corporations.

Since 1944, the tax code has treated timber as a capital asset, making it eligible for the capital gains tax rate rather than the ordinary income tax rate. This recognized the long-term risk and inflationary gain in timber. In 1986, the capital gains tax was repealed for all taxpayers. The 1997 tax bill reinstituted the lower capital gains rate for individuals, but not for businesses. As a result, individuals face a maximum capital gains rate of 20 percent, while businesses face a maximum rate of 35 percent for the identical asset.

As this difference in rates implies, private timberland owners receive far more favorable capital gains tax treatment than corporate owners. In addition, pension funds and other tax-exempt entities are also investing in timberland, which only further highlights the disparity that companies face.

Secondly, reforestation expenses are currently taxed at a higher rate in the U.S. than in any other major competitor country. The U.S. domestic forest products industry is already struggling to survive intense competition from the Southern Hemisphere where labor and fiber costs are extremely low, and recent investments from wealthier nations who have built state of the art pulp and papermaking facilities. While there is little Congress can do to change labor and fiber costs, Congress does have the ability to level the playing field when it comes to taxation.

This legislation encourages both individuals and companies to engage in increased reforestation by allowing all growers of timber to receive a tax credit. The legislation removes the current dollar limitation of the $10,000 amount of reforestation expenses that are eligible for the ten percent tax credit and that are allowed to be deducted, and decreases from 7 to 5 years the amortization period over which these expenses can be deducted.

Eligible reforestation expenses would be the initial expenses to establish a new stand of trees, such as site preparation, the cost of the seedlings, the labor costs required to plant the seedlings and to care for the trees in the first few years, as well as the cost of equipment used in reforestation.

The planting of trees should be encouraged rather than discouraged by our tax system as trees provide a tremendous benefit to the environment, preventing soil erosion, cleansing streams and waterways, providing habitat for numerous species, and absorbing carbon dioxide from the atmosphere, the major greenhouse gas causing climate change according to the majority of renowned international scientists.

Tax incentives for planting on private lands will also decrease pressure to obtain timber from ecologically sensitive public lands, allowing these public lands to be protected.

I ask my colleagues for their support for private landowners and for the U.S. forest products industry that is so important to the health of our economy.

By Mr. JEFFORDS (for himself and Mr. DODD):

S. 1003. A bill to ensure the safety of children placed in child care centers in Federal facilities, and for other purposes; to the Committee on Governmental Affairs.

By Mr. JEFFORDS (for himself and Mr. DODD):

S. 1004. A bill to provide for the construction and renovation of child care facilities; and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. JEFFORDS. Mr. President, there is a great need to improve child care in this country. America lags far behind all other industrialized nations in caring for and educating our pre-school aged children. We have the opportunity to make improvements, and we need to act now. I rise today, to introduce two small, but vitally important child care bills: the Child Care Construction and Renovation Act and the Federal Employees Child Care Act.

The Child Care Construction and Renovation Act is as much a small business assistance bill as it is a child care bill. Child care providers are small business owners. Almost every child care provider that I have talked with over the past few years wants the opportunity to expand their services, increase their skills, and improve their facilities. But the child care business is a financially unstable endeavor. Child care centers and home-based providers are finding it increasingly difficult to recruit and retain staff, to buy the supplies and equipment that will promote healthy child development, and even to keep their doors open.

The Shelburne Children's Center in Vermont closed a couple of years ago because it could not afford to stay open. Nearly forty percent of all family-based child care and ten percent of the center-based care close each year. Parents can only pay what they can afford, and far too often that is barely enough to keep a child care provider in business.

This legislation also creates financing mechanisms to support the renovation and construction of child care facilities. First, it amends the National Housing Act to provide mortgage insurance on new and rehabilitated child care facilities. It creates a revolving fund to help with the purchase or refinancing of existing child care facilities. Second, it provides funds for local, non-profit community development organizations to provide technical assistance and small grants to child care providers to help them improve and expand their center- or home-based child care facilities.

Without some government help, child care providers cannot expand their services to provide care for many families seeking affordable, quality care for their children. They cannot upgrade their equipment or make improvements to better ensure the safety of children in their care. Just as the government provides funds and services to encourage the building and renovation of low-income housing, child care, with its low-profit potential needs a similar helping hand.

The second bill which I am introducing today is the Federal Employees Child Care Act. The Federal Government is the largest American provider or employer-sponsored, on-site child care. Congress has acted affirmatively with an extensive commitment to on-site child care for its employees. The General Services Administration, (GSA), has developed considerable expertise in helping agencies start and maintain quality child care services for the children of Federal employees.

However, there are some problems which we, as an employer, need to address. As you know, federal property is exempt from state and local laws, regulations, and oversight. What this means for child care centers located on that property is that state and local health and safety standards do not and cannot apply. This might not be a problem if federally-owned or leased child care centers met enforceable health and safety standards. I think most parents who place their children in federal child care would assume that this would be the case. However, I think Federal employees will find it very surprising to learn, as I did, that, at many centers, no such health and safety apply.

I find this very troubling, and I think we sell our Federal employees a bill of

goods when federally-owed leased child care cannot guarantee that their children are in safe facilities. The Federal Government should set the example when it comes to providing safe child care. It should not turn an apathetic shoulder from meeting such standards simply because state and local regulations do not apply to them.

In 1987, Congress passed the ''Trible amendment'' which permitted executive, legislative, and judicial branch agencies to utilize a portion of federally-owned or leased space for the provision of child care services for federal employees. The General Services Administration, (GSA), was given the authority to provide guidance, assistance, and oversight to Federal agencies for the development of child care centers. In the decade since the Trible amendment was passed, hundreds of Federal facilities throughout the nation have established on-site child care centers which are a tremendous help to our employees.

The General Services Administration has done an excellent job of helping agencies develop child care centers and have adopted strong standards for those centers located in GSA leased or owned space. However, there are over 100 child care centers located in Federal facilities that are not subject to the GSA standards or any other laws, rules, or regulations to ensure that the facilities are safe places for our children. Most parents, placing their children in a federal child care center, assume that some standards are in place, assume that the centers must minimally meet state and local child care licensing rules and regulations. They assume that the centers are subject to independent oversight and monitoring to continually ensure the safety of the premises.

Yet, that is not the case. In a case where a Federal employee had strong reason to suspect the sexual abuse of her child by an employee of a child care center located in a Federal facility, local child protective services and law enforcement personnel were denied access to the premises and were prohibited from investigating the incident. Another employee's child was repeatedly injured because the child care providers under contract with a Federal agency to provide on-site child care services failed to ensure that age-appropriate health and safety measures were taken, current law says they were not required to do so, even after the problems were identified and injuries had occurred.

It is time to get our own house in order. We must safeguard and protect the children receiving services in child care centers housed in Federal facilities. Our employees should not be denied some assurance that the centers in which they place their children are accountable for meeting basic health and safety standards.

The Federal Employees Child Care Act will require all child care services located in Federal facilities to meet, at the very least, the same level of health and safety standards required of other child care centers in the same geographical area. That sounds like common sense, but as we all know too well, common sense is not always reflected in the law. This bill will make that clear.

Further, this legislation demands that Federal child care centers begin working to meet these standards now. Not next year, not in two years, but now. Under this bill, after six months we will look at the Federal child care centers again, and if a center is not meeting minimal state and local health and safety regulations at that time, that child care facility will be closed until it does. I can think of no stronger incentive to get centers to comply.

The legislation makes it clear that State and local standards should be a floor for basic health and safety, and not a ceiling. The role of the Federal Government, and, I like to think, of the United States Congress in particular—is to constantly strive to do better and to lead by example. Federal facilities should always try to meet the highest possible standards. In fact, the GSA has required national accreditation in GSA-owned and leased facilities, and has stated that almost all of its centers are either in compliance or are strenuously working to get there. This is the kind of tough standard we should strive for in all of our Federal child care facilities.

Federal child care should mean something more than simply location on a Federal facility. The Federal Government has an obligation to provide safe care for its employees, and it has a responsibility for making sure that those standards are monitored and enforced. Some Federal employees receive this guarantee. Many do not. We can do better.

I urge swift passage of these important child care bills and hope that my colleagues on both sides of the aisle will join me in this effort.

By Mr. JEFFORDS (for himself, Mr. STEVENS, Mr. KENNEDY, Mr. CLELAND, and Mr. DODD):

S. 1005. A bill to provide assistance to mobilize and support United States communities in carrying out community-based youth development programs that assure that all youth have access to programs and services that build the competencies and character development needed to fully prepare the youth to become adults and effective citizens, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. JEFFORDS. Mr. President, today I join with Senators STEVENS, KENNEDY, CLELAND, and DODD to introduce the Younger American's Act. We launched this effort at the end of the last Congress, with the help of General Colin Powell. This legislation embraces the belief that youth are our Nation's most important responsibility and that their needs must be moved to a higher priority on our Nation's agenda.

It is not enough that government responds to youth when they get into trouble with drugs, teen pregnancy, and violence. We need to strengthen the positive rather than simply respond to the negative. Positive youth development, the framework for the Younger American's Act, is not just about preventing bad things from happening, but giving a nudge to help good things happen. And we know that it works.

Evaluations of Big Brothers/Big Sisters, Boys and Girls Clubs, mentoring, and other youth development programs have consistently demonstrated how well these programs work. These programs lead to significant increases in parental involvement, youth participation in constructive education, social and recreation activities, enrollment in post-secondary education, and community involvement. Just as important, youth actively participating in youth development programs show decreased rates of school failure and absenteeism, teen pregnancy, delinquency, substance abuse, and violent behavior.

We also know that risk taking behavior increases with age. One-third of the high school juniors and seniors participate in two or more health risk behaviors. That is why it is important to build a youth development infrastructure that engages youth as they enter pre-adolescence and keeps them engaged throughout their teen years. The Younger American's Act is targeted to youth aged 10 to 19. This encompasses both the critical middle-school years, as well as the increasingly risky high school years.

The Younger American's Act is about creating a national policy on youth. Up until now, government has responded to kids after they have gotten into trouble. We must take a new tack. Instead of just treating problems, we have to promote healthy development. We have to remember that just because a kid stays out of trouble, it doesn't mean that he or she is ready to handle the responsibilities of adulthood. Kids want direction, they want close bonds with parents and other adult mentors. And I believe we owe them that. Ideally, this comes from strong families, but communities and government can help.

In order to keep kids engaged in positive activities, youth must be viewed as resources; as active participants in finding solutions to their own problems. Parents also must be part of those solutions. This legislation requires that youth and parents be part of the decision-making process.

The United States does not have a cohesive federal policy on youth. Creating an Office on National Youth Policy within the White House not only raises the priority of youth on the Federal agenda, but provides an opportunity to more effectively coordinate existing Federal youth programs to increase their impact on the lives of

young Americans. The efforts of the Office of National Youth Policy in advocating for the needs of youth, and the Department of Health and Human Services in implementing the Younger American's Act will be helped by the Council on National Youth Policy. This Council, comprised of youth, parents, experts in youth development, and representatives from the business community, will help ensure that this initiative continually responds to the changing needs of youth and their communities. It will bring a ''real world'' perspective to the Federal efforts.

