United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

Vol. 147 WASHINGTON, THURSDAY, JUNE 14, 2001 *No. 83*

Senate

The Senate met at 9 a.m. and was called to order by the Honorable Bill Nelson, a Senator from the State of Florida.

PRAYER

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

Dear God, today, on Flag Day, we remember that memorable Flag Day, June 14, 1954, when President Dwight Eisenhower stood on the steps of the Capitol and recited the Pledge of Allegiance for the first time with the phrase, ''one Nation under God.'' We pray that we will not forget his words spoken on that historic day: ''In this way we are reaffirming the transcendence of religious faith in America's heritage and future; in this way we shall constantly strengthen those spiritual weapons which forever will be our country's most powerful resource in peace and war.''

Today, as we celebrate Flag Day, we repledge allegiance to our flag and recommit ourselves to the awesome responsibilities You have entrusted to us. May the flag that waves above this Capitol remind us that this is Your land.

Thank You, Lord, that our flag also gives us a bracing affirmation of the unique role of the Senate in our democracy. In each age, You have called truly great men and women to serve as Senators. May these contemporary patriots experience fresh strength and vision.

We are very grateful for the outstanding people You call to work as leaders of the Senate. Today we thank You for Sharon Zelaska and for her faithful and loyal service as Assistant Secretary of the Senate. As she retires, we praise You for her commitment to You and her patriotism to our Nation. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ROBERT G. TORRICELLI, a Senator from the State of New Jersey, 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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 14, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BILL NELSON, a Senator from the State of Florida, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. NELSON of Florida thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

SCHEDULE

Mr. REID. Mr. President, on behalf of Senator DASCHLE, the majority leader, I announce that there will be 1 hour of debate divided between Senator HARKIN and Senator SESSIONS. They worked on this amendment last night. Following their presentations, there will be two rollcall votes at approximately 5 after 10 this morning. At 12 noon, we will do morning business for 1 hour as outlined last night in the unanimous consent agreement. They expect the Helms amendment to be brought up immediately after the rollcall. That would be at approximately 11 o'clock. Votes will occur throughout the day. This bill will be completed today, tonight, or tomorrow. We are going to work until we complete this legislation. If we are able to complete the bill today, of course, there will be no rollcall votes tomorrow.

BETTER EDUCATION FOR STUDENTS AND TEACHERS ACT

The ACTING 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.

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.

Clinton further modified amendment No. 516 (to amendment No. 358), to provide for the conduct of a study concerning the health and learning impacts of dilapidated or environmentally unhealthy public school buildings on children and to establish the Healthy and High Performance Schools Program.

Sessions modified amendment No. 604 (to amendment No. 358), to amend the Individuals with Disabilities Education Act regarding discipline.

Harkin (for Kennedy/Harkin) amendment No. 802 (to amendment No. 358), to amend the Individuals with Disabilities Education Act regarding discipline.

AMENDMENTS NOS. 604 AND 802

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 60 minutes for remarks on the Sessions amendment No. 604 and the Harkin amendment No. 802.

Who seeks recognition?

The Senator from Alabama.

Mr. SESSIONS. Mr. President, is there any other agreement in terms of speaking between the votes? Are we going to speak and then vote? Will we just have an hour equally divided and then vote?

Mr. REID. That is true.

The ACTING PRESIDENT pro tempore. Mr. President, there will be 4 minutes of debate followed by a vote on or in relation to the Sessions amendment.

Mr. SESSIONS. On the second vote?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. SESSIONS. Thank you, Mr. President.

Mr. President, the issue we are dealing with today is a very important issue. I had no idea how significant teachers and principals and superintendents consider this issue. We have already in the course of this legislation approved a historic increase in funding for IDEA. That is going to help schools do a better job of providing specialized training for students with disabilities to a degree we have never seen before.

In fact, 10 or 15 years ago, when the IDEA matter was settled and made a part of Federal law, Congress agreed to pay 40 percent of the cost that would fall on the school system. That agreement was never honored. Congress never appropriated that 40 percent. In fact, we are closer to 10 percent, or even under 10 percent. Now I think we are around 15 or 20 percent of that commitment under the legislation that passed here. I hope we will be able to fund it. We voted to fully fund IDEA. It would be a large increase in funding for school systems.

But as I traveled my State, they expressed concern to me. I visited 20 schools in Alabama recently, and I talked to principals and teachers at each one of those schools. They tell me that funding is important. They would like more funding. Many of them know that Congress has not fulfilled that agreement. They told me. Their frustration just pours out over the Federal regulations that deal with children with disabilities.

This is the book that has the regulations in it with which they are required to comply. Lawyers, experts, testimony, and hearings occur on a regular basis. It is very difficult for teachers to be able to maintain discipline in their classrooms.

Anyone who has talked to teachers in recent years—and perhaps forever, but now I think it is more of a problem—knows they are not able to maintain the level of discipline in a classroom they would like. As a result, it makes it more difficult for them to reach the children in the classroom. It makes learning more difficult. We know that in certain nations in the world they have classroom sizes three times or four times what we have in the United States. Yet they are able to maintain discipline. We need to do a better job of maintaining discipline in the classroom. If you talk to teachers and principals, they will tell you that.

One of the greatest irritants to them is the regulation that comes out of this book. Teachers have left the profession based on it. They are incredibly frustrated. When you talk to them, their frustration pours out. They cite example after example of circumstances that you would think would not and could not happen but do happen in America. In fact, it does happen on a daily basis.

We have been thinking about how to improve this. How can we improve the ability of school systems to confront a difficult situation with compassion, with consistency in the classroom so that it is clear that no one child can rule the roost, that no one child can just take charge and know they can't be disciplined and actually utilize that power to disrupt the classroom?

We have talked with superintendents. We have talked to national leaders. We have talked to lawyers who handle these cases. We have proposed an amendment that is modest, that is less strong in some ways than others that have been adopted, but it will go a long way, if not all the way, in fixing this problem.

This is what happens: A disabled child who is misbehaving is treated in an entirely different way than a child who is not a disabled child. They have extraordinary protections that, in effect, make it difficult for discipline to even occur. Lawyers are involved in it to an extraordinary degree.

Let me read one letter from a special education coordinator who wrote about this problem. We tried to fix some of this in 1997 to improve it, but from what I am hearing in the field from the teachers, we made the situation worse, not better. This special education coordinator writes:

> The restrictions inherent in [the 1997] legislation have the potential to ''cripple'' a school system beyond repair. Although my job is to advocate for students with disabilities, I also feel a responsibility to protect the rights of all children to an appropriate education.

An elementary school principal writes:

> Today general educators at all grade levels must deal with a large number of these students who are a challenge to manage and instruct. Having to deal with these behaviors and/or to constantly change behavior interventions not only takes away important instructional time from other students, but inadvertently reinforces the disabled children's behavior. All class rules should apply to all students and therefore all students should share the same disciplinary action.

I have maybe 50 or 60 letters to that effect. Let me read a letter from one teacher who shared her thoughts on this subject:

> As a special educator for six years I consider myself ''on the front lines'' of the ongoing battles that take place on a daily basis in our nation's schools. I strongly believe that part of the ''ammunition'' that fuels these struggles are the ''rights'' guaranteed to certain individuals by IDEA '97.

Remember this is a special educator.

> The law, though well intentioned, has become one of the single greatest obstacles that educators face in our fight to provide all of our children with a quality education delivered in a safe environment. There are many examples that I can offer first hand. However, let me reiterate that I am a special educator. I have dedicated my life to helping children with special needs. It is my job to study and know the abilities and limitations of such children. I have a bachelor's degree in psychology, a masters degree in special education and a Ph.D. in good ole common sense. No where in my educational process have I been taught a certain few ''disabled'' students should have a ''right'' to endanger the right to an education of all other disabled and nondisabled children. It is nonsense. It is wrong. It is dangerous. It must be stopped. There is no telling how many instructional hours are lost by teachers in dealing with behavior problems. In times of an increasingly competitive global society, it is no wonder American students fall short. Certain children are allowed to remain in the classroom robbing other children of hours that can never be replaced. There is no need to extend the schoolday, no need to extend the school year. If politicians would just make it possible for educators to take back the time that is lost on a daily basis, to contain certain students, there is no doubt we would have better educated students. It is even more frustrating when it is a special education child who knows and boasts ''they can't do anything to me'' and he is placed back in the classroom to disrupt it day after day, week after week.

And she goes on.

There are many other letters. I thought I would share one from a student. I think it is particularly insightful into the problem with which we are dealing. We want to give every possible assistance to children with disabilities, but there are other children in the classroom also. We ought to think about them. Sometimes their very lives are at stake. Sometimes their safety is at stake. Sometimes their dignity is at stake.

This is what this 14-year-old writes. It was sent to me earlier this year:

> I am a 14 year old eighth grader. I have a problem. There is this girl that goes to school with me, she is an ADD student [disabled student]. She has been harassing me for no reason. She has pretty much done everything from breaking my glasses to telling me she is going to kill me. This really bothers me because she is an ADD student and the only punishment she ever gets is a slap on the hand. My principal says there is not much that he can do because of her status as a special ed kid. I asked what would happen if I threatened her back and he told me that I would be suspended from school and forced to stay away. The most she has ever gotten is three days ''in school'' suspension. I think this is wrong. She scares me and I am tired

of this. It has been going on for 5 months and it's really getting scary.

Unfortunately, that is not a rare event. Too often, that is what we are seeing today.

Our legislation is a realistic attempt to deal with it.

What it says is—and this is the core of it—if a child's misbehavior in the classroom is unconnected to the disability which they have, then they should be able to be disciplined like any other child in the classroom. We are not creating a permanent set of separate and unequal disciplinary actions in a classroom.

If a child has a disability and that disability is connected to their disruptive activity, then we, as a society, have decided we will not remove them from the classroom; that it is something they cannot control, perhaps, and that we will provide them some form of education, whether it is in that classroom or in an alternative setting.

But it is morally wrong and legally indefensible, in my view, to say that a child who has a mobility disability, who sells drugs in a class to other students, or who brings a gun to school—and that mobility disability has no connection whatsoever to the misconduct that they act out and do—they should not be protected and treated preferentially over the other students in the classroom.

Let me tell you what I have heard from teachers in my State. I have two different examples I will share. There are many. Two children in a car bring a gun to a school campus. They did not bring it in the classroom, but it was a clear violation of the rules. It required a suspension from the school. The nondisabled student is suspended from school. The disabled student is not suspended, or is suspended just for a few days, because they are treated separately.

Another example was told to me by teachers where one child sold marijuana to two other children on the school grounds. The seller was a disabled child. The purchasers or receivers were nondisabled children. Under the school rules, they were clearly in violation. The two who received the drugs were kicked out of school for a period of time. The one who sold the drugs was not. The teacher asked: How can we look those children in the eye? What kind of moral authority can we expect to have if we maintain discipline such as that? Isn't that wrong? It is mandated by Federal law, the IDEA regulations that are all over the country.

We want to help children with disabilities, but we do not want to create a circumstance that frustrates teachers, that undermines learning, and really does not help the child involved.

Over and over again, the letters I receive from teachers tell me they believe it is a bad learning process for a child to believe that they, in the classroom, can do things other children cannot. Then when they get out into the work world, they are treated like everybody else and end up having trouble on the job or with criminal activity.

It is a problem we can confront. This legislation says you are entitled to a hearing, but if the hearing finds that your bad activity was not directly connected to your disability, then you could be treated for disciplinary purposes like any other child in the classroom. That is only common sense. It surprises me that anyone would object to that.