The Younger American's Act provides communities with the funding necessary to adequately ensure that youth have access to five core resources: ongoing relationships with caring adults; safe places with structured activities in which to grow and learn; services that promote healthy lifestyles, including those designed to improve physical and mental health; opportunities to acquire marketable skills and competencies; and opportunities for community service and civic participation.

Block grant funds will be used to expand existing resources, create new ones where none existed before, overcome barriers to accessing those resources, and fill gaps to create a cohesive network for youth. The funds will be funneled through States, based on an allocation formula that equally weighs population and poverty measures, to communities where the primary decisions regarding the use of the funds will take place. Thirty percent of the local funds are set aside to address the needs of youth who are particularly vulnerable, such as those who are in out-of-home placements, abused or neglected, living in high poverty areas, or living in rural areas where there are usually fewer resources. Dividing the State into regions, or ''planning and mobilization areas,'' ensures that funds will be equitably distributed throughout a State. Empowering community boards, comprised of youth, parents, and other members of the community, to supervise decisions regarding the use of the block grant funds ensures that the programs, services, and activities supported by the Act will be responsive to local needs.

Accountability is integral to any effective Federal program. The Younger American's Act provides the Department of Health and Human Services with the responsibility and funding to conduct research and evaluate the effectiveness of funded initiatives. States and the Department are charged with monitoring the use of funds by grantees, and empowered to withhold or reduce funds if problems arise.

The Younger American's Act will help kids gain the skills and experience they need to successfully navigate the rough waters of adolescence. My twenty-first century community learning centers initiative supports the efforts of schools to operate after school programs that emphasize academic enrichment. It's time to get the rest of the community involved. It's time to give the same level of support to the thousands of youth development and youth-serving organizations that struggle to keep their doors open every day.

I remember a young man, Brad Luck, who testified before the H.E.L.P. Committee several years ago. As a 14-year-old, Brad embarked on a two-year mission to open a teen center in his home town of Essex Junction, Vermont. He formed a student board of directors, sought 501(c)(3) status and gave over 25 community presentations to convince the town to back the program. Demonstrating the tenacity of youth, he then spear-headed a successful drive to raise $30,000 in 30 days to fund the start-up of the center. Today, the center is thriving in its town-donated space. This is an example of the type of community asset building supported by the Younger American's Act.

The Younger American's Act is about an investment in our youth, our communities, and our future. I want to thank America's Promise, the United Way, and the National Collaboration for Youth for their work in providing the original framework for the legislation. I am proud and excited to be part of this important initiative.

Mr. KENNEDY. Mr. President, I commend Senator JEFFORDS for his leadership on this important legislation and it is a privilege to join him as a cosponsor on this legislation. I also commend the thirty-four youth organizations that comprise the National Collaboration for Youth and the more than 200 young people who have worked on this bill. They have been skillful and tireless in their efforts to focus on the need for a positive national strategy for youth.

Our goal in introducing the The Younger Americans Act is to establish a national policy for youth which focuses on young people, not as problems, but as problem solvers. The Younger Americans Act is intended to create a local and nation-wide collaborative movement to provide programs that offer greater support for youth in the years of adolescence. This bill, modeled on the very successful Older Americans Act of 1965, will help youths between the ages of 10 and 19. It will provide assistance to communities for youths development programs that assure that all youth have access to the skills and character development needed to become good citizens.

In other successful bipartisan measures over the years, such as Head Start, child care, and the 21st century learning communities, we have created a support system for parents of preschool and younger school-age children. These programs reduce the risk that children will grow up to become juvenile delinquents by giving them a healthy and safe start. It's time to do the same thing for adolescents.

Americans overwhelmingly believe that government should invest in initiatives like this. Many studies detail the effectiveness of youth development programs. Beginning with the Carnegie Corporation Report in 1992, ''A Matter of Time—Risk and Opportunity in the Nonschool Hours,'' a series of studies have shown repeatedly that youth development programs at the community level produce powerful and positive results.

In his report this last March, ''Community Counts: How Youth Organizations Matter for Youth Development,'' Milbrey McLaughlin, professor of education at Stanford University, calls for communities to rethink how they design and deliver services for youths, particularly during non-school hours. The report confirms that community involvement is essential in creating and supporting effective programs that meet the needs of today's youth.

Effective community-based youth development programs build on five core resources that all youths need to be successful. These same core resources are the basis for the Younger Americans Act. Youths need ongoing relationships with caring adults, safe places with structured activities, access to services that promote healthy lifestyles, opportunities to acquire marketable skills, and opportunities for community service and community participation.

The Younger Americans Act will establish a way for communities to give thought and planning on the issues at the local level, and to involve both youths and parents in the process. The Act will provide $5.75 billion over the next five years for communities to conduct youth development programs that recognize the primary role of the family, promote the involvement of youth, coordinate services in the community, and eliminate barriers which prevent youth from obtaining the guidance and support they need to become successful adults. The Act also creates an Office on National Youth Policy and a Council on National Youth Policy which includes youth and ensures their participation in finding solutions to their own problems.

Too often, the focus on youth has emphasized their problems, not their successes and their potential. This emphasis has sent a negative message to youth that needs to be reversed. We need to deal with negative behaviors, but we also need a broader strategy that provides a positive approach to youth. The Younger Americans Act will accomplish this goal in three ways, by focusing national attention on the strengths and contributions of youths, by providing funds to develop positive and cooperative youth development programs at the state and community levels, and by promoting the involvement of parents and youths in developing positive programs that strengthen families.

The time of adolescence is a complex transitional period of growth and change. We know what works. The challenge we face is to provide the resources to implement positive and

practical programs effectively without creating duplicate programs. It is important that we tie together all publicly funded existing youth development programs and build on their success. This bill complements other existing programs, like the Work Force Investment Program, in helping young people become productive members of society. Investing in youth in ways like that will pay enormous dividends for communities and our country. I urge all Members of Congress to join in supporting this important legislation.

Mr. CLELAND. Mr. President, I am very pleased to once again join Senator JEFFORDS as a cosponsor of the Younger Americans Act. The Senator from Vermont has done yeoman's work on this legislation, which seeks to offer the same kind of comprehensive and coordinated support to America's young people that the landmark 1965 Older Americans Act provides to our nation's seniors. By creating an Office of National Youth Policy in the White House, by authorizing over $5 billion over the next five years to help local community organizations provide needed services and supports to their youth, the Younger Americans Act forges a national youth policy which prioritizes the needs of our young people and helps to provide them with the critical resources they need to achieve their full potential and become contributing members of their communities.

The recently released 2001 KIDS COUNT Data Book, a State-by-State report on the conditions facing America's children, found that the well-being of our youth improved over the past decade on seven of ten key KIDS COUNT measures. The national rate of teen deaths by accident, homicide and suicide fell by a substantial 24 percent. The number of teens ages 16–19 who dropped out of high school declined from 10 percent in 1990 to 9 percent in 1998. And there has been a steady decline in the rate of teenage births, which fell by a significant 19 percent between 1990 and 1998.

On the other hand, the 2001 KIDS COUNT Data Book also reports that more than 16 million children have parents who, despite being employed full time, struggle from paycheck to paycheck. In addition, the report finds that the number of single parent households in this country is on the rise. In 1998, 27 percent of families with children were headed by a single parent, up from 24 percent in 1990—and every State but three experienced an increase.

According to the 2000 Census, there was a 14 percent increase in the number of children in America in the last decade—the largest increase in the number of children living in this country since the decade of the 1950s. This significant increase in the under-18 population will undoubtedly mean new challenges and new demands on ''our already struggling public education, child care, and family support systems,'' as Douglas Nelson, president of the Annie E. Casey Foundation which publishes the KIDS COUNT report, points out. The Younger Americans Act will help this nation meet these new demands by providing a framework which fosters the positive development of all our nation's youth. This is a strategy in marked contrast to previous government policies which respond to youngsters only after they have gotten into trouble. It is a significant fact that more than 200 young people took part in drafting the original legislation. As some of my colleagues have pointed out, these youngsters were telling us that it is time to redirect our focus on what is right with our young people, not what is wrong.

The Younger Americans Act will support community-based efforts that provide young people access to five core resources: ongoing relationships with caring adults; safe places with structured activities; services that promote healthy lifestyles; opportunities to acquire marketable skills; and opportunities for community service and civic participation. Such a positive support system ideally comes from strong families, but communities and government can play a part. The successful Head Start and 21st Century Community Leaning Centers programs have provided support systems for parents of America's younger children. The Younger Americans Act will provide support structure for our adolescents during the vulnerable years between ages 10 and 19. It stresses the pivotal role of the family and emphasizes the critical importance of parental involvement.

James Agee once said: ''As in every child who is born, under no matter what circumstances and of no matter what parents, the potentiality of the human race is born again.'' The Younger Americans Act recognizes and affirms that an investment in our children is an investment in America's future.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 47—RECOGNIZING THE INTERNATIONAL OLYMPIC COMMITTEE FOR ITS WORK TO BRING ABOUT UNDERSTANDING OF INDIVIDUALS AND DIFFERENT CULTURES, FOR ITS FOCUS ON PROTECTING THE CIVIL RIGHTS OF ITS PARTICIPANTS, FOR ITS RULES OF INTOLERANCE AGAINST DISCRIMINATORY ACTS, AND FOR ITS GOAL OF PROMOTING WORLD PEACE THROUGH SPORTS

Mrs. MURRAY (for herself, Mr. STEVENS, Mrs. FEINSTEIN, and Mr. BREAUX) submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 47

Whereas the United States has been actively engaged as a member of the International Olympic Committee (in this resolution referred to as the ''IOC''), which was formed in 1894 to implement the goals of modern Olympism;

Whereas the Olympic Charter for the IOC contains fundamental principles of modern Olympism, including—

(1) ''Olympism is a philosophy of life, exalting and combining in a balanced whole the qualities of body, will and mind. Blending sport with culture and education, Olympism seeks to create a way of life based on the joy found in effort, the educational value of good example and respect for universal fundamental ethical principles'';

(2) ''The goal of Olympism is to place everywhere sport at the service of the harmonious development of man, with a view to encouraging the establishment of a peaceful society concerned with the preservation of human dignity.'';

(3) ''The goal of the Olympic Movement is to contribute to building a peaceful and better world by educating youth through sport practised without discrimination of any kind and in the Olympic spirit, which requires mutual understanding with a spirit of friendship, solidarity and fair play''; and

(4) ''The activity of the Olympic movement . . . reaches its peak with the bringing together of athletes of the world at the great sports festival, the Olympic Games'';

Whereas the IOC has adopted a Code of Ethics that recognizes the dignity of the individual as one of its primary guarantees;