Secondly, we found in the course of working on this matter that a number of parents are sacrificing to have their children take advantage of special schools. There is a great school, Talladega School for the Blind, in Alabama where a lot of children go. These are not inexpensive schools. Parents sacrifice to send their children there.

Under Federal law, the school system must give each disabled child as much assistance as they can based on their disability.

The PRESIDING OFFICER (Mr. TORRICELLI). The Senator's time has expired.

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

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

Mr. SESSIONS. Mr. President, this provision would say that if the school system believes an alternative school could help and if the parent agrees, if they both agree, they could take their daily allowance for funding for that student and allow the parent to apply to another school. I note that the House voted on a tougher bill than this just the other day by an overwhelming vote. The time has come to fix this problem.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise in opposition to the Sessions amendment. I hope our colleagues will consider the alternative Senator HARKIN has offered. Let me mention that briefly and then put this into some context.

The amendment Senator HARKIN and I are proposing ensures that students with disabilities will continue to receive services even if they are suspended or expelled. It retains the noncessation of services provision in current law.

It ensures that behavioral supports are available to children so they may continue to learn. We are agreeing with Senator SESSIONS that a uniform policy of discipline for students with or without disabilities is appropriate. Where we differ is in the ultimate outcome.

Our amendment continues the services while his amendment denies them. Our communities will be safer. Our children will become better citizens, if they have the full opportunity to learn. Conversely, expulsion from school with no alternatives will lead some children down a path where no one wants them to go. That is the alternative.

I remind our colleagues of the history of the IDEA and where we have come from in terms of discrimination against those with disabilities. We have made remarkable progress on the road to free our Nation from the stains of discrimination. Discrimination was written into the Constitution. We fought a Civil War. Then again in the late 1950s, primarily with the leadership of Dr. King, and then in the early 1960s, we were able to pass landmark legislation that helped, to the extent that laws could, free us from discrimination on the basis of race, religion, national origin, gender discrimination, and discrimination on the basis of disabilities. Hopefully, we are going to free ourselves from discrimination on sexual orientation as well. It has been a very difficult march. No place has it been more difficult than trying to free the 5 million children who 25 years ago were more often locked in closets, not participating in the educational process. We have moved beyond that; we have proudly gone beyond that.

We have seen slow but continuing progress. We saw it in 1974–1975, with the leadership at that time of President Ford. We made important progress. It was in response to Supreme Court decisions that recognized that when every State constitution guaranteed education to children, it didn't mean leaving out the disabled, leaving out the handicapped. The Supreme Court said we have a responsibility to provide for children who have certain mental and physical challenges. We have embraced that.

As we have seen through this debate, we have recognized that many communities are attempting to deal with this problem. Given the complexity and the challenges of those disabilities, it is costly for many small communities. I know this is true in every State. Members have talked about small communities that have children with severe disabilities and what the impact has been in terms of taxes in the communities.

What we stated a number of years ago—10 years ago—is that we were going to at least give the assurance that the Federal Government was going to provide 40 percent of the help for education. It still is a State requirement. Make no mistake about it. If we were not providing the funds, there is still the requirement under the State constitution, according to the Supreme Court. But we said we want to participate.

That is what this legislation is about in terms of its focus on needy children. We are saying that that is a particular challenge for our country, that the poorest children, locked in rural and urban areas, are a special cause of America. We are also saying those children who have disabilities are a special cause.

That is one of the most important parts of the bill, and I am going to do everything I possibly can to ensure that it comes back from conference

with the kinds of funding we have guaranteed in this legislation.

There has been slow progress in giving assurance to children that they are going to have an opportunity to get a decent education in our public schools.

This issue the Senator from Alabama has raised has been before the Senate on a number of occasions. The place to deal with it is when we do the reauthorization of the IDEA, which is going to occur next year. That is the appropriate place to deal with it. We haven't had the hearings. We haven't conducted the studies. We haven't had review. We have anecdotal evidence the Senator from Alabama has provided to us.

Let's take the General Accounting Office. I listened to the Senator from Alabama talk about various letters. You can get letters on school behavior from any school in the country. Public schools are still the safest place in America for children, and we know the number of incidents taking place in public schools generally in any event. You could get 1,000 letters from many cities on kids and their concerns about safety.

We have to do something about it. We are trying to do something about it. We have included that in the legislation. I will not spend the time in reviewing that at this moment, but we have taken many steps to ensure safer and better education in the community.

Let's look at student discipline. In January 2000, just 2 years ago, we adopted new disciplinary procedures for the public schools. Here is the GAO report:

> Nevertheless, responding principals generally regarded their overall special education discipline policy as having a positive or neutral effect on the level of safety and orderliness in their schools.

That is the GAO. That is not anecdotal. That is not coming here to the Chamber and reading four or five letters from students. That is what the General Accounting Office said. They are not advocating my position or the position of the Senator from Alabama. They are trying to give us the facts, and these are the facts. The facts are not the anecdotal message of the Senator from Alabama.

That is what is happening out there. Now, you can go through the study and you will find out that 27 percent of the principals report that a separate discipline policy for special education—20 percent reported that the disciplinary procedures for IDEA are burdensome and time consuming. I would like to do something about that, but we are not doing that here on the last 1-hour time distribution on the Elementary and Secondary Education Act. We ought to be able to do something on it.

I would like to get the best people here, the GAO people who wrote that report. I would like to hear their testimony and get their recommendations. I would like to help those schools.

But that isn't what this amendment is all about. That is not what this is all about. It is taking children who have, in these instances, a disciplinary problem—and note the words of art related to their particular disability. In fact, if you knock those children out, we know what happens. It is five or six times as likely that they will never come back to education once they lose that continuing education. Those are the statistics. We know what is going to happen. Those children are gone, out.

Now, this is a difficult challenge, but it is a challenge that I think most of us think is worth it. What we have seen, as the Senator from Iowa pointed out very eloquently last night, is the extraordinary road to progress when local communities and school districts attempt to deal with these issues, with extraordinary kinds of results, incredible kinds of reactions. I could spend the time, which I don't have here, reading letters that have been written by parents who say their children have learned how to love because they have a child in the class who has learning disabilities, and we know the problems they have. We have spent time working with those children and other children who come together. Do you want to throw those kids out? Do you want to throw them out because they have had a cigarette outside in the lobby which was not related to their disability? Throw them out? My goodness. If we are going to have to have a full debate, let's do it, but do it on the reauthorization. Let's not take the final hours here to throw them out of school. That is what this amendment does, make no mistake about it.

This is a basic major retreat, Mr. President, on the march of progress for disabled children. It is unworthy of this body, with the progress that we have made, to go backward. That is where this amendment takes us. We have a very solid alternative which is responsive to any of the continuing challenges. It has been offered by Senator HARKIN. Every Member can vote for it with pride and hold their head high. I give assurance to the Senator from Alabama, if he wants to do that next year, he can be our first witness on the reauthorization of IDEA. If he wants other people on the panel that sustain his position, we will welcome them, too.

Let's not effectively undermine the solid progress that we have made for children in this country over the period of the last 25 years. That is what the Sessions amendment does. We should reject it.

I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa.

Mr. HARKIN. Mr. President, parliamentary inquiry. How much time remains?

The PRESIDING OFFICER. The Senator has his own time, 15 minutes.

Mr. HARKIN. Mr. President, I want to associate myself fully with the statement just made by the chairman of our committee regarding the amendment I spoke on last night. I intend to speak a few more minutes this morning. First of all, sometimes good things happen, and we ought to take notice of them.

Apropos of this debate we are having about kids with disabilities in schools, there is an article that recently appeared in the Washington Post on June 10th. It is a great story of the success of the Individuals with Disabilities Education Act. It is headlined, ''Autistic Teen in DC School Goes to Head of Class.'' It talks about ''Lee Alderman, a shy 19-year-old with autism, who will become the first special education student in the district, and perhaps in the metropolitan area, to graduate as valedictorian of his public high school class.'' This kid with a disability had a lot of problems going through school. He had the support of IDEA.

Mr. President, I talk about that because in these debates we hear about discipline problems and all the things that are happening. We forget the hundreds of thousands of success stories that happen because of the Individuals with Disabilities Education Act, such as the one I just mentioned here with Lee Alderman. Yet we pick out a problem in this school or one in that school and we blame the kids with disabilities. I don't know why we continue to do that.

I have pointed out many times how I have looked at schools where they have discipline problems, and they get a new principal and institute procedures according to the Individuals with Disabilities Education Act, and their problems go away.

The easy thing is always to get a kid with a disability out of the classroom, segregate them. My principal objection to the Sessions amendment is that it results in segregation—we are going to once again turn the clock back to the days when we segregated kids with disabilities, when we took kids from their homes and their communities and sent them sometimes halfway across the State to live in an institution to go to a special school.

As I said last night, that is my personal story. My brother, who was deaf, was taken from his home, his community, his family, his friends, and sent halfway across the State to a boarding school for the deaf and the dumb, as they called it in those days. He was segregated from his family, his community, only because he was deaf. Mr. President, I don't want to go back to those days—back to the days when these kids were shuffled off to institutions.

That is why we passed the Individuals with Disabilities Education Act—to mainstream kids. That is why we passed the Americans with Disabilities Act—to say that it is wrong to discriminate against anybody, not just on the basis of race, sex, color, creed, national origin, but also disability. As a result of this, kids with disabilities have gone to school with their friends and their neighbors, kids they know

and with whom they associate. It has provided opportunities for these kids with disabilities. But more than that, it has provided the opportunities for kids without disabilities to be intimately associated in the classroom with kids who do have disabilities. I believe both have gained from this experience. I don't want to turn the clock back.

The Sessions amendment basically would allow that segregation—take the kid out and put him in some segregated setting, without the protections of current law.

Under IDEA, the law as it is presently constituted, can a child with a disability be segregated? The answer is yes. If that child is a safety risk to himself or herself, or to others. And, even if it is a manifestation of their disability, that child can be segregated, but only after a process in which the school has to show that they have provided adequate services for this kid.

Last night, I gave an example of a child in a classroom. They had a TV monitor. He was watching it. The kid was deaf and some of the educational materials were put on the television monitor. But there was no captioning on it. So this went on, I don't know how long—a couple of days. Then the kid started throwing things. Then he started punching the kid next to him and things like that. Well, they kicked him out of the class. But, because of IDEA, there was a process to find out why that child acted out. When they brought in an interpreter, they found out the kid was frustrated because he could not understand what was going on. He was not getting the proper services. Under the Sessions amendment, that would not happen. That kid could be taken out, if he done something like that, without the protections of current law and could be segregated from that classroom.

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

Mr. HARKIN. Just one minute. Yes, I will yield, but I may ask for more time if I yield. I would not mind getting into a discussion.

Mr. SESSIONS. I would not want the due process hearing to be eliminated. I don't intend to do that in the legislation. If there is any language there that does that, I will be glad to discuss it with the Senator. I do not believe it does.

Mr. HARKIN. Mr. President, if you look at my amendment, section 2, limitation, in general——

Mr. SESSIONS. The Senator's amendment or mine?

Mr. HARKIN. My amendment.

Mr. SESSIONS. The Senator said mine eliminated a due process hearing. I would like for him to say where it does that.

Mr. HARKIN. Right in ''(2) Limitation.—(A) In General.—'' where you say ''shall receive a free appropriate public education which may be provided in an alternative educational setting.'' My amendment adds the words ''pursuant to Sec 615K'' which does provide that. The Senator's amendment does not provide that. I ask him to look at that. That is not provided.

To me, that was the biggest problem. I have other problems with his amendment. That is the single biggest problem right there. I point that out.

Look at my amendment; I put in the words ''pursuant to Sec 615K.''

That is one big problem with this amendment. The second problem is the cessation of services, and this is equally as important, perhaps, as the segregation.

I agree with the Senator from Alabama; if a student with a disability violates a school rule and if that behavior is not related to his disability, that child should be disciplined in the same manner as any other child, and IDEA allows for that.

Under the Individuals with Disabilities Education Act, let's say a child with a disability is caught smoking in the parking lot and that is a violation of school rules but it is not a manifestation of that child's disability. That child can be disciplined just as any other child who was caught smoking in that parking lot. No ifs, ands, or buts about it.

Here is the point: They can be disciplined, but the educational services cannot be stopped. We continue the services to this child.

Here is the difference between the approach of the Senator from Alabama and mine. I do not believe educational services ought to be stopped for any child. Two years ago, we had the juvenile justice bill before the Senate. I offered an amendment at that time, which was adopted, which said that if a student with or without a disability was disciplined and was segregated or moved out of the school setting, educational services had to be continued.

Why is it that if we are going to expel a student, we are just going to throw them out on the street? We shift the problem to the streets when it may be a family problem or it could be a host of reasons why this young person is acting up.

The juvenile justice bill continued services for every child, not just kids with disabilities, but every child who was disciplined and removed from a school setting continued to receive educational services.

My approach was to expand the concept of IDEA to all students. The approach of my friend from Alabama is let's take away everything, all of the services, even from kids with disabilities. That is the difference in approach. If one believes that a kid with a disability who is caught smoking in the parking lot and is kicked out of school because that is the school policy ought to be thrown on the street and receive no educational support, no educational services, then that is what the Sessions amendment does. But if one thinks that child should continue to receive educational services, that is not contained in his amendment; he wipes that out. Under IDEA, as the law is constituted today, that child will continue to get services.

Two years ago when I offered this amendment on the juvenile justice bill, I had major police and law enforcement agencies of America supporting my amendment because they wanted to continue educational services to these kids.

Law enforcement and parents all agree that ceasing services is the wrong answer, and yet I point out to my friend from Alabama, under paragraph (C) of his amendment, all of these services are ceased. My amendment leaves the same language as the Senator from Alabama, except I say ''except as provided in 612(a)(1)'' which means they continue the services. They can still be kicked out of school, make no mistake about it. They can be kicked out, but educational and other services that a disabled child needs will continue.

I have lived with this now for most of my life. I have lived with IDEA for 26 years. It just seems as if every year we get some amendment that comes up to do something about kids with disabilities and discipline in school. Look, I do not mind, I say to my friend from Alabama, if he wants to do something about discipline in schools. I am sure there is something we can do about discipline in schools without encroaching on local control. But why focus on kids with disabilities? Why pick on the most vulnerable of our society? When we look at all of the school shootings from Columbine to Oregon to Pennsylvania, and I think there was one in Arkansas, not a one of those involved a child with a disability—not one. Yet every time we have something like that flare up, there is always an amendment that comes out that goes after kids with disabilities. It is not right. It is not fair.

We have been through this before. We have been through it time and time again. I repeat for emphasis' sake what the Senator from Massachusetts said. We had a GAO study done of this. I wanted to get a study done to find out whether or not kids in special education were getting special treatment in the schools. Here is what the GAO report said in January, and I quote:

> Special education students who are involved in serious misconduct are being disciplined in generally a similar manner to regular education students based on information that principals reported to us and our review of the limited extent research.

That means IDEA is not limiting the ability to discipline children with disabilities. Really, what the Sessions amendment does is, under the guise of discipline, it will allow schools to turn the clock back and segregate these kids again. It will allow us to turn the clock back and stop services to these kids.

As the Senator from Massachusetts said, we know a lot of times families with kids with disabilities are struggling. They do not have a lot of wherewithal. Kids get kicked out, they get

disciplined, families throw up their hands, the kids get thrown on the streets, and they never come back. They do not come back. We all know what happens then, and we know what happens to them after that. They wind up in our jails, in our prisons.

We have taken major steps in this country to integrate kids with disabilities.

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

Mr. HARKIN. I ask unanimous consent for 5 minutes.

Mr. SESSIONS. Objection. Five minutes is a bit much at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN. I ask unanimous consent for 3 more minutes.

Mr. SESSIONS. OK. Three on each side?

Mr. REID. Reserving the right to object, I think we should have 3 minutes for the opposition to this amendment also.

Mr. HARKIN. Sure, that is all right.

Mr. SESSIONS. Three minutes a side is fine.

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

Mr. HARKIN. Mr. President, as I was saying, we have come a long way, and we should not turn the clock back. On this very bill we are discussing, Senator HAGEL and I offered an amendment that fully funds the Individuals with Disabilities Education Act that we passed 26 years ago. That is in this bill. It is not an authorization; it is actually an appropriation in this bill, and it was adopted unanimously by the Senate by voice vote. That means school districts now will have more Federal funds coming in to help them provide the services these kids need.

Let's not resegregate these kids until we see the outcomes of full funding. We are now going to give the schools the support and the finances they need to make sure they get the appropriate services for these kids with disabilities.

The amendment I have pending in many ways is similar to the amendment of the Senator from Alabama, but it does not segregate and it does not stop services. It does allow schools to discipline kids with disabilities, it allows them to even kick them out, but it does not allow them to segregate or stop services to the kids with disabilities. I think that is a vital, important difference between these two amendments.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I will take managers' time.

The PRESIDING OFFICER. The Senator from Alabama was yielded 3 minutes.

Mr. SESSIONS. I will take that time.

Let me respond first to the distinguished Senator from Iowa. I know how deeply he cares about this issue. I understand his concerns. We are not trying to undertake anything that would be detrimental to children with disabilities.

I want him to understand clearly that under the example cited about a child who was frustrated because they could not hear the television—and some of those things happen—under this amendment I have presented, that child could not be removed without a manifest determination hearing, and if in any hearing that would occur it is clearly shown there was a connection between his disability and his behavior, he could not be denied school services.

That is the difference between our amendment and the one that passed the House a few weeks ago in May that does not provide for the hearing. Under the House bill that passed by 250 or 40-some-odd votes, they would be treated as any other child for disciplinary purposes.

Mr. GREGG. Will the Senator yield?

Mr. SESSIONS. I yield.

Mr. GREGG. I yield such time as I may have under this amendment to the Senator from Alabama.

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

Mr. SESSIONS. For example, it says for disciplinary purposes the children shall be treated equally.

''(2) LIMITATION.—

''(A) IN GENERAL.—A child with a disability who is removed from the child's regular educational placement under paragraph (1) shall receive a free appropriate public education which may be provided in an alternative educational setting if the behavior that led to the child's removal is a manifestation of the child's disability, as determined under subparagraphs (B) and (C) of subsection (k)(4).

''(B) MANIFESTATION DETERMINATION.—The manifestation determination shall be made immediately; if possible, but in no case later than 10 school days after school personnel decide to remove the child with a disability from the child's regular educational placement.

I wanted to get that straight. I know the Senator cares deeply about that.

Mr. HARKIN. Will the Senator yield?

Mr. SESSIONS. Yes.

Mr. HARKIN. I point out to the Senator, in all fairness, the paragraph just quoted leaves our ''pursuant to section 615(k)'' of the underlying bill which provides for that due process hearing. That is not in your amendment.

Mr. SESSIONS. Our amendment further says:

(A) REVIEW OF MANIFESTATION DETERMINATION.—If the parents or the local educational agency disagree with a manifestation determination under subsection (n)(2), the parents or the agency may request a review of that determination through the procedures described in subsections (f) through (i).

current law, and we provide for the hearing.

Mr. HARKIN. Later, after they are kicked out.

Mr. SESSIONS. The school gets to protect the students until it is complete, no later than 10 days. I think the school system ought to be given some deference. The principals and the teachers love children. They care about their school. They want to do the right thing. We have pounced on them.

Why does the disability act come up in the U.S. Congress? Because it is a Federal law that is controlling our teachers and principals. When they express concern to us, we should listen.

I am pleased to yield 7 minutes to the distinguished Senator from Virginia, Mr. ALLEN. He was a former Governor and was deeply involved in education.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 4 minutes 23 seconds; the Senator from Iowa has 1½ minutes; and the Senator from Alabama has 13 minutes 49 seconds.

Mr. KENNEDY. I am interested because I thought we had an hour evenly divided at 9 o'clock. I know we went to this a few minutes after 9.

The PRESIDING OFFICER. There was an additional 6 minutes added by unanimous consent.

Mr. KENNEDY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I rise in support of the Sessions amendment which would properly return the ability to the local schools and principals to establish and implement uniform discipline policies applicable to all children in our States and school districts.

I have been listening to a lot of comments back and forth. One of the reasons this issue comes back year after year after year is that it is an issue in local schools year after year after year and it becomes an issue in campaigns.

The issue is not whether or not we support IDEA or support education and helping those with disabilities. We clearly all agree with that. The issue is whether or not we are going to have a uniform standard of conduct applicable to all students within a public school system. That is the issue.

I was involved in this issue from the first month I came in as Governor of Virginia in 1994 where we had these problems with this Federal law. We took the Department of Education to court in Commonwealth of Virginia v. Riley. We went to the appellate court and prevailed. Then in 1997 our victory for maintaining order and discipline in our schools was taken away by the action of the House and the Senate.

I can promise the Senator from Iowa, the Senator from Massachusetts, and the Senator from Alabama that discipline or expulsion is not taken lightly in Alabama or Virginia—or I can't imagine in any school. To accuse our educators, our States, our school boards of wanting to unfairly discriminate against students with disabilities and shirking their responsibility by unfairly expelling them is unfounded and wrong.

It is not a question of a kid smoking a cigarette in the parking lot. The issues are students who set up cocaine rings, sell explosives that blow off a child's hand, or bloody another student with brass knuckles. If a child has an epileptic fit and breaks a teacher's

nose, that is usually a mitigating factor so a child will not be expelled.

Here are actual cases in Fairfax County, not too far from here, in public schools. A group of students brought in a loaded 357 magnum handgun. It was recovered in the school building. The non-special-education students were expelled. One student, however, was identified as learning disabled due to the student's weakness in written language skills. The team reviewed the evaluations and found there was no causal relationship between the student's writing disability and the student's involvement in the weapons violation. The student was not expelled. That student later bragged to teachers and students at the school that he could not be expelled.

In another recent case in Fairfax High School, a student was part of a gang that was involved in a mob assault on another student. One student involved in the melee used a meat hook as a weapon. Three of the gang members were expelled; the other two who were special ed students were not expelled and are still in the school.

These are the real situations where there is not an equal or fair administration of standards of conduct in the schools. I think we all care about good school conduct. We want small class sizes, good academics, good assessments, empowerment of parents, and all the rest. What also is important is a conducive learning environment.

We need to trust in and take care to allow the responsibilities for maintaining order and discipline in schools to be where they properly belong and not have a Federal law that really justifies a double standard on discipline for disabled and nondisabled students, despite our shared efforts to ensure equal treatment and inclusion into a mainstream system.