Whereas to safeguard the dignity of participants, the IOC's rules require nondiscrimination on ''the basis of race, sex ethnic origin, religion, philosophical or political opinion, marital status or other grounds'';

Whereas the IOC's Code of Ethics specifically prohibits any ''practice constituting any form of physical or mental injury'' and ''all forms of harassment against participants, be it physical, mental, professional or sexual'';

Whereas an integral part of the IOC's Olympic Charter, Code of Ethics, and rules requires the following of strict guidelines in selecting a host city for an Olympic Games;

Whereas included in the IOC's rules are comprehensive and precise selection criteria and methods by which to assess a candidate's application;

Whereas the IOC's Evaluations Commission evaluates and compares, among the candidates, 11 different areas of site analysis, including government support and public opinion, critical infrastructure availability, finance, security, and experience;

Whereas the IOC has made environmental conservation the third pillar of Olympism, with the other pillars being sport and culture;

Whereas the IOC requires host cities to conduct an environmental impact statement, consult with environmental organizations, and implement an environmental action plan for the Olympic Games;

Whereas a primary goal of the IOC is world peace and understanding, and, in pursuit of the goal, the IOC strives to maintain a separation of sports from international politics;

Whereas the IOC's Olympic Charter, Code of Ethics, and rules consistently address the IOC's quest to separate politics and sports;

Whereas Rule 9 of the IOC's Olympic Charter states that ''the Olympic Games are competitions between athletes in individual or team events and not between countries'';

Whereas new members of the IOC take an oath upon membership that avers in part ''to comply with the Code of Ethics, to keep myself free from any political or commercial influence'';

Whereas the IOC's Code of Ethics states that ''the Olympic parties shall neither give nor accept instructions to vote or intervene in a given manner with the organs of the IOC'';

Whereas the IOC is involved in humanitarian affairs through its involvement with the United Nations High Commissioner for Refugees, the United Nations Development Programme, International Labour Organization, and the International Committee of the Red Cross; and

Whereas following the issuance of the Report of the Special Bid Oversight Commission, the ''Mitchell Commission'', both the United States Olympic Committee and the IOC ratified a number of reforms regarding the selection of Olympic Games host cities: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the IOC for the Committee's—

(A) work to bring about understanding of individuals and different cultures;

(B) focus on protecting the civil rights of its participants;

(C) rules of intolerance against discriminatory acts; and

(D) goal of promoting world peace through sports;

(2) encourages members of the IOC from the United States to abide by all rules of the IOC when considering and voting for host cities for future Olympic Games;

(3) recognizes that any government action designating a preference or displeasure with any Olympic Games candidate host city is inconsistent with the IOC's Olympic Charter, Code of Ethics, and rules; and

(4) endorses the concept of the Olympic Games being a competition between athletes in individual or team events and not between countries.

Mrs. MURRAY. Mr. President, I come to the floor today to submit a resolution in support of the Olympic Games, and in particular, in support of Olympic athletes.

The United States has a proud Olympic Games history. Thousands of Americans have represented our country at the Summer and Winter Games.

Numerous U.S. cities have hosted the Games. And cities all across our country hope to host the Olympic Games in the future just as Salt Lake City will host the Winter Games next year.

Let me share with my colleagues the story of one Olympian from my home state. Her name is Megan Quann.

Late last year, following the Sydney Summer Games, more than 1,000 people crowded the streets of Puyallup, Washington to see and to celebrate Megan Quann.

At the time, Megan was a 16-year-old junior at Emerald Ridge High School. She had just returned from Australia where she shocked the world by winning two Olympic Gold Medals in the swimming competition.

Megan's hometown was ecstatic. October 29 was officially declared ''Megan Quann'' day in Puyallup. She was honored through town in a parade that was led by local Cub Scouts, Brownies, and swimmers from a local club.

On that day, Megan's community erupted in pride in the accomplishments of a young athlete, a neighbor and a classmate.

It was a great day for Puyallup and for Washington state. Unfortunately, I was not there. But, like most of my constituents, I followed Megan at the Olympics, and I cheered as she set a new American record in one of her events.

And like all Americans, I was so proud of her as she stood on the medal stand—awestruck in her achievement—as the national anthem of our country played in the background.

Mr. President, I don't think any of us ever tire of seeing an American athlete being recognized as an Olympic champion.

We can't help but be moved when we see one of our own standing there—often with tears in their eyes—and the American flag on display for the whole world to see.

The Olympic Games can be an enormously patriotic experience for the athletes and all of us who watch the competitions. But the Olympics aren't just about patriotism. They are also about bringing different people together to share in competition.

Many Americans know the story of the Lithuanian basketball team which was embraced by the world following the collapse of the Soviet Union.

And, of course, the Jamaican bobsled team is famous for its efforts to compete in the Winter Games.

Time and again, we have seen Olympic athletes support each other in competition. They give their support freely, without consideration for nationality, religion, politics, or sex.

That devotion to sport is at the heart of the Olympic Movement worldwide and that celebration of sport is one reason why more than a thousand of my constituents came out to celebrate Megan Quann's achievements at the Sydney Olympic Games.

I have come to the floor to introduce a resolution which will hopefully ensure that another athlete like Megan can dedicate her life to the Olympic dream without the fear of seeing that dream die at the hands of political interference from the U.S. or elsewhere.

In working on this issue, I have reached out to Olympians. I am proud that in my own State, there are more than 180 Olympians, including 46 who competed at the Sydney Summer Games.

Nationwide, there are some 8,000 living Olympians, I appreciate the willingness of Washington's Olympians to review this resolution and to share their input.

And I appreciate the many other Olympians who have shared their views on the issues now before the United States Congress.

It is abundantly clear to me that U.S. Olympians do not want the Congress to mix politics with sport.

Most Olympians do not want the Congress to introduce or consider any legislation regarding the Olympic Games.

I agree with them. I too wish the Congress would not inject itself into the Olympic Movement.

Unfortunately, U.S. politicians have once again decided to mix politics with the Olympics. We only need to look back a short 20 years to see the painful and costly results of politicizing the Olympics.

In 1980, a generation of young Olympians did not get to participate in the Moscow Games due to the U.S. boycott.

More than 5,000 athletes—including more than 1,000 Americans—did not get to participate in the 1980 Moscow Summer Olympic Games.

Approximately 25 athletes from Washington state were barred from the 1980 Moscow Summer Games.

We have received strong support from this group of very special athletes, and I want to mention a few today.

I particularly want to thank Caroline Holmes. Caroline was a 1968 Olympic Gymnast. She is now the Chapter President of the Washington State Olympic Alumni Association. She is a champion for Olympic athletes, and I very much appreciate her assistance.

Jan Harville was a 1980 Olympian. She was on the rowing team. Today, she's the women's crew coach at the University of Washington. She's still very active with her fellow 1980 Olympians.

Paul Enquist from Seattle was also a rower on the 1980 team. Paul was able to compete and win a gold medal in the 1984 Los Angeles Games.

Matt Dryke was a skeet shooter on the 1980 team. Matt also went on to compete in later Olympic Games. In 1984, he won a Gold Medal.

Wendy Boglioli and Camille Wright were two swimmers on the 1980 team. Wendy ended her Olympic career when the U.S. boycotted Moscow.

Here's what Wendy had to say when asked about once again mixing politics with the Olympic Games:

It would be wrong for the Congress to interfere in the Olympic site selection process. I was there in 1980.

I was one of 50 athletes invited to meet at the White House with President Carter regarding the Moscow Olympics.

I am still upset that athletes had no voice in the 1980 decision. Mixing politics with the Olympics will only hurt future athletes.

The 1980 Olympic Boycott was difficult for this country. Athletes sued the United States Olympic Community.

The Government threatened the U.S. Olympic Committee, and the President pressured other world leaders to join the U.S. led boycott.

Lost in the political squabble were U.S. athletes and for some, a lifetime of commitment and preparation.

The Soviets, as we know, boycotted the 1984 Los Angeles Games. And again, the athletes were the victims. Consider this fact: In the 1980 Moscow Games, the East German team won the women's 4 by 100 relay race with a time of 41.60 seconds.

At the 1984 Los Angeles Games, the US team won the same relay race with a time of 41.65 seconds. The U.S. and East German teams were within five one-hundredths of a second.

Knowing all of this, I wish these two great Olympic champion relay teams

could have competed against one another in Olympic competition. It is a sad part of our history that politicians kept this great race from happening in the Olympics.

With the benefit of history, we know that the Olympic boycotts were futile and ineffective attempts to settle cold war disputes.

I believe we should do absolutely all that we can to ensure this never happens again.

No one can foretell the future and what actions might be called for to protect our country's national interest, but we should never again lose sight of the interests of our athletes.

Unfortunately, Members of Congress are politicizing the Olympic Games. My resolution has one primary objective—to separate politics from sport and particularly from the Olympic Games. Simply put, I believe politics has no place in the dreams of future Olympians.

I want to thank Senator TED STEVENS for joining me in this effort. Senator STEVENS has a long history of involvement with the Olympic Movement.

I am not aware of another elected official in this country who has done more for U.S. athletes than Senator STEVENS. And I thank the Senator for once again standing up for the interests of U.S. athletes.

The Murray/Stevens resolution on the Olympics has a number of key provisions and clauses. However, I want to focus on three sections which represent the real intent of our bill.

First, our resolution encourages members of the International Olympic Committee to abide by all rules of the IOC when considering and voting for host cities for future Olympic Games.

Members of the IOC take an oath which requires individual members to keep free from political influence.

Our resolution calls upon the four members of the International Olympic Committee from the United States to reject all political influences on their work as members of the IOC, including their votes on host cities for future Olympic Games.

Second, our resolution recognizes that any government action designating a preference or displeasure with any Olympic Games host city is inconsistent with the IOC's Charter, Code of Ethics and rules.

Essentially, this provision says the IOC should not acknowledge or consider any political interference in the host city selection process for future Olympic Games.

And finally, our resolution says the Olympic Games are about the athletes, that we do endorse the concept that the Olympic Games are a competition between athletes in individual and team events and not between countries.

We believe the Olympic Games are best left to the athletes. It is that simple.

I encourage my colleagues to consider this issue carefully in the days ahead. And I invite all Senators to join me in seeking to reject political interference in the Olympic Movement.

I yield the floor.

AMENDMENTS SUBMITTED AND PROPOSED

SA 792. Mr. WARNER (for himself, Mr. SMITH of Oregon, and Mr. ALLARD) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table.

SA 793. Mr. REID (for Mr. HATCH (for himself and Mr. LEAHY)) proposed an amendment to the bill S. 487, to amend chapter 1 of title 17, United States Code, relating to the exemption of certain performances or displays for educational uses from copyright infringement provisions, to provide that the making of copies or phonorecords of such performances or displays is not an infringement under certain circumstances, and for other purposes.

SA 794. Mr. REID (for Mr. HATCH (for himself and Mr. LEAHY)) proposed an amendment to the bill S. 487, supra.