The Sessions amendment would return authority for all students back to the States and local schools where it belongs. It is for the parents, teachers, and community, not Washington, to know what is best for students. We want to provide students with a safe learning environment, but we do not need any illogical interference from the Federal Government.

I hope my colleagues will support the Sessions amendment. I thank Senator SESSIONS for his brave leadership on this issue. I ask Senators to stand by your local schoolteachers, stand by your principals, by providing fair and equal standards of conduct for all students, and please support the Sessions amendment.

I yield the remainder of my time.

Mr. KENNEDY. Mr. President, I am absolutely amazed and shocked at the comments of the Senator from Virginia, talking about drugs, guns, and bombs. Why didn't they call 911? They can be held and expelled. Now we are finding out what this is all about: Guns, drugs, and bombs in schools—that disabled children are doing it? Demonstrate it.

I give you the General Accounting Office report that says there is no such thing that is happening. This is not something we are proposing. This is a study on discipline and school behavior. If you can find the words ''guns, bombs, and drugs'' in here, go ahead and find them. It reaches entirely different conclusions.

Mr. ALLEN. Will the Senator yield?

Mr. KENNEDY. No, I don't yield. You talk about it, that it comes up in campaigns. You bet it does. And we have just heard it, we have just seen it. We just heard and understand the reasons.

If there is a problem, as the Senator from Alabama says, we don't find it in the General Accounting Office report. Anyone can get anecdotal information that there is a problem here and there in some schools. But that just doesn't happen. That is not the case. That is not what the General Accounting Office in its report of January of this year stated.

Mr. ALLEN. Will the Senator yield?

Mr. KENNEDY. If you have a different conclusion from that, present it. But just to say look, there are guns, bombs, and drugs, all these disabled children all over, disrupting, disrupting—we are used to that. We have heard that kind of presentation. That is not what this is about. These children have faced these challenges along the line. This is what the General Accounting Office report says.

Mr. ALLEN. Will the Senator yield?

Mr. KENNEDY. I have limited time, Senator. I was here last evening ready to debate it, and I was here earlier ready to debate it.

Mr. ALLEN addressed the Chair.

Mr. KENNEDY. I ask for order, Mr. President. Who has the floor?

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. KENNEDY. How much time do I have?

The PRESIDING OFFICER. The Senator has 2½ minutes.

Mr. KENNEDY. I yield myself 1½ minutes.

This is what it says:

> Special education students who are involved in serious misconduct are being disciplined in generally a similar manner to regular education students, based on the information principals reported to us and our review.
>
> [P]rincipals generally rated their school's special education discipline policies . . . as having a positive or neutral effect on the level on [school] safety and orderliness.

That is what this report, the General Accounting Office report, says:

> Based on our analysis of disciplinary actions and past research, regular education and special education . . . were treated in a similar manner.

There is the General Accounting Office report. We have, with 1 hour on the reauthorization of this act, a proposal that is going to take away the kind of education support systems the Federal Government pays for—not Virginia pays for but the Federal Government pays for. That is the effect of it.

You wanted to wipe that out.

The amendment Senator HARKIN has introduced is very clear in what it permits, what it allows. The amendment says that students with disabilities will continue to have services, even if they are suspended or expelled. It retains the noncessation of service provisions in current law and ensures that behavioral supports are available to children so they may continue to learn.

The PRESIDING OFFICER. The Senator has used his minute and a half.

Mr. KENNEDY. I will take the last minute.

We are agreeing with Senator SESSIONS; a uniform policy for students with or without disabilities is appropriate. Where we differ is in the ultimate outcome. If you want to change the IDEA law, let's do it when we do reauthorization.

I have invited the Senator from Alabama to come to our hearing. I will invite the Senator from Virginia to come and make the presentation. But to change this march we have had—not since 1994, but many of us have been here since 1974, at a time when 5 million children were being put in closets and not educated—not 1994, and we know who has been discriminated against—we are not going to march backward.

This is a major retreat in providing mainstreaming for the children of this country which is not only the right educational policy and the right, decent thing to do, but is also commanded to be done by the Supreme Court.

I hope the amendment of the Senator from Alabama is defeated and the amendment of the Senator from Iowa is accepted.

Mr. BYRD. Mr. President, I recognize that the issue of educating children with disabilities is complex. There are many factors to take into consideration as we try to determine the best possible policy to make sure that all children receive a quality education. I have no doubt that this amendment is intended to improve the educational opportunities for disabled students, but I have concerns that the amendment fails to provide protections to make sure that parents of children with disabilities are not pressured into removing their children from public schools. If a system of protections were included, I would likely support this amendment.

Further, this bill is not the appropriate place to resolve this complicated issue. In view of the fact that this Congress will reauthorize the bill that guarantees an education to children with disabilities, the Individuals with Disabilities Education Act, IDEA, I believe Congress should wait for that opportunity to make significant changes in policy concerning educating disabled children. That will allow us to fully debate these important issues, examine the alternatives, and come to a clearer understanding of how to best educate disabled children in this country. I am voting against this amendment today,

but I look forward to revisiting this issue during the reauthorization of the IDEA.

Mrs. CLINTON. Mr. President, I rise today in opposition to both Senator SESSIONS' and Senator HARKIN's amendments, which attempt to reach the goal of helping school districts establish and implement discipline policies that are consistent for every child in the school district.

I strongly believe that we do need to come to a resolution in Federal law that will help school districts appropriately discipline students when they act out violently or in a way that disrupts the learning of other students, but that we should be certain that our actions do not punish children for their disabilities.

The problem we have, at hand, is that the 1997 IDEA reauthorization, as passed and implemented, has developed a separate discipline policy for children in special education, which many school superintendents have found unequal and unfair in their efforts to maintain discipline in their schools. In fact, a recent GAO report, published in January of this year, found that while many principals believe that the differing school policies had a neutral effect on their schools, 27 percent of principals did believe that a separate discipline policy for special education students is unfair to the regular student population.

Now, I want to be very clear that my intention is not to go back to the pre-1975 days when students with disabilities were segregated from the regular student population or, even worse, were denied education all together. In fact, in the early 1970s, I walked door to door trying to figure out why so many children were staying home from school. The census, at the time, showed that there were 2 million children out of school so the Children's Defense Fund worked to answer the question of why these children were not in school. While working for the Children's Defense Fund, I was one of the researchers who found that approximately 750,000 of these children were being kept out of school because they were handicapped. This research led to the first-ever report by the Children's Defense Fund, ''Children out of School in America,'' which helped provide solid research to pass the Education for All Handicapped Children Act of 1975.

As the Progressive Policy Institute so eloquently concluded in a recent report, thanks to this law ''today many disabled children in America have the opportunity to obtain high-quality educational experience tailored to their needs and circumstances, the priorities of their parents, and the judgements of their teachers.'' This report goes on, however, to point out that the law has not kept up with the challenges faced by today's schools. Discipline is a primary example. While IDEA provides protection for disabled students, many believe it goes too far. That, while protecting disabled students, the law may unintentionally harm the educational progress of other students in the classroom.

Senator SESSIONS' amendment attempts to fix this problem by eliminating all due process for children with disabilities who have disciplinary problems. Senator HARKIN's amendment, on the other hand, attempts to address the problem by encouraging local school districts to implement uniform discipline policies while, at the same time, recodifying current IDEA law as it relates to the discipline policy.

I oppose these amendments because I do not believe that either amendment adequately addresses the problem of working toward a uniform discipline policy that allows school administrators to maintain discipline so that all children are offered the opportunity to learn and are not interrupted due to the actions of one child, while protecting the civil rights of children with disabilities to receive a free and appropriate education.

There is much work we need to do on this issue and I believe that we should develop balanced policies that can be part of the discussion and debate during the 2002 reauthorization of IDEA. We need to look for policies that help prevent children with discipline problems from unnecessarily being identified as in need of special education. We need to ensure that quality alternative educational settings are developed for those students who need alternative placements. And, most importantly, we need to fully fund IDEA so that children with disabilities receive appropriate treatment.

Mr. BAYH. Mr. President, I rise today to explain my vote against the Sessions amendment. I do believe that we need a more uniform standard of discipline for disabled students, however, I do not believe that it is prudent for the Senate to consider such an important policy matter in such a short amount of time. I share several of the Senator's concerns about the need to revisit the discipline language in the Individuals with Disabilities Education Act, but I do not believe the reauthorization bill for the Elementary and Secondary Education Act is the appropriate vehicle. The reauthorization of the Individuals with Disabilities Education Act is expected to be considered next year. I look forward to having a fuller debate on this complex issue at that time.

Mr. LIEBERMAN. Mr. President, I rise to give an explanation for votes that I made earlier today on the amendment offered by my colleague Senator SESSIONS and the second degree amendment offered by Senator HARKINS. I voted against these amendments because ultimately I believe that we should consider such proposals when the Senate debates the reauthorization of the Individuals with Disabilities Education Act, IDEA, next year.

I support the provisions in the Harkin amendment that would allow States and local education agencies to establish and implement uniform policies regarding discipline applicable to all children. This would allow school personnel to remove students from school for disruptive behavior, if such behavior is determined not to be a manifestation of the student's disability. The amendment further states that school districts must provide education services to such students in an alternative setting. Although I agree with my colleague that schools should strive to uphold such provisions, I believe there may be special exemptions to this, such as when a student poses a violent threat to educators and other students.

I share the concern raised by my colleague from Alabama and have voted in the past to reform discipline provisions to ensure safe and orderly learning environments. However, such an important issue deserves our full consideration and attention and I believe we should deal with this in the context of IDEA reauthorization so we can have a fuller debate and adopt a more comprehensive approach.

I look foward to working with both of my esteemed colleagues on these and other important elements of the IDEA when it is reauthorized next year.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. How much time remains on this side?

The PRESIDING OFFICER. The Senator has 8 minutes 42 seconds.

Mr. SESSIONS. I yield 3 minutes to the Senator from Virginia.

Mr. ALLEN. Mr. President, in response to some of the remarks by the Senator from Massachusetts, let me say this is not an issue about trying to deprive those students with disabilities of an education. This is an issue of standards of conduct. Oh, sure, the Federal Government does put some money into IDEA, but most of it does come from the taxpayers of the Commonwealth of Massachusetts, the Commonwealth of Virginia, and the State of Alabama. That is the whole issue of the Harkin-Hagel amendment in the first place. It has been an unfunded mandate.

To cite the comments and cast aspersions on my remarks, which were taken from a court decision—these individuals from Richmond City public schools, Fairfax County public schools, were under oath. Just because a General Accounting Office report doesn't refer to these situations doesn't mean they did not occur. Those individuals presented themselves before a court and swore under oath what happened. There are school records of it. They were subject to cross-examination.

For the Senator from Massachusetts to say these are just concocted, falsified stories, unfortunately is not an accurate statement. These are incidents that occur time after time.

The Senator from Alabama and I are not saying that disabled students cause trouble all the time. But it does happen, from students who are disabled

and students who have no disabilities —they cause problems in schools. We think the standards of conduct should be fair and equal in their treatment, with proper due process and equal protection. That is what the issue is, and no amount of unfair aspersions, raised voices, and histrionics can avoid the facts of what we are trying to do, to preserve local autonomy and safe schools as well as equal and fair treatment.