TEXT OF AMENDMENTS

SA 792. Mr. WARNER (for himself, Mr. SMITH of Oregon and Mr. ALLARD) submitted an amendment intended to be proposed by him to the bill S. 1, to extend programs and activities under the Elementary and Secondary Education Act of 1965, which was ordered to lie on the table, as follows:

At the end, add the following:

SEC. ___. RECIPIENTS OF FEDERAL PELL GRANTS WHO ARE PURSUING PROGRAMS OF STUDY IN MATHEMATICS OR SCIENCE (INCLUDING COMPUTER SCIENCE OR ENGINEERING).

Section 401(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(2)) is amended by adding at the end the following:

''(C)(i) Notwithstanding subparagraph (A) and subject to clause (ii), in the case of a student who is eligible under this part and who is pursuing a degree with a major or minor in, or a certificate or program of study relating to, mathematics or science (including computer science or engineering), the amount of the Federal Pell Grant shall be 150 percent of the amount specified in clauses (i) through (v) of subparagraph (A), for the academic year involved, less an amount equal to the amount determined to be the expected family contribution with respect to that student for that year.

''(ii) No student who received a Federal Pell Grant for academic year 2000-2001 prior to the date of enactment of the Better Education for Students and Teachers Act shall receive a subsequent Federal Pell Grant in an amount that is less than the amount of the student's Federal Pell Grant for academic year 2000-2001, due to the requirements of clause (i).''.

SA 793. Mr. REID (for Mr. HATCH (for himself and Mr. LEAHY)) proposed an amendment to the bill S. 487, to amend chapter 1 of title 17, United States Code, relating to the exemption of certain performances or displays for educational uses from copyright infringement provisions, to provide that the making of copies or phonorecords of such performances or displays is not an infringement under certain circumstances, and for other purposes; as follows:

On page 9, lines 14 and 15, strike '', in the ordinary course of their operations,'' and insert ''reasonably''.

SA 794. Mr. REID (for Mr. HATCH (for himself and Mr. LEAHY)) proposed an amendment to the bill S. 487, to amend chapter 1 of title 17, United States Code, relating to the exemption of certain performances or displays for educational uses from copyright infringement provisions, to provide that the making of copies or phonorecords of such performances or displays is not an infringement under certain circumstances, and for other purposes; as follows:

Amend the title so as to read: ''A bill to amend chapter 1 of title 17, United States Code, relating to the exemption of certain performances or displays for educational uses from copyright infringement provisions, to provide that the making of copies or phonorecords of such performances or displays is not an infringement under certain circumstances, and for other purposes.''.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, June 14, 2001, at 9:30 a.m., in room SD–106 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on potential problems in the gasoline markets this summer.

Those wishing to submit written statements should address them to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510–6150.

For further information, please contact Shirley Neff at (202) 224–4103.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON SEAPOWER

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, June 7, 2001, at 2:00 p.m., in open session to receive testimony regarding Navy and Marine Corps equipment for 21st century operational requirements, in review of the defense authorization request for fiscal year 2002 and the Future Years Defense Program.

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

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the President pro

tempore, upon the recommendation of the majority leader, pursuant to Public Law 105–292, as amended by Public Law 106–55, appoints the following individuals to the United States Commission on International Religious Freedom: Dr. Firuz Kazemzadeh of California, vice John Bolton; and Charles Richard Stith of Massachusetts, vice Theodore Cardinal McCarrick.

TECHNOLOGY, EDUCATION AND COPYRIGHT HARMONIZATION ACT OF 2001

Mr. REID. Madam President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 66, S. 487.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 487) to amend chapter 1 of title 17, United States Code, relating to the exemption of certain performances or displays for educational uses from copyright infringement provisions, to provide that the making of a single copy of such performances or displays is not an infringement, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which has been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the part printed in italic.

SECTION 1. EDUCATIONAL USE COPYRIGHT EXEMPTION.

(a) SHORT TITLE.—This Act may be cited as the ''Technology, Education, and Copyright Harmonization Act of 2001''.

(b) EXEMPTION OF CERTAIN PERFORMANCES AND DISPLAYS FOR EDUCATIONAL USES.—Section 110 of title 17, United States Code, is amended—

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

''(2) except with respect to a work produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks, or a performance or display that is given by means of a copy or phonorecord that is not lawfully made and acquired under this title, and the transmitting government body or accredited nonprofit educational institution knew or had reason to believe was not lawfully made and acquired, the performance of a nondramatic literary or musical work or reasonable and limited portions of any other work, or display of a work in an amount comparable to that which is typically displayed in the course of a live classroom session, by or in the course of a transmission, if—

''(A) the performance or display is made by, at the direction of, or under the actual supervision of an instructor as an integral part of a class session offered as a regular part of the systematic mediated instructional activities of a governmental body or an accredited nonprofit educational institution;

''(B) the performance or display is directly related and of material assistance to the teaching content of the transmission;

''(C) the transmission is made solely for, and, to the extent technologically feasible, the reception of such transmission is limited to—

''(i) students officially enrolled in the course for which the transmission is made; or

''(ii) officers or employees of governmental bodies as a part of their official duties or employment; and

''(D) the transmitting body or institution—

''(i) institutes policies regarding copyright, provides informational materials to faculty, students, and relevant staff members that accurately describe, and promote compliance with, the laws of the United States relating to copyright, and provides notice to students that materials used in connection with the course may be subject to copyright protection; and

''(ii) in the case of digital transmissions—

''(I) applies technological measures that, in the ordinary course of their operations, prevent—

''(aa) retention of the work in accessible form by recipients of the transmission from the transmitting body or institution for longer than the class session; and

''(bb) unauthorized further dissemination of the work in accessible form by such recipients to others; and

''(II) does not engage in conduct that could reasonably be expected to interfere with technological measures used by copyright owners to prevent such retention or unauthorized further dissemination;''; and

(2) by adding at the end the following:

''In paragraph (2), the term 'mediated instructional activities' with respect to the performance or display of a work by digital transmission under this section refers to activities that use such work as an integral part of the class experience, controlled by or under the actual supervision of the instructor and analogous to the type of performance or display that would take place in a live classroom setting. The term does not refer to activities that use, in 1 or more class sessions of a single course, such works as textbooks, course packs, or other material in any media, copies or phonorecords of which are typically purchased or acquired by the students in higher education for their independent use and retention or are typically purchased or acquired for elementary and secondary students for their possession and independent use.

''For purposes of paragraph (2), accreditation—

''(A) with respect to an institution providing post-secondary education, shall be as determined by a regional or national accrediting agency recognized by the Council on Higher Education Accreditation or the United States Department of Education; and

''(B) with respect to an institution providing elementary or secondary education, shall be as recognized by the applicable state certification or licensing procedures.

''For purposes of paragraph (2), no governmental body or accredited nonprofit educational institution shall be liable for infringement by reason of the transient or temporary storage of material carried out through the automatic technical process of a digital transmission of the performance or display of that material as authorized under paragraph (2). No such material stored on the system or network controlled or operated by the transmitting body or institution under this paragraph shall be maintained on such system or network in a manner ordinarily accessible to anyone other than anticipated recipients. No such copy shall be maintained on the system or network in a manner ordinarily accessible to such anticipated recipients for a longer period than is reasonably necessary to facilitate the transmissions for which it was made.''.

(c) EPHEMERAL RECORDINGS.—

(1) IN GENERAL.—Section 112 of title 17, United States Code, is amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following:

''(f)(1) Notwithstanding the provisions of section 106, and without limiting the application of subsection (b), it is not an infringement of copyright for a governmental body or other nonprofit educational institution entitled under section 110(2) to transmit a performance or display to make copies or phonorecords of a work that is in digital form and, solely to the extent permitted in paragraph (2), of a work that is in analog form, embodying the performance or display to be used for making transmissions authorized under section 110(2), if—

''(A) such copies or phonorecords are retained and used solely by the body or institution that made them, and no further copies or phonorecords are reproduced from them, except as authorized under section 110(2); and

''(B) such copies or phonorecords are used solely for transmissions authorized under section 110(2).

''(2) This subsection does not authorize the conversion of print or other analog versions of works into digital formats, except that such conversion is permitted hereunder, only with respect to the amount of such works authorized to be performed or displayed under section 110(2), if—

''(A) no digital version of the work is available to the institution; or

''(B) the digital version of the work that is available to the institution is subject to technological protection measures that prevent its use for section 110(2).''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 802(c) of title 17, United States Code, is amended in the third sentence by striking ''section 112(f)'' and inserting ''section 112(g)''.

(d) PATENT AND TRADEMARK OFFICE REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act and after a period for public comment, the Undersecretary of Commerce for Intellectual Property, after consultation with the Register of Copyrights, shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report describing technological protection systems that have been implemented, are available for implementation, or are proposed to be developed to protect digitized copyrighted works and prevent infringement, including upgradeable and self-repairing systems, and systems that have been developed, are being developed, or are proposed to be developed in private voluntary industry-led entities through an open broad based consensus process. The report submitted to the Committees shall not include any recommendations, comparisons, or comparative assessments of any commercially available products that may be mentioned in the report.

(2) LIMITATIONS.—The report under this subsection—

(A) is intended solely to provide information to Congress; and

(B) shall not be construed to affect in any way, either directly or by implication, any provision of title 17, United States Code, including the requirements of clause (ii) of section 110(2)(D) of that title (as added by this Act), or the interpretation or application of such provisions, including evaluation of the compliance with that clause by any governmental body or nonprofit educational institution.

Mr. LEAHY. Madam President. I am pleased that the Senate is considering the TEACH Act, S. 487, today. This legislation will help clarify the law and allow educators to use the same rich material in distance learning over the Internet that they are able to use in face-to-face classroom instruction. The Senate has been focused on education reform for the past two months. The legislation we report today reflects our understanding that we must be able to use new technologies to advance our education goals in a manner that recognizes and protects copyrighted works.

The genesis of this bill was in the Digital Millennium Copyright Act (DMCA), where we asked the Copyright Office to study the complex copyright

issues involved in distance education and to make recommendations to us for any legislative changes. The Copyright Office released its report in May, 1999, and made valuable suggestions on how modest changes in our copyright law could go a long way to foster the appropriate use of copyrighted works in valid distance learning activities. Senator HATCH and I then introduced the TEACH Act, S. 487, relying heavily on the legislative recommendations of that report.

Marybeth Peters, the Registrar of Copyrights, and her staff deserve our heartfelt thanks for that comprehensive study and their work on this legislation.

At the March 13, 2001, hearing on this legislation, we heard from people who both supported the legislation and had concerns about it. I appreciate that some copyright owners disagreed with the Copyright Office's conclusions and believed instead that current copyright laws are adequate to enable and foster legitimate distance learning activities. We have made efforts in refining the original legislation to address the valid concerns of both the copyright owners and the educational community. This has not been an easy process and I want to extend my thanks to all of those who worked hard and with us to craft the legislation reported by the Judiciary Committee and considered by the Senate today.