I yield whatever time I had.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, the school system does treat differently students who bring drugs and guns to school. There is no doubt about that. I know Senator HARKIN feels strongly about this, and Senator KENNEDY does. Senator HARKIN and Senator KENNEDY opposed, when we had 74 votes on the juvenile bill, an amendment that simply said if you bring a gun to school, you can be treated as any other child for disciplinary purposes. That got 74 votes in this body. It is time to do something about this.

Do we not love children if we simply say a child who acts illegally, who abuses other children, who is sexually aggressive against girls in the classroom, even teachers, who curses teachers in the classroom—engaging in that activity, if it is not connected to their disability, should they be protected and given a special status, as they absolutely are here?

All this amendment says is, if a child has a disability, as Senator HARKIN used the example, a hearing disability, and that is connected to their misbehavior, then they cannot be denied services in the school. They can remain there, and they are entitled to a hearing even on whether or not they go to a special classroom.

We do not deny hearings. But we are simply saying it is time for the school principals and teachers to be given some respect. It is time for school students, as the 14-year-old about whom I read here, who said she can't respond but she is abused regularly—her glasses are knocked off. The girl told her she was going to kill her, and she was afraid to go to school. That child is getting no relief and cannot get it, it seems.

I believe we have a modest step forward in making progress. Unfortunately, the Harkin amendment undermines everything the amendment I have offered seeks to do.

It is return to the status quo. It is return to the Federal Government micromanaging school classrooms and discipline problems. It is not healthy for America.

All we are trying to do is exact some balance. The House passed a much stronger bill earlier last month with 246 votes. That vote did not provide the kinds of hearings that our bill does. I believe this is the right approach. It is time to respond to the educators.

Senator KENNEDY says the Federal Government is paying for this. We know the Federal Government is not paying for this. We know we are paying only a fraction of the cost. It is basically an unfunded Federal mandate on local schools in America. They are required to do all of these things.

Newsweek had an article on a student who was called ''the meanest kid in Alabama.'' He had an aide who went with him from the time he got on the schoolbus until the time he got to class, all through class, and then on the way home on the bus. One day he assaulted the schoolbus driver, and the aide, I think, tried to stop him.

Those are the kinds of problems we have created under this law that seems to be impossible to deal with. I think the Disabilities Act is a historic step forward. We want to keep every child in the regular classroom who can possibly be kept there.

I have visited schools in Alabama. I have seen schools with children in wheelchairs in the classroom. I have seen blind children in the classroom. I think that is wonderful. But if a child in a wheelchair sells dope, should they be treated differently from any other child who sells dope in school?

That is all we are saying. But even then that child would have to have a hearing, and the school would have to show that the action he was being disciplined for was not a result of the disability before he could be removed from the classroom.

This is a modest step forward to deal with a problem that is very real for teachers all over this country. If you go into their schools and talk to them, you will hear them talk about it. If you have friends who are teachers, ask them about it.

There are many actions in this legislation that are unfair and cannot be justified, in my opinion.

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

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I understand there are 1½ minutes remaining.

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. Mr. President, I ask the Senator from Virginia if he would please provide to my office these specific examples and the schools because I would like to take a look at those. I would like to look at them because, under the 1997 bill that we passed, if you bring a bomb or a gun or drugs to school, you are out. You are out. So I would like to ask publicly if the Senator from Virginia would provide those to my office so we can take a look at those to see why there is this disagreement. In the 1997 bill, which we passed 98–1 on the Senate floor, if you bring a bomb or drug or guns to school you are out.

I say to the Senator from Alabama that I realize he has good intentions. All of us want discipline in schools. I brought two kids through public schools. Of course, we want discipline in our public schools. None of us wants our teachers or busdrivers to be subject to violence by kids who may harm them or harm themselves. None of us wants that. We want safe schools.

That is why in the process of 26 years we have worked hard on a bipartisan basis in the Senate and in the House to fashion and change this legislation so that we meet the needs of those public schools. That is what the 1997 bill was all about. It is working. Let's not turn the clock back and segregate these kids as we did in the past. We have come too far for that. That is what the Sessions amendment does. It just segregates these kids.

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

The PRESIDING OFFICER. One minute thirty-two seconds.

Mr. SESSIONS. Mr. President, the Harkin amendment does not do the job. I urge its defeat. It has the pretense of improving the law, but it does not in any way.

Under the amendment, the schools would not be free to set uniform discipline provisions for all students. The double standard that now exists would continue to exist. Our amendment does not completely remove the double standard, but it makes substantial progress after providing a hearing to that student to ensure they are treated fairly. Even if the bad behavior that a school seeks to address in the classroom has no relation to the child's disability, the school would be forced to keep that disruptive or even violent student in the classroom.

If a child, for example, were blind, and if there were an excellent blind school nearby, the Harkin amendment would deny the school and the parent the right to agree—it would take both of them agreeing—to accept the average daily allowance for that student and apply that to that school, if the parent wanted to make up the difference and get the kind of high-quality education that might not be available in that school.

I believe this is a concern for children. I believe it is compassionate in every way. It simply tries to give our beleaguered principals, teachers, and schools more options to deal with a very real problem.

I thank the Chair. I urge defeat of the amendment.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to amendment No. 802.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

The result was announced—yeas 36, nays 64, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—36

Akaka	Dayton	Mikulski
Biden	Dodd	Murray
Boxer	Feingold	Nelson (NE)
Byrd	Harkin	Reed
Cantwell	Hollings	Reid
Carnahan	Inouye	Rockefeller
Carper	Jeffords	Sarbanes
Chafee	Kennedy	Snowe
Cleland	Kerry	Specter
Collins	Kohl	Stabenow
Corzine	Leahy	Torricelli
Daschle	Levin	Wellstone

NAYS—64

Allard	Ensign	McCain
Allen	Enzi	McConnell
Baucus	Feinstein	Miller
Bayh	Fitzgerald	Murkowski
Bennett	Frist	Nelson (FL)
Bingaman	Graham	Nickles
Bond	Gramm	Roberts
Breaux	Grassley	Santorum
Brownback	Gregg	Schumer
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (NH)
Clinton	Hutchinson	Smith (OR)
Cochran	Hutchison	Stevens
Conrad	Inhofe	Thomas
Craig	Johnson	Thompson
Crapo	Kyl	Thurmond
DeWine	Landrieu	Voinovich
Domenici	Lieberman	Warner
Dorgan	Lincoln	Wyden
Durbin	Lott	
Edwards	Lugar	

The amendment (No. 802) was rejected.

Mr. HATCH. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, yesterday during rollcall votes 185 and 186, I was necessarily absent to attend services in connection with the passing of Mrs. Barbara Bailey. Mrs. Bailey was the spouse of the late John Bailey, the legendary former chairman of both the Connecticut State Democratic Party and the Democratic National Committee. She was also the mother of Barbara Kennelly who represented the 1st Congressional District of Connecticut from 1983 through 1999. She was a remarkable woman and her passing saddens us all.

Had I been present for the votes, I would have voted as follows: On rollcall vote No. 185, the Domenici amendment as modified, I would have voted ''no.'' On rollcall vote No. 186, the Schumer amendment, I would have voted ''aye.''

AMENDMENT NO. 604, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes for debate to be followed by a vote on or in relation to the Sessions amendment.

Who yields time?

Mr. SESSIONS. Mr. President, we have a real problem in education today. It is a mandate that we know we do not fully fund. We are paying about 10 percent of the cost of IDEA. We ought to be paying 40 percent, according to our agreement. We have voted to increase that funding fully now.

The next thing we need to do is deal with the Federal regulations that are contained in this book that teachers and principals are having to deal with on a daily basis. Most of you have heard from your teachers and schools. You know the way we are administering the Disabilities Act does not work.

My amendment would simply say that a child, after a hearing where it is found that they are disruptive or perform an illegal or improper act in school that was not a product of their disability, would be treated, for disciplinary purposes, as any other child. That would mean that a child who sold dope, even though they may have a mobility disability, would be treated as any other child that sold drugs in a classroom. I think that is the right approach.

The House passed a bill much stronger which said flatout that any child, whether disabled or not, would be treated the same for disciplinary purposes.

This is a more modest step, but I believe a good step, in dealing with the problem that we are hearing about from all our teachers. I urge passage of the amendment.

The PRESIDING OFFICER. Who yields time in opposition? The Senator from Iowa.

Mr. HARKIN. Mr. President, I know that all Senators—I talked with them in the well—are concerned about discipline in classes. This Senator is no different. I put two kids in public schools. We are all concerned about discipline in the classroom. But the Sessions amendment is the wrong approach. To segregate kids with disabilities and take them out and put them in a separate setting is not the right thing to do.

The Sessions amendment would cease services to these kids with disabilities. That is not the right thing to do. There may be other things we can do to help provide for discipline in the classroom but not to segregate kids with disabilities. That is extreme.

Those of us who have lived in families with siblings who were disabled and watched them taken from our families and our communities and sent halfway across the State, segregated from their friends, do not want to go back to that. That is what the Sessions amendment does.

Mr. REID. Mr. President, I ask unanimous consent that the time set aside in the order entered last night from 1 to 2 for morning business be terminated. There will be no morning business if this unanimous consent agreement is agreed to. We want to move along with this bill. I have spoken to the people interested and they have been very courteous and have acknowledged it would be better to not do morning business then.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask unanimous consent that Senators ALLEN, BOND, and VOINOVICH be listed as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. Is all time yielded back?

Mr. SESSIONS. Yes.

Mr. HARKIN. Yes.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

All time having expired, the question is on agreeing to amendment No. 604, as modified.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

[Rollcall Vote No. 188 Leg.]

YEAS—50

Allard	Fitzgerald	McConnell
Allen	Frist	Miller
Bennett	Gramm	Murkowski
Bond	Grassley	Nickles
Breaux	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (NH)
Carnahan	Hutchinson	Smith (OR)
Cochran	Hutchison	Stevens
Conrad	Inhofe	Thomas
Craig	Johnson	Thompson
Domenici	Kyl	Thurmond
Dorgan	Landrieu	Torricelli
Durbin	Lott	Voinovich
Ensign	Lugar	Warner
Enzi	McCain	

NAYS—50

Akaka	Dayton	Lincoln
Baucus	DeWine	Mikulski
Bayh	Dodd	Murray
Biden	Edwards	Nelson (FL)
Bingaman	Feingold	Nelson (NE)
Boxer	Feinstein	Reed
Brownback	Graham	Reid
Byrd	Harkin	Roberts
Cantwell	Hollings	Rockefeller
Carper	Inouye	Sarbanes
Chafee	Jeffords	Schumer
Cleland	Kennedy	Snowe
Clinton	Kerry	Specter
Collins	Kohl	Stabenow
Corzine	Leahy	Wellstone
Crapo	Levin	Wyden
Daschle	Lieberman	

The amendment (No. 604), as modified, was rejected.

Mr. REID. I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. REID. Mr. President, it is my understanding the Senator from Alabama wishes to vote——

The PRESIDING OFFICER. The motion to table has been made and is not debatable.

Mr. REID. Mr. President, I ask unanimous consent to speak.

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

Mr. REID. It is my understanding this amendment we just completed—it did not pass on a vote of 50–50. The Senator from Alabama wishes to vote on this again. With the consent of the Senator from Alabama and the Senator from Iowa, it would seem it would be in

everyone's interest that we would schedule a vote at a time certain on the motion to reconsider.

My unanimous consent request is it would be after the completion of the work on the amendment of the Senator from North Carolina, which is, according to the order we entered last night, the next to be debated.