The growth of distance learning is exploding, largely because it is responsive to the needs of older, non-traditional students. The Copyright Office, ''CO,'' report noted two years ago that, by 2002, the number of students taking distance education courses will represent 15 percent of all higher education students. Moreover, the typical average distance learning student is 34 years old, employed full-time and has previous college credit. More than half are women. In increasing numbers, students in other countries are benefitting from educational opportunities here through U.S. distance education programs. (CO Report, at pp. 19–20).

In high schools, distance education makes advanced college placement and college equivalency courses available—a great opportunity for residents in our more-rural states. In colleges, distance education makes lifelong learning a practical reality.

Not only does distance education make it more convenient for many students to pursue an education, for students who have full- time work commitments, who live in rural areas or in foreign countries, who have difficulty obtaining child or elder care, or who have physical disabilities, distance education may be the only means for them to pursue an education. These are the people with busy schedules who need the flexibility that on-line programs offer: virtual classrooms accessible when the student is ready to logon.

In rural areas, distance education provides an opportunity for schools to offer courses that their students might otherwise not be able enjoy. It is therefore no surprise that in Vermont, and many other rural states, distance learning is a critical component of any quality educational and economic development system. The most recent Vermont Telecommunications Plan, which was published in 1999, identifies distance learning as being critical to Vermont's development. It also recommends that Vermont consider ''using its purchasing power to accelerate the introduction of new [distance learning] services in Vermont.'' Technology has empowered individuals in the most remote communities to have access to the knowledge and skills necessary to improve their education and ensure they are competitive for jobs in the 21st Century.

Several years ago, I was proud to work with the state in establishing the Vermont Interactive Television network. This constant two-way videoconferencing system can reach communities, schools and businesses in every corner of the state. Since we first successfully secured funds to build the backbone of the system, Vermont has constructed fourteen sites. The VIT system is currently running at full capacity and has demonstrated that in Vermont, technology highways are just as important as our transportation highways.

No one single technology should be the platform for distance learning. In Vermont, creative uses of available resources have put in place a distance learning system that employs T–1 lines in some areas and traditional internet modem hook-ups in others. Several years ago, the Grand Isle Supervisory Union received a grant from the U.S. Department of Agriculture to link all the schools within the district with fiber optic cable. There are not a lot of students in this Supervisory Union but there is a lot of land separating one school from another. The bandwidth created by the fiber optic cables has not only improved the educational opportunities in the four Grand Isle towns, but it has also provided a vital economic boost to the area's businesses.

While there are wonderful examples of the use of distance learning inside Vermont, the opportunities provided by these technologies are not limited to the borders of one state, or even one country. Champlain College, a small school in Burlington, Vermont has shown this is true when it adopted a strategic plan to provide distance learning for students throughout the world.. Under the leadership of President Roger Perry, Champlain College now has more students enrolled than any other college in Vermont. The campus in Vermont has not been overwhelmed with the increase. Instead, Champlain now teaches a large number of students overseas through its on-line curriculum. Similarly, Marlboro College in Marlboro, Vermont, offers innovative graduate programs designed for working professionals with classes that meet not only in person but also online.

The Internet, with its interactive, multi-media capabilities, has been a significant development for distance learning. By contrast to the traditional, passive approach of distance learning where a student located remotely from a classroom was able to watch a lecture being broadcast at a fixed time over the air, distance learners today can participate in real-time class discussions, or in simultaneous multimedia projects. The Copyright Office report confirmed what I have assumed for some time—that ''the computer is the most versatile of distance education instruments,'' not just in terms of flexible schedules, but also in terms of the material available.

More than 20 years ago, the Congress recognized the potential of broadcast and cable technology to supplement classroom teaching, and to bring the classroom to those who, because of their disabilities or other special circumstances, are unable to attend classes. We included in the present Copyright Act certain exemptions for distance learning, in addition to the general fair use exemption. The time has come to do more. The recent report of the Web-Based Education Commission, headed by former Senator Bob Kerrey, says:

> Current copyright law governing distance education . . . was based on broadcast models of telecourses for distance education. That law was not established with the virtual classroom in mind, nor does it resolve emerging issues of multimedia online, or provide a framework for permitting digital transmissions.

The Kerrey report concluded that our copyright laws were ''inappropriately restrictive.'' (p. 97).

Under current law, the performance or display of any work in the course of face-to-face instruction in a classroom is exempt from the exclusive rights of a copyright owner. In addition, the copyright law allows transmissions of certain performances or displays of copyrighted works but restricts such transmissions subject to the exemption to those sent to a classroom or a similar place which is normally devoted to instruction, to persons whose disabilities or other special circumstances prevent classroom attendance, or to government employees. While this exemption is technology neutral and does not limit exempt ''transmissions'' to distance learning broadcasts, the exemption does not authorize the reproduction or distribution of copyrighted works a limitation that has enormous implications for transmissions over computer networks. Digital transmissions over computer networks involve multiple acts of reproduction as a data packet is moved from one computer to another.

The TEACH Act makes three significant expansions in the distance learning exemption in the Copyright Act, while minimizing the additional risks

to copyright owners that are inherent in exploiting works in a digital format. First, the bill eliminates the current eligibility requirements for the distance learning exemption that the instruction occur in a physical classroom or that special circumstances prevent the attendance of students in the classroom. At the same time, the bill would maintain and clarify the requirement that the exemption is limited to use in mediated instructional activities of governmental bodies and accredited non-profit educational institutions.

Second, the bill clarifies that the distance learning exemption covers the transient or temporary copies that may occur through the automatic technical process of transmitting material over the Internet.

Third, the current distance learning exemption only permits the transmission of the performance of ''nondramatic literary or musical works,'' but does not allow the transmission of movies or videotapes, or the performance of plays. The Kerrey Commission report cited this limitation as an obstacle to distance learning in current copyright law and noted the following examples: A music instructor may play songs and other pieces of music in a classroom, but must seek permission from copyright holders in order to incorporate these works into an online version of the same class. A children's literature instructor may routinely display illustrations from childrens' books in the classroom, but must get licenses for each one for on online version of the course.

To alleviate this disparity, the TEACH Act would amend current law to allow educators to show reasonable and limited portions of dramatic literary and musical works, audiovisual works, and sound recordings, in addition to the complete versions of nondramatic literary and musical works which are currently exempted.

This legislation is a balanced proposal that expands the educational use exemption in the copyright law for distance learning, but also contains a number of safeguards for copyright owners. In particular, the bill excludes from the exemption those works that are produced primarily for instructional use, because for such works, unlike entertainment products or materials of a general educational nature, the exemption could significantly cut into primary markets, impairing incentives to create. Indeed, the Web-Based Education Commission urged the development of ''high quality online educational content that meets the highest standards of educational excellence.'' Copyright protection can help provide the incentive for the development of such content.

In addition, the bill requires that the government or educational institution using the exemption transmit copyrighted works that are lawfully made or acquired and use technological protection safeguards to protect against retention of the work and ensure that the dissemination of material covered under the exemption is limited only to the students who are intended to receive it.

Finally, the bill directs the Patent and Trademark Office to report to the Congress with a description of the various technological protection systems in use, available, or being developed to protect digitized copyrighted works and prevent infringement, including those being developed in private, voluntary, industry-led entities through an open broad based consensus process. The original version of this study proposed by Senator HATCH in an amendment filed to the Elementary and Secondary Education bill, S. 1, proved highly controversial.

I appreciate that copyright owners are frustrated at the pace at which technological measures are being developed and implemented to protect digital copyrighted works, particularly as high-speed Internet connections and broadband service becomes more readily available. At the same time, computer and software manufacturers and providers of Internet services are appropriately opposed to the government mandating use of a particular technological protection measure or setting the specification standards for such measures. Indeed, copyright owners are a diverse group, and some owners may want more flexibility and variety in the technical protection measures available for their works than would result if the government intervened too soon and mandated a particular standard or system. I am glad that with the constructive assistance of Senator CANTWELL and other members of the Judiciary Committee, we were able to include a version of the PTO study in the bill that is limited to providing information to the Congress.

Distance education is an important issue to both Senator Hatch and to me, and to the people of all of our States. This is a good bill and I urge the Congress to act promptly to see this legislation enacted.

Mr. HATCH. Madam President, I am pleased that we will pass out of the Senate today S. 487, the ''Technology Education and Copyright Harmonization Act'' or fittingly abbreviated as the ''TEACH Act,'' which updates the educational use provisions of the copyright law to account for advancements in digital transmission technologies that support distance learning.

But first I want to thank the Ranking Member for his work and partnership on this legislation. We have done it in a bipartisan, consensus-building manner. I would also like to thank the various representatives of the copyright owner and education communities who have worked so hard with us to achieve this consensus and move this legislation forward.

They have worked in the spirit of cooperation toward the shared goal of helping our students learn better through technology and the media. I would also like to thank the Register of Copyrights, and her staff at the Copyright Office, for their help and technical assistance. They have done an admirable job in helping us move forward the deployment of the Internet and digital transmissions systems in education.

Because of their hard work, I am confident we have an important education reform that can be sent to, and signed by, the President with broad, bipartisan support in the coming month.

Distance education, and the use of high technology tools such as the Internet in education, hold great promise for students in States like Utah, where distances can be great between students and learning opportunities. I think it is similarly important for any State that has students who seek broader learning opportunities than they can reach in their local area. Any education reforms moved in the Congress this year should include provisions that help deploy high technology tools, including the Internet, to give our students the very best educational experience we can offer. I believe this legislation is an important part of truly effective education reform that can open up new vistas to all our students, while potentially costing less in the long run to provide a full education experience.

By using these tools, students in remote areas of my home State of Utah are becoming able to link up to resources previously available only to those in cities or at prestigious educational institutions. Limited access to language instructors in remote areas or particle accelerators in most high schools limit access to educational opportunity. These limits can be overcome to a revolutionary degree by online offerings, which can combine sound, video, and interactivity in exciting new ways. And new experiences that transcend what is possible in the classroom, such as hypertexts linked directly to secondary sources, are possible only in the online world.

With the advent of the Internet and other communication technologies, classrooms need no longer be tied to a specific location or time. As exciting as distance education is, online education will only thrive if teachers and students have affordable and convenient access to the highest quality educational materials. The goal of the TEACH Act is to update the educational provisions of the copyright law for the 21st century, allowing students and teachers to benefit from deployment of advanced digital technologies.

Specifically, the TEACH Act amends sections 110(2) and 112 of the Copyright Act to facilitate the growth and development of digital distance learning. First, the legislation expands the scope of the section 110(2) exemption to apply to performances and displays of all categories of copyrighted works subject to reasonable limitations on the portion or amount of the work that can be

digitally transmitted. Thus, for example, the Act allows transmissions to locations other than the physical classroom, and includes audiovisual works, sound recordings and other works within the exemption. At the same time, the bill maintains and clarifies the concept of ''mediated instructional activities,'' which requires that the performance or display be analogous to the type of performance or display that would take place in a live classroom setting.