In short, we will complete the debate on the Helms amendment, vote on that, and immediately go to a vote on the motion of the Senator from Alabama, with 1 minute on the side of the Senator from Alabama and 1 minute for the Senator from Iowa.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Is there a request before the Senate?

Mr. REID. Yes, there is.

Mr. BYRD. Reserving the right to object, I merely want to understand what the request is.

Mr. REID. I say to my friend from West Virginia, if this unanimous consent request is finalized, we are going to go ahead and complete the debate on the amendment offered by the Senator from North Carolina. Following a vote on that amendment, we would come back and vote again on the motion that was just made.

Mr. BYRD. Why is the Senate voting again on that motion?

Mr. REID. Because the Senator from Alabama wishes to have a vote, and the fact is, we have not tabled the motion to reconsider on the initial motion that I made, and the motion the Senator from California made to table.

We are trying to enter into this agreement. If that does not work, then the Senator from Alabama is going to suggest the absence of a quorum to try to figure a way to get out of that and in the meantime we will waste a lot of time around here.

Mr. BYRD. Is the motion to table before the Senate?

Mr. REID. It is before the Senate, but it has not been agreed to.

Mr. BYRD. Was there a vote in progress on that motion?

Mr. REID. No.

Mr. BYRD. There was not. So the Chair has not ruled on the motion to table. Therefore, the vote is still to be had, whether it be by voice, by division, or by rollcall.

Mr. REID. The Senator from West Virginia is, as usual, right.

Mr. BYRD. Mr. President, I have no objection to the request.

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

Mr. REID. Mr. President, for Members of the Senate, then, we are going to now begin debate on the amendment of the Senator from North Carolina.

AMENDMENTS NOS. 574 AND 648

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the Helms amendments Nos. 574 and 648.

The Senate will be in order. The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that it be in order for me to make my remarks from my seat.

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

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HELMS. Mr. President, I believe the pending business has already been announced by the Chair; is that correct?

The PRESIDING OFFICER. If the Senator will restate the question, please.

Mr. HELMS. Is it my understanding that the amendment became the pending business by unanimous consent? Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HELMS. I thank the Chair.

As the largest and most universally acclaimed youth-serving organization in the world, the Boy Scouts of America has led millions of young boys to respect and abide by the fundamental virtues of duty to God and respect for individual beliefs, loyalty to their country and respect for their country's law, service to others, voluntarism, training of boys in responsible citizenship, in physical and mental development, and in character development.

This came about early in the last century. It was a curious turn of events that brought Scouting to America in the year 1910.

The year before, in 1909, a Chicago publisher, William D. Boyce, had been traveling in Europe.

Mrs. BOXER. Mr. President, may I ask my friend to yield for a moment. It is very difficult to hear the Senator. Would you be willing to hold your microphone because it is very difficult for us to hear your presentation.

Mr. HELMS. I am delighted. I didn't know anyone wanted to listen to it.

Mrs. BOXER. Senator MURRAY and I are hanging on your every word and we want to hear.

Mr. HELMS. Does the Chair suggest I start over?

The PRESIDING OFFICER. If the Senator would like.

Mr. HELMS. It was a curious turn of events that brought Scouting to America in 1910. The year before that, in 1909, a Chicago publisher, William D. Boyce, had been traveling in Europe and got lost in a dense fog while he was in London. It was a Scout—not by that name but a Scout—who came to Boyce's aid and guided him through the fog to his hotel. Afterwards, the boy refused a tip from Mr. Boyce explaining that as a Scout, he would not and could not take a tip for doing a good turn.

Since that time, almost a century has elapsed, and the character and the reputation and the admiration that people have for the Boy Scouts of America has intensified year after year.

Last June, a year ago, the Supreme Court found it essential to uphold constitutional rights of Boy Scouts of America, oddly enough, to abide by and practice the Boy Scout moral guidelines for membership and leadership, including no obligation to accept homosexuals as Boy Scout members or leaders.

Yet in spite of the Supreme Court's landmark decision, radical militants continue to attack this respectable organization—the Boy Scouts of America.

Specifically, these militants are pressuring school districts across the country to exclude the Boy Scouts of America from federally funded public school facilities based on what they did in one instance. They decided to press for exclusion of the Boy Scouts from the schools because the Boy Scouts would not agree to surrender their first amendment rights and because they would not accept the agenda of the radical left.

I asked the Congressional Research Service, among others, to inform me as to how many school districts have already taken such hostile action against the Boy Scouts. The Congressional Research Service reported to me that at that time at least nine school districts were known to have attacked the Boy Scouts of America, and, in the majority of the cases, they had done so in outright rejection of the Supreme Court's ruling protecting the Boy Scouts' rights, which is now the law of the land.

Which is precisely why I again decided to offer the amendment entitled ''The Boy Scouts of America Equal Access Act.'' This pending amendment—which unanimously passed the House of Representatives—would for once and for all put a complete end to the arrogant treatment being directed by various school districts across this Nation at the Boy Scouts of America,

Specifically, the pending amendment stipulates that if a public elementary school, or a public secondary school, discriminates against the Boy Scouts of America—or any other youth group similar to the Boy Scouts—in providing equal access to school facilities, then that school will be in jeopardy of losing its Federal funds.

Now, before opponents work themselves into a frenzy, it may be well to make clear on exactly how this proposed amendment would work: it stipulates that the Office of Civil Rights within the Department of Education be given statutory authority to investigate any discriminatory action taken by school authorities against the Boy Scouts of America.

The Office of Civil Rights was established to handle discrimination problems that occur within the public school system. My amendment would direct the Office of Civil Rights to handle cases of discrimination against the Boy Scouts precisely the same as the Department of Education currently handles other cases of discrimination—barred by Federal law and which may result in termination of Federal funds.

It should be noted, Mr. President, that according to CRS, ''historically, the fund termination sanction has been infrequently exercised—by the Office of Civil Rights—and most cases are settled at . . . the investigative process . . .''. In other words, when the Office of Civil Rights warns a school to get its act together, the school usually listens.

Therefore, it is not likely that any school will be in fact ever that its funding eliminated; unless it adamantly refuses to provide the Boy Scouts of America equal access to school facilities.

It will not be handled willy-nilly. It will be based on specific evidence.

Needless to say, I do hope that the Senate will uphold the constitutional rights of the Boy Scouts of America to have equal access to school facilities.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The Senator from Mississippi, the Republican leader.

Mr. LOTT. Mr. President, I thank the manager in opposition to this amendment for allowing me to go ahead and speak now. Ordinarily, we make a real point to go back and forth. So I appreciate that. I will be brief and to the point.

I rise in support of this amendment. I think it is an amendment that should basically be accepted by all of us. I don't know quite how to react to the fact that in America even the Boy Scouts seem to be under attack. Is motherhood and apple pie next? Is there nothing sacred anymore?

I don't have a conflict of interest. I came from such a small, rural, poor area that we didn't even have a Boy Scout troop. I was a Cub Scout. Somehow or other we managed to have a Cub Scout troop. I enjoyed that. I never got to be a Weeblo or a Boy Scout. I missed it.

I have been very supportive of the Boy Scouts, and I have attended Eagle Scout ceremonies. I have been to Boy Scouts events that recognized great Americans who started off as Scouts—such as Jerry Ford when he got a special recognition.

It is not as if I am defending something from which I directly benefited. But, quite frankly, I think we all benefit from organizations such as the Boy Scouts. Their fundamental principles are rooted in basic good things such as duty to God and respect for individual beliefs, loyalty to one's country and respect for its laws, service to others, voluntarism, and training of youth in responsible citizenship, in physical and mental development, and in character advancement.

These are all such fine goals. I have watched this organization transform young men's lives, as the Girl Scouts with girls. They have given them an opportunity to help themselves, to support causes bigger than themselves as the saying goes now, and to improve their community by involvement.

I think in no way should we diminish the importance of that, or take away what they do for boys and girls of all races and ethnic and religious backgrounds.

Now what does this amendment do? The title is the Boy Scouts of America Equal Access Act. It sounds good to me. I assume there are going to be those who say this is something we shouldn't do or it gives them some advantage. But all it says is that if a public elementary school or public secondary school has a designated open forum, then that school cannot discriminate against the Boy Scouts of America or any youth group on the basis of its membership or leadership criteria or on the basis of its oath of allegiance to God and country.

If a public school did discriminate against the Boy Scouts of America, then that school would be in jeopardy of losing its Federal education funds.

I know the Supreme Court rendered a decision recently saying a religious group could have time and access to space at a school if all other groups have access. You do not have to attend, but if you are going to have an open policy, then you have to let everybody have an opportunity to have access to the space in the school. This is a very meritorious and I think very defensible position to have.

The Boy Scouts have become the largest voluntary youth movement in the world with a worldwide membership totaling more than 25 million. Over 6 million of those participants come from the United States alone.

There have been a series of decisions in the courts that I think relate to this. The U.S. Supreme Court held in Boy Scouts v. Dale that the Boy Scouts are a private organization and, as such, they can decide who can be in their organization if they wish.

There was a decision recently involving the Boy Scouts in the U.S. district court in Florida which said that Broward County could not evict Scouts off school property.

So there are decisions at the district court level and from the Supreme Court affecting this. But of the attacks on the Boy Scouts, some people would say it is no real problem. It is having an impact. Based on the Boy Scouts' stand on their principles, eight of the United Way agencies nationwide have withdrawn their financial support from the Boy Scouts of America. We have seen that there have been some 359 school districts which have severed sponsorships with the Scouts since last June's ruling.

So it is affecting the Boy Scouts in terms of financial support, and it is affecting them in that schools are beginning to prohibit Boy Scouts from being able to have sponsorships and meet in their schools.

So clearly it is having an effect. We have reached the point now where when a Boy Scout troop comes out—four or five boys; or girls who are Girl Scouts—they get booed because they are there during the Pledge of Allegiance. Surely, we cannot reach that kind of ugliness in America.

So I think it is very important that we have this amendment added. It would require that public schools treat the Boy Scouts of America exactly the same as they do all other groups meeting in the schools; that is all. Surely, the least we can do is to allow them to have equal access.

So while there may be some wringing of hands and assertions of what this amendment does way beyond what it does, or its intent, they just want to be treated the same as everybody else—nothing more, nothing less.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I do want to be heard on this issue. But in fairness to the other side, I would like to defer so long as I can follow the Senator, in this order, because of a timing problem.

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

Mrs. BOXER. Perhaps I could make a quick unanimous consent request. I am going to speak for 2 minutes and then ask Senator MURRAY if she would really open the debate with about—how many minutes does the Senator need?

Mrs. MURRAY. Ten minutes.

Mrs. BOXER. And then go to Senator INHOFE.

Is that acceptable?

Mr. INHOFE. That would be fine.

Mrs. BOXER. I ask unanimous consent that be the order.

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

The Senator from California.

Mrs. BOXER. Mr. President, I thank the Republican leader for making his remarks concise. I do really appreciate the opportunity given to me by Senator KENNEDY to manage the opposition to this amendment. The reason I feel very strongly about it is that this amendment is not about the Boy Scouts. My kids were Scouts. I will never forget that. They are really old now. I am a grandmother now. But I remember when they were in their uniforms. My kids were Scouts.

This amendment is not about Scouts because the Supreme Court has already ruled that the Boy Scouts have the absolute right to take their programs into the public schools. That issue has been resolved.