Moreover, of utmost significance to the copyright owners, the legislation adds new safeguards to counteract the risks posed by digital transmissions in an educational setting. For example, the bill imposes obligations to implement technological protection measures as well as certain limitations relating to accessibility and duration of transient copies. The Act also amends section 112 of the Copyright Act to permit storage of copyrighted material on servers in order to permit asynchronous use of material in distance education.

This legislation was reported unanimously by the Judiciary Committee, and we expect it will pass the full Senate unanimously, too. Today we will make two non-controversial changes to the legislation as passed by the Committee. First, Senator LEAHY and I have a technical amendment to the title of the bill, which corrects a nonsubstantive scrivener's error. Second, we are making a change in the legislative language regarding technological protection measures which makes our intention clearer by bringing the statutory language into closer conformity with our understanding of the provision. These changes are non-controversial and have the same support among the affected parties as the rest of the bill. For the information of my colleagues and those who may use the legislation, I am including a section by section analysis of the bill as amended following my comments, and asked that a copy of that section by section analysis and copies of the two amendments be published immediately following my remarks in the RECORD.

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

(See Exhibit 1).

Mr. HATCH. A few comments about the study we request from the Patent and Trademark Office included in this legislation. There was some controversy generated in some quarters over an earlier draft of the TEACH Act that directed the Undersecretary for Intellectual Property to provide the Judiciary Committee with information about technological protection measures for copyrighted works online. I must confess, I still do not entirely understand the precise objections to that formulation. One lobbyist, I believe from the Digital Media Association, was arguing that the study would lead to a rash of class action lawsuits. I have been trying to parse the language to see if this informational report might have also provided for attorneys fees. But, fortunately, such imaginative readings of the language are no longer necessary because we were able to come to some agreement late last night on language that will allow the Committee to receive useful information for our own use and for the information of our constituents without causing interest rates to increase or the Potomac to run backwards. In all seriousness, I thank those who worked with us late into the night to forge an agreement that allows us to move forward on this last issue as part of this consensus legislation. I believe we have a bill that will be good for students, teachers, copyright owners, and information technologists.

But I would like to explain some of the thinking that went into requesting that report. First of all, the report is not designed to be a first step toward the government regulating, mandating, or favoring types of technologies or products produced to protect copyrighted works online. Second, the legislative language makes clear that we do not seek a government comparison of various products that are commercially available. We do not seek such comparisons, and we do not want the government picking winners and losers among commercial products, nor in setting the standards that would govern the development of such products.

Instead, this request is made because technological protection will be increasingly important in preventing widespread, unlawful copying of copyrighted works generally, and the Committee wishes to know as much about its capabilities as possible, for ourselves and for our constitents. This information would be extremely valuable, for example, if the Committee determines in the future that it is appropriate to facilitate the standard-setting process or to encourage the implementation of such standards in devices so that creative works can be offered to the public in a secure environment. Encryption, watermarking, and digital rights management systems have been and continue to be developed to protect copyrighted works, but these are just a portion of the possibilities that exist in making the digital environment safe for the delivery of valuable copyrighted works. If, for instance, computers and other digital devices recognized and responded to technological protection measures, a significant portion of the infringing activity that harms copyright owners could be prevented, and the Internet could be a much safer environment for the valuable and quality works that consumers want to enjoy and copyright owners want to deliver online. Therefore, the Undersecretary should include in its study so-called ''bilateral'' systems that have been or could be developed that would allow technology embedded in copyrighted works to communicate with computers and other devices with regard to the level of protection required for that work, as well as unilateral protection systems. The Undersecretary should also provide us information on robust and reliable protection systems that could be renewed or upgraded after subjected to cyberhacking, as opposed to becoming useless or obsolete. Some have raised concerns that such a study would only provide a snapshot in time, or would be out of date by the time it is finished due to continual advances in technology. This may be correct. However, despite these possible limitations, the study will be extremely useful in establishing a baseline of knowledge for the Committee and our constituents with regard to what technology is or could be made available and how it is or could be implemented. Perhaps the information contained in this report could be updated by the Undersecretary to address evolving technologies in this area.

Overall, this legislation will make it easier for the teacher who connects with her students online to enhance the learning process by illustrating music appreciation principles with appropriately limited sound recordings or illustrate visual design or story-telling principles with appropriate movie clips. These wholly new interactive educational experiences, or more traditional ones now made available around the students' schedule, will be made more easily and more inexpensively by this legislation. Beyond the legislative safe harbor provided by this legislation, opportunities for students and lifetime learners of all kinds, in all kinds of locations, are limited only by the human imagination and the cooperative creativity of the creators and users of copyrighted works. The possibilities for everyone in the wired world are thrilling to contemplate.

I strongly believe that this legislation is necessary to foster and promote distance education while at the same time maintains a careful balance between copyright owners and users. Through the increasing influence of educational technologies, virtual classrooms are popping up all over the country and what we do not want to do is stand in the way of the development and advancement of innovative technologies that offer new and exciting educational opportunities. I think we all agree that digital distance should be fostered and utilized to the greatest extent possible to deliver instruction to students in ways that could have been possible a few years ago. We live at a point in time when we truly have an opportunity to help shape the future by influencing how technology is used in education so I hope my colleagues will join us in supporting this modest update of the copyright law that offers to make more readily available distance education in a digital environment to all of our students.

EXHIBIT 1.—SECTION-BY-SECTION ANALYSIS OF S. 487, THE TECHNOLOGY, EDUCATION, AND COPYRIGHT HARMONIZATION ACT

SUBSECTION (a): SHORT TITLE

This section provides that this Act may be cited as the ''Technology, Education and Copyright Harmonization Act of 2001.''

SUBSECTION (b): EXEMPTION OF CERTAIN PERFORMANCES AND DISPLAYS FOR EDUCATIONAL USES

Summary

Section 1(b) of the TEACH Act amends section 110(2) of the Copyright Act to encompass performances and displays of copyrighted works in digital distance education under appropriate circumstances. The section expands the scope of works to which the amended section 110(2) exemption applies to include performances of reasonable and limited portions of works other than nondramatic literary and musical works (which are currently covered by the exemption), while also limiting the amount of any work that may be displayed under the exemption to what is typically displayed in the course of a live classroom session. At the same time, section 1(b) removes the concept of the physical classroom, while maintaining and clarifying the requirement of mediated instructional activity and limiting the availability of the exemption to mediated instructional activities of governmental bodies and ''accredited'' non-profit educational institutions. This section of the Act also limits the amended exemption to exclude performances and displays given by means of a copy or phonorecord that is not lawfully made and acquired, which the transmitting body or institution knew or had reason to believe was not lawfully made and acquired. In addition, section 1(b) requires the transmitting institution to apply certain technological protection measures to protect against retention of the work and further downstream dissemination. The section also clarifies that participants in authorized digital distance education transmissions will not be liable for any infringement by reason of transient or temporary reproductions that may occur through the automatic technical process of a digital transmission for the purpose of a performance or display permitted under the section. Obviously, with respect to such reproductions, the distribution right would not be infringed. Throughout the Act, the term ''transmission'' is intended to include transmissions by digital, as well as analog means.

Works subject to the exemption and applicable portions

The TEACH Act expands the scope of the section 110(2) exemption to apply to performances and displays of all categories of copyrighted works, subject to specific exclusions for works ''produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks'' and performance or displays ''given by means of a copy or phonorecord that is not lawfully made and acquired,'' which the transmitting body or institution ''knew or had reason to believe was not lawfully made and acquired.''

Unlike the current section 110(2), which applies only to public performances of non-dramatic literary or musical works, the amendment would apply to public performances of any type of work, subject to certain exclusions set forth in section 110(2), as amended. The performance of works other than nondramatic literary or musical works is limited, however, to ''reasonable and limited portions'' of less than the entire work. What constitutes a ''reasonable and limited'' portion should take into account both the nature of the market for that type of work and the pedagogical purposes of the performance.

In addition, because ''display'' of certain types of works, such as literary works using an ''e-book'' reader, could substitute for traditional purchases of the work (e.g., a text book), the display exemption is limited to ''an amount comparable to that which is typically displayed in the course of a live classroom setting.'' This limitation is a further implementation of the ''mediated instructional activity'' concept described below, and recognizes that a ''display'' may have a different meaning and impact in the digital environment than in the analog environment to which section 110(2) has previously applied. The ''limited portion'' formulation used in conjunction with the performance right exemption is not used in connection with the display right exemption, because, for certain works, display of the entire work could be appropriate and consistent with displays typically made in a live classroom setting (e.g., short poems or essays, or images of pictorial, graphic, or sculptural works, etc.).

The exclusion for works ''produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks'' is intended to prevent the exemption from undermining the primary market for (and, therefore, impairing the incentive to create, modify or distribute) those materials whose primary market would otherwise fall within the scope of the exemption. The concept of ''performance or display as part of mediated instructional activities'' is discussed in greater detail below, in connection with the scope of the exemption. It is intended to have the same meaning and application here, so that works produced or marketed primarily for activities covered by the exemption would be excluded from the exemption. The exclusion is not intended to apply generally to all educational materials or to all materials having educational value. The exclusion is limited to materials whose primary market is ''mediated instructional activities,'' i.e., materials performed or displayed as an integral part of the class experience, analogous to the type of performance or display that would take place in a live classroom setting. At the same time, the reference to ''digital networks'' is intended to limit the exclusion to materials whose primary market is the digital network environment, not instructional materials developed and marketed for use in the physical classroom.

The exclusion of performances or displays ''given by means of a copy or phonorecord that is not lawfully made and acquired'' under Title 17 is based on a similar exclusion in the current language of section 110(1) for the performance or display of an audiovisual work in the classroom. Unlike the provision in section 110(1), the exclusion here applies to the performance or display of any work. But, as in section 110(1), the exclusion applies only where the transmitting body or institution ''knew or had reason to believe'' that the copy or phonorecord was not lawfully made and acquired. As noted in the Register's Report, the purpose of the exclusion is to reduce the likelihood that an exemption intended to cover only the equivalent of traditional concepts of performance and display would result in the proliferation or exploitation of unauthorized copies. An educator would typically purchase, license, rent, make a fair use copy, or otherwise lawfully acquire the copy to be used, and works not yet made available in the market (whether by distribution, performance or display) would, as a practical matter, be rendered ineligible for use under the exemption.

Eligible transmitting entities

As under the current section 110(2), the exemption, as amended, is limited to government bodies and non-profit educational institutions. However, due to the fact that, as the Register's Report points out, ''nonprofit educational institutions'' are no longer a closed and familiar group, and the ease with which anyone can transmit educational material over the Internet, the amendment would require non-profit educational institutions to be ''accredited'' in order to provide further assurances that the institution is a bona fide educational institution. It is not otherwise intended to alter the eligibility criteria. Nor is it intended to limit or affect any other provision of the Copyright Act that relates to non-profit educational institutions or to imply that non-accredited educational institutions are necessarily not bona fide.

''Accreditation'' is defined in section 1(b)(2) of the TEACH Act in terms of the qualification of the educational institution. It is not defined in terms of particular courses or programs. Thus, an accredited nonprofit educational institution qualifies for the exemption with respect to its courses whether or not the courses are part of a degree or certificate-granting program.

Qualifying performances and displays; mediated instructional activities

Subparagraph (2)(A) of the amended exemption provides that the exemption applies to a performance or display made ''by, at the direction of, or under the actual supervision of an instructor as an integral part of a class session offered as a regular part of . . . systematic mediated instructional activity.'' The subparagraph includes several requirements, all of which are intended to make clear that the transmission must be part of mediated instructional activity. First, the performance or display must be made by, under the direction of, or under the actual supervision of an instructor. The performance or display may be initiated by the instructor. It may also be initiated by a person enrolled in the class as long as it is done either at the direction, or under the actual supervision, of the instructor. ''Actual'' supervision is intended to require that the instructor is, in fact, supervising the class activities, and that supervision is not in name or theory only. It is not intended to require either constant, real-time supervision by the instructor or pre-approval by the instructor for the performance or display. Asynchronous learning, at the pace of the student, is a significant and beneficial characteristic of digital distance education, and the concept of control and supervision is not intended to limit the qualification of such asynchronous activities for this exemption.

The performance or display must also be made as an ''integral part'' of a class session, so it must be part of a class itself, rather than ancillary to it. Further, it must fall within the concept of ''mediated instructional activities'' as described in section 1(b)(2) of the TEACH Act. This latter concept is intended to require the performance or display to be analogous to the type of performance or display that would take place in a live classroom setting. Thus, although it is possible to display an entire textbook or extensive course-pack material through an e-book reader or similar device or computer application, this type of use of such materials as supplemental reading would not be analogous to the type of display that would take place in the classroom, and therefore would not be authorized under the exemption.

The amended exemption is not intended to address other uses of copyrighted works in the course of digital distance education, including student use of supplemental or research materials in digital form, such as electronic course packs, e-reserves, and digital library resources. Such activities do not

involve uses analogous to the performances and displays currently addressed in section 110(2).

The ''mediated instructional activity'' requirement is thus intended to prevent the exemption provided by the TEACH Act from displacing textbooks, course packs or other material in any media, copies or phonorecords of which are typically purchased or acquired by students for their independent use and retention (in most post-secondary and some elementary and secondary contexts). The Committee notes that in many secondary and elementary school contexts, such copies of such materials are not purchased or acquired directly by the students, but rather are provided for the students' independent use and possession (for the duration of the course) by the institution.

The limitation of the exemption to systematic ''mediated instructional activities'' in subparagraph (2)(A) of the amended exemption operates together with the exclusion in the opening clause of section 110(2) for works ''produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks'' to place boundaries on the exemption. The former relates to the nature of the exempt activity; the latter limits the relevant materials by excluding those primarily produced or marketed for the exempt activity.

One example of the interaction of the two provisions is the application of the exemption to textbooks. Pursuant to subparagraph (2)(A), which limits the exemption to ''mediated instructional activities,'' the display of material from a textbook that would typically be purchased by students in the local classroom environment, in lieu of purchase by the students, would not fall within the exemption. Conversely, because textbooks typically are not primarily produced or marketed for performance or display in a manner analogous to performances or display in the live classroom setting, they would not per se be excluded from the exemption under the exclusion in the opening clause. Thus, an instructor would not be precluded from using a chart or table or other short excerpt from a textbook different from the one assigned for the course, or from emphasizing such an excerpt from the assigned textbook that had been purchased by the students.

The requirement of subparagraph (2)(B), that the performance or display must be directly related and of material assistance to the teaching content of the transmission, is found in current law, and has been retained in its current form. As noted in the Register's Report, this test of relevance and materiality connects the copyrighted work to the curriculum, and it means that the portion performed or displayed may not be performed or displayed for the mere entertainment of the students, or as unrelated background material.

Limitations on receipt of transmissions

Unlike current section 110(2), the TEACH Act amendment removes the requirement that transmissions be received in classrooms or similar places devoted to instruction unless the recipient is an officer or employee of a governmental body or is prevented by disability or special circumstances from attending a classroom or similar place of instruction. One of the great potential benefits of digital distance education is its ability to reach beyond the physical classroom, to provide quality educational experiences to all students of all income levels, in cities and rural settings, in schools and on campuses, in the workplace, at home, and at times selected by students to meet their needs.

In its place, the Act substitutes the requirement in subparagraph (2)(C) that the transmission be made solely for, and to the extent technologically feasible, the reception is limited to students officially enrolled in the course for which the transmission is made or governmental employees as part of their official duties or employment. This requirement is not intended to impose a general requirement of network security. Rather, it is intended to require only that the students or employees authorized to be recipients of the transmission should be identified, and the transmission should be technologically limited to such identified authorized recipients through systems such as password access or other similar measures.

Additional safeguards to counteract new risks

The digital transmission of works to students poses greater risks to copyright owners than transmissions through analog broadcasts. Digital technologies make possible the creation of multiple copies, and their rapid and widespread dissemination around the world. Accordingly, the TEACH Act includes several safeguards not currently present in section 110(2).

First, a transmitting body or institution seeking to invoke the exemption is required to institute policies regarding copyright and to provide information to faculty, students and relevant staff members that accurately describe and promote compliance with copyright law. Further, the transmitting organization must provide notice to recipients that materials used in connection with the course may be subject to copyright protection. These requirements are intended to promote an environment of compliance with the law, inform recipients of their responsibilities under copyright law, and decrease the likelihood of unintentional and uninformed acts of infringement.

Second, in the case of a digital transmission, the transmitting body or institution is required to apply technological measures to prevent (i) retention of the work in accessible form by recipients to which it sends the work for longer than the class session, and (ii) unauthorized further dissemination of the work in accessible form by such recipients. Measures intended to limit access to authorized recipients of transmissions from the transmitting body or institution are not addressed in this subparagraph (2)(D). Rather, they are the subjects of subparagraph (2)(C).

The requirement that technological measures be applied to limit retention for no longer than the ''class session'' refers back to the requirement that the performance be made as an ''integral part of a class session.'' The duration of a ''class session'' in asynchronous distance education would generally be that period during which a student is logged on to the server of the institution or governmental body making the display or performance, but is likely to vary with the needs of the student and with the design of the particular course. It does not mean the duration of a particular course (i.e., a semester or term), but rather is intended to describe the equivalent of an actual single face-to-face mediated class session (although it may be asynchronous and one student may remain online or retain access to the performance or display for longer than another student as needed to complete the class session). Although flexibility is necessary to accomplish the pedagogical goals of distance education, the Committee expects that a common sense construction will be applied so that a copy or phonorecord displayed or performed in the course of a distance education program would not remain in the possession of the recipient in a way that could substitute for acquisition or for uses other than use in the particular class session. Conversely, the technological protection measure in subparagraph (2)(D)(ii) refers only to retention of a copy or phonorecord in the computer of the recipient of a transmission. The material to be performed or displayed may, under the amendments made by the Act to section 112 and with certain limitations set forth therein, remain on the server of the institution or government body for the duration of its use in one or more courses, and may be accessed by a student each time the student logs on to participate in the particular class session of the course in which the display or performance is made. The reference to ''accessible form'' recognizes that certain technological protection measures that could be used to comply with subparagraph (2)(D)(ii) do not cause the destruction or prevent the making of a digital file; rather they work by encrypting the work and limiting access to the keys and the period in which such file may be accessed. On the other hand, an encrypted file would still be considered to be in ''accessible form'' if the body or institution provides the recipient with a key for use beyond the class session.

Paragraph (2)(D)(ii) provides, as a condition of eligibility for the exemption, that a transmitting body or institution apply technological measures that reasonably prevent both retention of the work in accessible form for longer than the class session and further dissemination of the work. This requirement does not impose a duty to guarantee that retention and further dissemination will never occur. Nor does it imply that there is an obligation to monitor recipient conduct. Moreover, the ''reasonably prevent'' standard should not be construed to imply perfect efficacy in stopping retention or further dissemination. The obligation to ''reasonably prevent'' contemplates an objectively reasonable standard regarding the ability of a technological protection measure to achieve its purpose. Examples of technological protection measures that exist today and would reasonably prevent retention and further dissemination, include measures used in connection with streaming to prevent the copying of streamed material, such as the Real Player ''Secret Handshake/Copy Switch'' technology discussed *Real Networks* v. *Streambox*, 2000 WL 127311 (Jan. 18, 2000) or digital rights management systems that limit access to or use of encrypted material downloaded onto a computer. It is not the Committee's intent, by noting the existence of the foregoing, to specify the use of any particular technology to comply with subparagraph (2)(D)(ii). Other technologies will certainly evolve. Further, it is possible that, as time passes, a technological protection measure may cease to reasonably prevent retention of the work in accessible form for longer than the class session and further dissemination of the work, either due to the evolution of technology or to the widespread availability of a hack that can be readily used by the public. In those cases, a transmitting organization would be required to apply a different measure.

Nothing in section 110(2) should be construed to affect the application or interpretation of section 1201. Conversely, nothing in section 1201 should be construed to affect the application or interpretation of section 110(2).

Transient and temporary copies

Section 1(b)(2) of the TEACH Act implements the Register's recommendation that liability not be imposed upon those who participate in digitally transmitted performances and displays authorized under this subsection by reason of copies or phonorecords made through the automatic technical process of such transmission, or any distribution resulting therefrom. Certain modifications

have been made to the Register's recommendations to accommodate instances where the recommendation was either too broad or not sufficiently broad to cover the appropriate activities.

The third paragraph added to the amended exemption under section 1(b)(2) of the TEACH Act recognizes that transmitting organizations should not be responsible for copies or phonorecords made by third parties, beyond the control of the transmitting organization. However, consistent with the Register's concern that the exemption should not be transformed into a mechanism for obtaining copies, the paragraph also requires that such transient or temporary copies stored on the system or network controlled or operated by the transmitting body or institution shall not be maintained on such system or network ''in a manner ordinarily accessible to anyone other than anticipated recipients'' or ''in a manner ordinarily accessible to such anticipated recipients for a longer period than is reasonably necessary to facilitate the transmissions'' for which they are made.

The liability of intermediary service providers remains governed by section 512, but, subject to section 512(d) and section 512(e), section 512 will not affect the legal obligations of a transmitting body or institution when it selects material to be used in teaching a course, and determines how it will be used and to whom it will be transmitted as a provider of content.