So I believe—and I am going to reserve my time, and I will explain why I have reached this conclusion—that this amendment is unnecessary; that it is gratuitous. It is hurtful to a group of people. It divides us again as a country. It brings in this Chamber an issue that divides us, that hurts people, and I believe—and Senator MURRAY is going to

speak to us as a former school board member with a tremendous amount of authority on this—it is a slap at local control, something my friends on the other side of the aisle revere.

So I hope in the course of this debate—and I know we go uphill when this comes up—we face the facts of what this is about. I hope, in the course of debate, people will look inside their hearts to decide what this amendment is really about. It is not about the Boy Scouts having the ability to meet in public schools. That has been determined. It is about hurting a whole group of people, a minority in this country, for absolutely no good reason.

I hope people will have the courage to come to this Chamber, to speak out, to be heard, to lift up this debate, and that we will have a good vote against this amendment.

Mr. President, I yield 10 minutes to my friend and colleague from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank my colleague from California for yielding me time.

Mr. President, I believe that Scouting—whether it is the Boy Scouts or Girl Scouts—really can help kids develop their character and build important skills. And that is important. In fact, Scouting has been an important part of my life and my own children's lives.

I was a Brownie. I was a Junior Girl Scout. I was a Girl Scout. I was a Brownie Leader. I was a Girl Scout Leader. And, in fact, I was even a Boy Scout Leader for my son's troop. So I know about Scouting. This amendment is not about scouting.

This amendment is about imposing a Federal mandate on local schools that could essentially overwhelm their facilities and strain their ability to meet their first responsibility, which I believe we all understand is to educate our students.

The Helms amendment essentially takes a problem that does not exist and uses it to dictate the decisions that local school boards make.

There are several problems with this amendment, but first and foremost, it really is not needed, as the Senator from California said. Right now, under Federal law, Scouts receive the same protection and access as any other group—nothing more, nothing less—and that is the way it should be. And that is not just my opinion; it is our Federal law, known as the Equal Access Act.

Let me read to you part of that statute. It says:

> It shall be unlawful for any public secondary school which receives Federal financial assistance and which has a limited open forum to deny access for a fair opportunity to, or [to] discriminate against, any students wishing to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical or other content of the speech at such meetings.

That is the law right now—on the books in black and white. So this amendment is unnecessary because current Federal law already requires equal access. Not only do groups such as the Boy Scouts already have access under Federal law, the courts are reaffirming that access.

In fact, just this last Monday, the U.S. Supreme Court ruled that a New York State school had to let a religious organization use its facilities since it was already allowing nonreligious organizations to do the same thing.

Mr. President, I ask unanimous consent to have a Washington Post article which explains this ruling printed in the RECORD after my remarks.

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

(See exhibit 1.)

Mrs. MURRAY. Equal access is already in the law. It was just upheld by the U.S. Supreme Court. Groups such as Scouts have equal access. Therefore, this amendment is not about the question of equal access. This amendment, however, is about special access. Frankly, we ought to call this proposal the ''unequal access amendment'' because it selects one group over all others for special protection.

There is a second problem with the amendment. I served on a local school board. I know what it is to have limited meeting space in a school and to have organizations that want to use that space who come before you and beg and plead for that ability. Right now schools make those decisions based on their own circumstances within the law. Schools might not have enough space. They might not have the budget for the extra cleanup required for groups to use these facilities or additional groups to use them. They might not have the staff to lock up the building after hours. Teachers might not have the time in the schoolday to rearrange their classrooms. Maybe there are only a few rooms available after school and they are already needed for other things such as tutoring or they have already been given to another group. There might be insurance or liability concerns.

Because of all those variables that local school boards have to live with on a weekly basis, those decisions are made at the local level. Sometimes those local policies keep schools from having to pick one group over the other, from picking winners or losers.

The Helms amendment would overrule all of those local policies, all of those local decisions, and pick one winner and require every school to accommodate them or risk losing their Federal funding.

Scouts already have the same protections as similar organizations, and local schools already make good legal decisions based on those circumstances.

Before I close, I note that I am eager to see how some of my colleagues vote on this amendment which, as I have noted, is not about Scouting. It is about forcing decisions on local schools. In recent years some of my colleagues have spoken at great length about the importance of local control in educational decisions. Of course, having served on a local school board, I reminded them that most decisions are made at the local level and that there is a limited Federal role for efforts such as helping disadvantaged students and reaching national educational goals. Frankly, I do not see how setting up a special national privilege for just one organization falls in that role.

Recently on the Senate floor my amendment to reduce school overcrowding was defeated on a party-line vote. Opponents on the other side said those decisions should be made at the local level. They ignored the fact that funding was optional and flexible, meaning it could be used for class size reduction or teacher training or recruitment. Opponents of my amendment said local control was more important than an effective, targeted, flexible initiative.

Now we get to see if all those Members will stand up to the principles they have advocated. This Helms amendment is far more intrusive. It is not optional. Unlike my amendment, the Helms amendment has nothing to do with schoolday learning. It is definitely a Federal mandate on local schools. It definitely takes decisions out of local hands. Frankly, I do not see how anyone who has called for more local control will support this Helms amendment. This vote will be very telling.

The Helms amendment addresses a problem that does not exist. Groups such as the Scouts already have equal access through existing law. Instead, this intrusive amendment provides special, unequal access for just one group and overrules what is happening at the local level.

I will share with my colleagues how frustrating and difficult it can be, as a school board member, to make decisions about who can use your facilities. I have been in front of many parents who were unhappy with decisions that school boards have made. This Helms amendment may well force a school board to tell a group, perhaps a church group that is already using their gym, that because of the Helms amendment and fear of a lawsuit, if they don't change their mind, we will have to override facilities use by that group. This amendment may well force a school to tell another group that because of our Federal law, the Boy Scouts come in first.

I care about Scouting. I want our Scouts to have facilities. I want it to be under equal access, not special protection. That is what the Helms amendment does.

I thank my colleague from California and yield back my time to her.

EXHIBIT 1

[From the Washington Post, June 1, 2001]

JUSTICES BACK BIBLE GROUP

ACCESS TO SCHOOL FACILITIES WIDENED

(By Charles Lane)

The Supreme Court ruled yesterday that a New York state school may not prohibit an evangelical Christian children's club from meeting on its premises, a decision that may have cleared the last legal obstacles to religious groups' long-sought goal of having the same access to school facilities as other organizations.

By a vote of 6 to 3, the court held that the Milford Central School's effort to deny the after-school use of its building to the Good News Club, but not to other, nonreligious groups, was a form of discrimination on the basis of religious viewpoint, and thus violated the constitutional guarantee of free speech.

The Good News Club, which operates thousands of chapters around the country, urges children as young as 6 to accept Jesus Christ as a personal savior. The school argued that, in barring the club from meeting there, it was following a New York law designed to avert any appearance of official sponsorship of religious worship and to protect children from getting the impression that the school endorses a particular religion.

But the court rejected the notion that the club's use of the school would create a kind of pro-religious pressure on children, noting that children could not attend the club's meetings unless their parents approved.

''[W]e cannot say the danger the children would misperceive the endorsement of religion is any greater than the danger that they would perceive a hostility toward the religious viewpoint if the Club were excluded,'' Justice Clarence Thomas said in the opinion he wrote for the court.

Conservative legal scholars noted that the case fits into a recent trend in which the court has adopted a more accommodating position toward religion in public places when it believes that it is merely maintaining a fair balance between religious and secular activity. That could mean future support for President Bush's ''faith-based'' social services initiative, or for school vouchers, they said.

''It will be much harder for anyone to argue that a faith-based organization's social service treatment program has crossed a line, becoming, in essence, 'too religious,' '' said Douglas Kmiec, dean of the Catholic University law school.

But Barry Lynn, executive director of Americans United for Separation of Church and State, said the decision maintains a distinction between state support for religious instruction and extracurricular religious activity, and therefore ''has no spillover into the voucher area.''

Of the 4,622 Good News Club chapters around the country, about 527 meet regularly in public school buildings. Supporters of the group said the ruling gives a significant boost to the club and others like it.

''It's no secret that it helps them attract children when they meet in a more convenient location,'' said Gregory S. Baylor of Annandale-based Religious Liberty Advocates, which filed a friend of the court brief on behalf of Good News's parent organization, the Child Evangelism Fellowship Inc. ''Prior to this, a lot of school districts were nervous about letting them in. Now I can say, 'Read the Supreme Court case.' ''

Opponents agree with this forecast, but they said it shows how the court has titled the church-state balance in favor of religion.

''This is really religious worship directed at young children,'' said Jeffrey R. Babbin, an attorney who filed a friend of the court brief on behalf of the Anti-Defamation League of B'nai B'rith, which backed the school. ''Our concern is that what can't be done in school shouldn't be done right after. Often kids can't go home right after school.''

The case began in 1996 when two parents, the Rev. Stephen D. Fournier and his wife, Darleen, sought to move the meetings of their Good News Club chapter from a local church to Milford's only school building, which houses all classes from kindergarten through 12th grade.

School authorities in the 3,000-resident rural community refused, saying that the Good News Club was not simply a discussion group that talked about morals from a religious viewpoint, but a form of religious instruction.

The Good News Club's sponsoring organization, the Child Evangelism Fellowship, based in Warrenton, Mo., says that its purpose is to ''evangelize boys and girls with the Gospel of the Lord Jesus Christ and to establish (disciple) them in the Word of God and in a local church for Christian living.''

Good News Club meetings revolve around prayer, songs, stories and games drawn from the Bible, and some of the children attending are ''challenged'' to declare Jesus Christ as their savior.

The Fourniers sued in federal court. The New York-based appeals court sided with the school, but because its ruling clashed with a St. Louis-based appeals court's decision in favor of access for another Good News Club, the Supreme Court agreed last year to decide the dispute.

In the court opinion yesterday, Thomas said that this case was essentially no different from previous ones in which the court had upheld the right of a Christian parents' group to show a film at a public high school in the evening and of Christian students at the University of Virginia to receive the same funding for their publication as other groups.

When the state operates a ''limited public forum'' in which citizens may express their views, Thomas wrote, ''speech discussing otherwise permissible subjects cannot be excluded . . . on the ground that the subject is discussed from a religious viewpoint.''

Thomas was joined by the court's other conservative-leaning members—Chief Justice William H. Rehnquist and Justices Sandra Day O'Connor, Antonin Scalia and Anthony M. Kennedy. He also picked up the vote of Justice Stephen G. Breyer, a liberal, who wrote a separate opinion to emphasize that he supported the club's position only insofar as it was asking for nondiscrimination by the school. He said important issues remained to be examined, especially whether a reasonable child might indeed see the club's presence at the school as an endorsement of religion.

Justices John Paul Stevens, David H. Souter and Ruth Bader Ginsburg dissented.

''It is beyond question that Good News intends to use the public school premises not for the mere discussion of a subject from a particular, Christian point of view, but for an evangelical service of worship calling children to commit themselves in an act of Christian conversion,'' Souter wrote.

The case is Good News Club v. Milford Central School, No. 99–2036.

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

Mr. INHOFE. Mr. President, I know the distinguished Senator from Washington is very sincere in her remarks, but I believe there is a problem in insisting that we are legislating on a situation that doesn't exist. I will point out examples of that.

When Senator HELMS first started, his microphone wasn't quite on high enough and we were not able to hear his remarks. I will repeat the first couple of things he said. He talked about the Boy Scout movement in our Nation as being part of the largest voluntary youth movement in the world, with U.S. membership totaling over 6 million. He also mentioned the three basic fundamental principles.