The paragraph refers to ''transient'' and ''temporary'' copies consistent with the terminology used in section 512, including transient copies made in the transmission path by conduits and temporary copies, such as caches, made by the originating institution, by service providers or by recipients. Organizations providing digital distance education will, in many cases, provide material from source servers that create additional temporary or transient copies or phonorecords of the material in storage known as ''caches'' in other servers in order to facilitate the transmission. In addition, transient or temporary copies or phonorecords may occur in the transmission stream, or in the computer of the recipient of the transmission. Thus, by way of example, where content is protected by a digital rights management system, the recipient's browser may create a cache copy of an encrypted file on the recipient's hard disk, and another copy may be created in the recipient's random access memory at the time the content is perceived. The third paragraph added to the amended exemption by section 1(b)(2) of the TEACH Act is intended to make clear that those authorized to participate in digitally transmitted performances and displays as authorized under section 110(2) are not liable for infringement as a result of such copies created as part of the automatic technical process of the transmission if the requirements of that language are met. The paragraph is not intended to create any implication that such participants would be liable for copyright infringement in the absence of the paragraph.

SUBSECTION (C): EPHEMERAL RECORDINGS

One way in which digitally transmitted distance education will expand America's educational capacity and effectiveness is through the use of asynchronous education, where students can take a class when it is convenient for them, not at a specific hour designated by the body or institution. This benefit is likely to be particularly valuable for working adults. Asynchronous education also has the benefit of proceeding at the student's own pace, and freeing the instructor from the obligation to be in the classroom or on call at all hours of the day or night.

In order for asynchronous distance education to proceed, organizations providing distance education transmissions must be able to load material that will be displayed or performed on their servers, for transmission at the request of students. The TEACH Act's amendment to section 112 makes that possible.

Under new subsection 112(f)(1), transmitting organizations authorized to transmit performances or displays under section 110(2) may load on their servers copies or phonorecords of the performance or display authorized to be transmitted under section 110(2) to be used for making such transmissions. The subsection recognizes that it often is necessary to make more than one ephemeral recording in order to efficiently carry out digital transmissions, and authorizes the making of such copies or phonorecords.

Subsection 112(f) imposes several limitations on the authorized ephemeral recordings. First, they may be retained and used solely by the government body or educational institution that made them. No further copies or phonorecords may be made from them, except for copies or phonorecords that are authorized by subsection 110(2), such as the copies that fall within the scope of the third paragraph added to the amended exemption under section 1(b)(2) of the TEACH Act. The authorized ephemeral recordings must be used solely for transmissions authorized under section 110(2).

The Register's Report notes the sensitivity of copyright owners to the digitization of works that have not been digitized by the copyright owner. As a general matter, subsection 112(f) requires the use of works that are already in digital form. However, the Committee recognizes that some works may not be available for use in distance education, either because no digital version of the work is available to the institution, or because available digital versions are subject to technological protection measures that prevent their use for the performances and displays authorized by section 110(2). In those circumstances where no digital version is available to the institution or the digital version that is available is subject to technological measures that prevent its use for distance education under the exemption, section 112(f)(2) authorizes the conversion from an analog version, but only conversion of the portion or amount of such works that are authorized to be performed or displayed under section 110(2). It should be emphasized that subsection 112(f)(2) does not provide any authorization to convert print or other analog versions of works into digital format except as permitted in section 112(f)(2).

Relationship to fair use and contractual obligations

As the Register's Report makes clear ''critical to [its conclusion and recommendations] is the continued availability of the fair use doctrine.'' Nothing in this Act is intended to limit or otherwise to alter the scope of the fair use doctrine. As the Register's Report explains: ''Fair use is a critical part of the distance education landscape. Not only instructional performances and displays, but also other educational uses of works, such as the provision of supplementary materials or student downloading of course materials, will continue to be subject to the fair use doctrine. Fair use could apply as well to instructional transmissions not covered by the changes to section 110(2) recommended above. Thus, for example, the performance of more than a limited portion of a dramatic work in a distance education program might qualify as fair use in appropriate circumstances.''

The Register's Report also recommends that the legislative history of legislation implementing its distance education requirements make certain points about fair use. Specifically, this legislation is enacted in recognition of the following: (a) The fair use doctrine is technologically neutral and applies to activities in the digital environment; and (b) the lack of established guidelines for any particular type of use does not mean that fair use is inapplicable.

While the Register's Report also examined and discussed a variety of licensing issues with respect to educational uses not covered by exemptions or fair use, these issues were not included in the Report's legislative recommendations that formed the basis for the TEACH Act. It is the view of the Committee that nothing in this Act is intended to affect in any way the relationship between express copyright exemptions and license restrictions.

Nonapplicability to secure tests

The Committee is aware and deeply concerned about the phenomenon of school officials who are entrusted with copies of secure test forms solely for use in actual test administrations and using those forms for a completely unauthorized purpose, namely helping students to study the very questions they will be asked on the real test. The Committee does not in any way intend to change current law with respect to application of the Copyright Act or to undermine or lessen in any way the protection afforded to secure tests under the Copyright Act. Specifically, this section would not authorize a secure test acquired solely for use in an actual test administration to be used for any other purpose.

SUBSECTION (D): PTO REPORT

The report requested in subsection (d) requests information about technological protection systems to protect digitized copyrighted works and prevent infringement. The report is intended for the information of Congress and shall not be construed to have any effect whatsoever on the meaning, applicability, or effect of any provision of the Copyright Act in general or the TEACH Act in particular.

Mrs. FEINSTEIN. Madam President, today I rise in strong support of S. 487, the Technology, Education, and Copyright Harmonization, TEACH, Act. This Act expands the distance learning exemption in our copyright law, acknowledging that changes in technology sometimes require changes in the law. In making this change, the TEACH Act places new limits on the rights of copyright owners. These limits, however, are established in such a way that they will benefit non-profit educational institutions and their students, but hopefully without exposing copyrighted works to any further unauthorized use.

The drafters of the Constitution acknowledged the importance of creative works—and recognized the property rights of the creators of those works—in the very text of the Constitution itself. The Copyright Clause of the Constitution, in protecting the rights of American creators everywhere, has directly translated into the most innovative environment for the creation of creative works we've ever seen. This creativity benefits consumers and our economy as a whole.

Never in our history have we seen such a plethora of choices in books, movies, television, software, and music. One look at the statistics demonstrates the staggering importance

copyrighted works have to the well-being of not only my home state of California, but also the economy of the entire Nation.

It has been reported that the copyright industries are creating jobs at three times the rate of the rest of the economy. These industries have a surplus balance of trade with every single country in the world, and that last year they accounted for 5 percent of the U.S. Gross Domestic Product. Few other industries can boast of such a successful record, and the protection we grant to copyrighted works is directly responsible for that success.

The message is clear. Striking the appropriate balance in copyright protection is vital to maintaining consumer choice, and in maintaining this vibrant part of the American economy. Sufficient protection means the continue investment in the production of creative works, which results in greater choices for consumers.

Insufficient protection of copyrighted works, on the other hand, will negatively affect the ability and desire of creators and lawful distributors of such works to make the necessary investment of time, money and other resources to continue to create and offer quality works to the public.

That is why we must carefully consider any degradation of that protection, even when proposed limitations would benefit other important segments of our society, such as the educational community.

I believe that this legislation strikes the appropriate balance by allowing accredited, nonprofit educational institutions to make certain uses of copyrighted works, but requiring them to technologically protect those works to prevent unauthorized uses by others.

The application of appropriate technological protection to copyrighted works is increasingly important as we move from the analog to the digital world Technological protection will facilitate the availability of copyrighted works in high-quality, digital formats and in global, networked environments.

That is why the provisions of this legislation directing the Undersecretary of Commerce for Intellectual Property to look at what protective technologies are out there will be of great importance to this Committee in the near future as the online environment and the world of e-commerce develops.

Questions such as whether unilateral protection applied to works by copyright owners will provide a sufficiently secure environment or whether bilateral technologies—which invoke a ''handshake'' of sorts between the work and the machine used to access the work—should be examined more closely have yet to be answered.

This study should help us give us an invaluable resource with regard to renewable, ungradeable, and robust forms of protection that will allow valuable copyrighted works to move freely and securely through the digital environment.

AMENDMENT NO. 793

Mr. REID. Madam President, Senators HATCH and LEAHY have an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. HATCH, for himself and Mr. LEAHY, proposes an amendment numbered 793.

Mr. REID. 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:

(Purpose: To clarify the application of certain technological measures)

On page 9, lines 14 and 15 strike '', in the ordinary course of their operations,'' and insert ''reasonably''.

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

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

The amendment (No. 793) was agreed to.

Mr. REID. Madam President, I ask unanimous consent the committee substitute amendment, as amended, be agreed to, the bill be read a third time and passed, an amendment at the desk to the title be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 487), as amended, was read the third time and passed.

The amendment (No. 794) was agreed to, as follows:

(Purpose: To amend the title)

Amend the title so as to read: ''A bill to amend chapter 1 of title 17, United States Code, relating to the exemption of certain performances or displays for educational uses from copyright infringement provisions, to provide that the making of copies or phonorecords of such performances or displays is not an infringement under certain circumstances, and for other purposes.''.

MEASURES READ THE FIRST TIME—H.R. 503 AND H.R. 1885

Mr. REID. Madam President, I understand the following bills are at the desk: H.R. 503 and H.R. 1885. That being the case, I ask unanimous consent that the bills be considered as having been read the first time. Further, I ask unanimous consent that there be an objection to the requests for their second reading, en bloc.

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

Under the rule, the bills will be read for the second time on the next legislative day.

ORDERS FOR FRIDAY, JUNE 8, 2001

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 10:30 a.m., on Friday, June 8. I further ask consent that on Friday, immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

PROGRAM

Mr. REID. Madam President, as has been previously announced by our leader, Senator DASCHLE, there will be no rollcall votes on Friday. And as he has also previously stated, the next rollcall votes will occur on Monday at 5:15 p.m. I do say to everyone, again, within the sound of my voice that we did a pretty good job today of adhering to the 20-minute rule. We certainly did not adhere to it completely, but we were quite close. We are going to continue next week until people are in the habit of voting within 20 minutes.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. REID. Madam President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:57 p.m., adjourned until Friday, June 8, 2001, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 7, 2001:

DEPARTMENT OF DEFENSE

STEVEN JOHN MORELLO, SR., OF MICHIGAN, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE ARMY, VICE CHARLES A. BLANCHARD, RESIGNED.

WILLIAM A. NAVAS, JR., OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY, VICE CAROLYN H. BECRAFT.

DEPARTMENT OF THE TREASURY

SHEILA C. BAIR, OF KANSAS, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE GREGORY A. BAER, RESIGNED.

DEPARTMENT OF TRANSPORTATION

ELLEN G. ENGLEMAN, OF INDIANA, TO BE ADMINISTRATOR OF THE RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, VICE KELLEY S. COYNER, RESIGNED.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ALEX AZAR II, OF MARYLAND, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, VICE HARRIET S. RABB, RESIGNED.

DEPARTMENT OF STATE

CLARK T. RANDT, JR., OF CONNECTICUT, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE PEOPLE'S REPUBLIC OF CHINA.

C. DAVID WELCH, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER—COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ARAB REPUBLIC OF EGYPT.