The fundamental principles of the Boy Scouts include, one, a duty to God and respect for individual beliefs; two, loyalty to country and respect for the laws of the land, service to others, and a spirit of voluntarism; and, three, the training of youth in responsible citizenship, physical and mental development, and character advancement.

As a private organization, the Boy Scouts of America has the right to select persons it believes will provide the leadership that measures up to the high caliber of standards of this fine institution. Boy Scouts and other similar groups have a constitutional right to associate freely, and our publicly funded schools should not inhibit that right of access to public school facilities.

Not only is this my opinion; it has been found to be the law of the land by the Supreme Court. In June of last year—this has been alluded to—in Boy Scouts of America v. Dale, the Supreme Court ruled that Boy Scouts have the constitutional right to specifically exclude homosexual members and leaders. The Helms amendment was prompted by the denial of public school access to groups such as the Boy Scouts even after this Supreme Court decision.

For example, the Broward County school board voted to keep Boy Scouts from using public schools to hold meetings, in direct violation of the Supreme Court's decision. Luckily, in the Boy Scouts v. School Board of Broward County, in March of this year, the U.S. district court in Florida issued an injunction to block the county's attempt to evict the Scouts from public school property.

Unfortunately, this is not an isolated case. This is why I make the point that there is a problem out there. The Congressional Research Service, which Senator HELMS alluded to, has reported that at least nine school districts have publicly attacked Boy Scouts, which is in direct contradiction of the ruling of the Supreme Court.

Let me give a couple examples of this. In Chapel Hill, NC, the Chapel Hill-Carrboro school board voted, on January 11, 2001, to give Scouts until June to either go against the rules of their organization or lose their sponsorship and meeting places in schools. In New York City, the New York City school chancellor, Harold Levy, said the school system would not enter into any new contracts with the Boy Scouts of America. This is something that happened after that Supreme Court decision. The Los Angeles City Council has ''directed all of the city's departments to review contracts with Boy

Scouts and order an audit of those contracts to ensure compliance with a nondiscrimination clause.''

In Madison, WI, it is the same thing. It goes on and on—quite a lengthy list.

The repetitive, hostile actions taken against the Boy Scouts are inexcusable and against the law and should be stopped immediately.

The Helms amendment reinforces the constitutional rights of Boy Scouts and the Supreme Court decision upholding those rights. This amendment states that if a public school has designated ''open forum,'' then the school cannot discriminate against Boy Scouts of America or any youth group on the basis of its membership or leadership criteria or on the basis of its oath of allegiance to God and country.

The oversight provisions of the amendment ensure that the Office of Civil Rights within the Department of Education will protect the Boy Scouts as it protects other groups that have been or are discriminated against. We are talking about antidiscrimination in this amendment.

The amendment proposes that any public school receiving Federal funding from the Department of Education must allow the Boy Scouts or other similar youth groups equivalent access to school facilities and must not discriminate against these groups by requiring them to admit homosexuals as members or leaders or any other individuals who reject the Boy Scout oath of allegiance to God and country.

So I just submit that I disagree, and it is an honest disagreement with the Senator from Washington. There is a problem, and it is necessary to legislate against this problem.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I will propose a unanimous consent request for the order of speakers.

I ask unanimous consent that Senator DURBIN have 10 minutes, and that on our side Senator ENZI have up to 15 minutes. Then if somebody comes on that side to speak, I propose that there be a Democratic speaker. But if they are not here, I ask that Senator SMITH have up to 10 minutes, and then a Democrat speaker, and then Senator BROWNBACK have 10 minutes.

Mr. BYRD. Mr. President, reserving the right to object, I have a question I would like to ask at some point to propound about the language of this amendment. When might I do that?

Mr. BROWNBACK. I propose that we have an order of speakers and——

Mr. REID. Mr. President, if I may be heard on this.

Mr. BROWNBACK. I yield to the Senator from Nevada.

Mr. REID. I say to the Senator from West Virginia, it appears with all these speakers that have been lined up, it would be sensible, as far as I am concerned, that a question be asked before the speeches are given, not after.

It is my understanding that the Senator from West Virginia simply wants to ask a question for someone to answer during the discussion of this amendment; is that right?

Mr. BYRD. The Senator is correct.

Mr. REID. I hope that the Senator from West Virginia can be recognized immediately to ask his question. Is there any objection to the Senator asking his question?

Mr. BROWNBACK. There would be no objection on my part if the Senator from Illinois is OK with that.

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

Mr. BYRD. I thank the majority whip and all Senators. I wish to get a clarification of a definition. I think it is well that I pose this question now.

I don't intend to go into the background at this point, except to say that I have been concerned about some of the things that have been said and some of the actions that have been taken with respect to Boy Scouts. I was very disappointed when at the Democratic Convention there was a demonstration—not by all Democrats by any means, and I feel sure it wasn't a part of the convention plans. But I was embarrassed at the boos and the disrespect shown by some of the participants at that convention, which I did not attend; I was watching television. I have been concerned about other hostile actions that have since been directed at the Boy Scouts of America.

Certainly, my intention up to this moment has been to vote for this amendment. I do have a question, however. The question deals with definitions. I would like a better definition or clarification of the term ''youth group.'' In paragraph 2 of section 2(a), I read the following:

> . . . denies equal access or a fair opportunity to meet to, or discriminates against, any group affiliated with the Boy Scouts of America or any other youth group . . .

I will repeat that: ''. . . or any other youth group.''

> . . . that wishes to conduct a meeting within that designated open forum, on the basis of the membership or leadership criteria of the Boy Scouts of America or of the youth group that prohibits the acceptance of homosexuals, or individuals who reject the Boy Scouts' or the youth group's oath of allegiance to God and country, as members or leaders.

My problem with that is ''youth group'' could include skinheads, and it could include Ku Klux Klan youth groups or any other ''hate'' groups. That is what I am concerned about.

I know what we are talking about—the Boy Scouts. That is one thing. But I hesitate to open the language up to just any ''youth'' group. That is my problem. I would like for someone to clarify the definition of ''youth group'', or perhaps offer a modification so that we will all know what we are talking about.

Mr. BROWNBACK. If the Senator will yield for a response to that.

Mr. BYRD. I am glad to.

Mr. BROWNBACK. We are working with the primary sponsor of the amendment to get a further definition and clarity on that so that we can directly respond to the appropriate question of the Senator from West Virginia. We will do that as soon as possible.

Mr. BYRD. I appreciate that. I have discussed this with the sponsor, Mr. HELMS, and two of his staff members.

Mr. SMITH of Oregon. If the manager will yield, I join the Senator from West Virginia in asking for a clarification because I think it is very important that we know what we are talking about.

I am here standing for the proposition that tolerance is a two-way street; that we should tolerate the gays and lesbians in our community, but we should also tolerate the Boy Scouts in our community.

Clearly, there are some groups that have national charters that this Government recognizes, such as the Boy Scouts, and there are groups that do not. That kind of a distinction perhaps ought to be made because I think we all want to be voting for the right thing. There are some groups, such as the skinheads, that I don't want to be voting for today. I thank the Senator from West Virginia for his question.

The PRESIDING OFFICER. The Senator's time has been consumed.

Mr. BYRD. I ask unanimous consent to proceed for 2 more minutes.

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

Mr. BYRD. Mr. President, the terminology which I read here includes this excerpt:

> . . . The Boy Scouts' or the youth group's oath of allegiance to God and country . . .

Mr. President, as a former member of the Ku Klux Klan—and this is no secret to anybody; it has been known to the people of this country for at least 50 years, so I am not telling anything new. But there is no doubt that that organization purports to swear allegiance to God and country.

I do not want to open this up to just any group—just any group that swears allegiance to God and country. That is why I raise the question. I think there must be a clarification of this. At least I am going to be on record by what I am saying here, that I am not, regardless of how I vote on this amendment—I hope this can be clarified, and I hope there can be some modification of the language.

On the record, I am not supportive of letting just any ''youth group'' come under the canopy of the definition of that term.

Mrs. BOXER. Will my friend yield to me for just a moment?

Mr. BYRD. If I have time.

Mrs. BOXER. I ask unanimous consent that the Senator be given 60 seconds additional time so I may engage him.

The PRESIDING OFFICER. (Ms. CANTWELL). Without objection, it is so ordered.

Mrs. BOXER. Senator DURBIN is anxious to be heard. I thank my friend.

This amendment is troubling, and the Senator from West Virginia has put his finger on a very serious problem with this. What if a group springs up—I am just going to use a name—the Timothy McVeigh Youth Group and has in its charter antihomosexual language. It is my understanding, after checking with attorneys, in fact, they would be given special privileges because they have an antihomosexual charter.

My friend has raised a very important issue, and I thank him for it.

Mr. BYRD. I thank the Senator. I prefer to use the Ku Klux Klan. We know what we are talking about there. If one wishes to look at the oath—I will say the oath of the Ku Klux Klan, and there are associate groups and affiliated groups. Women used to be in the Klan; maybe young people. I do not recall.

When it comes to patriotism, to God, to country, the words of that organization are superlative in that respect. How closely the actions followed the words is something else.

This language needs to be clarified. It needs to be modified. I do want to support the amendment. I am speaking only as a Senator from West Virginia. That is the way I see it. I hope there will be some modification of that language.

Mr. BROWNBACK. Madam President, I renew my unanimous consent request that I put forward. I ask that the Democrats who are in turn speaking will not speak for more than 15 minutes in the unanimous consent request I put forward.

Mr. REID. Reserving the right to object, Mr. President, I do know the names the Senator talked about. We should cut it off there. This could go through the entire afternoon. Those names you mentioned be the only ones.

Mr. BROWNBACK. I am not prepared to enter into a time agreement.

Mr. REID. That is my question. I am saying I am happy to agree to the times as you set forth, and the names you have mentioned, but after that, we will just have jump ball here.

Mrs. BOXER. No problem. Madam President, I can now say, after Senator DURBIN, Senator WELLSTONE will follow. That is our list at this time.

Mr. WARNER. Reserving the right to object, do I understand there is time available on our side?

Mr. BROWNBACK. Yes, there is.

Mr. WARNER. Is it restricted to this amendment?

Mr. BROWNBACK. We are attempting to restrict it.

Mr. WARNER. A gentleman's and gentlewoman's understanding.

Mr. BROWNBACK. That is correct.

Mr. WARNER. I have an amendment pending at the desk that I want to withdraw and need about 12 minutes to address the reason for which I am withdrawing it.

Mr. BROWNBACK. Can the Senator do it afterwards?

Mr. WARNER. I will be delighted to do it after, if the Senator will be kind enough and indicate in the unanimous consent request for me to do that.

Mr. REID. That is the question: After what? We have a couple amendments pending on which we are going to be voting. That will probably take a while. The Senator may have to wait several hours.

Mr. WARNER. Mr. President, I certainly will be delighted to do that so long as I, hopefully, can have some assurance for not more than 10 minutes during the course of the day. I thank the Chair.

The PRESIDING OFFICER. Without objection, the previous order is modified. Under the previous unanimous consent order, the Senator from Illinois is recognized.

Mr. DURBIN. I thank the Chair. Madam President, I am opposed to discrimination—discrimination based on race, creed, color, gender, or sexual orientation. I am sorry that the Boy Scouts of America, which were an important part of my youth, an important part of my family, have now become a symbol that is being debated in the Chamber of the Senate. I am sorry this organization that has meant so much to so many is now being trivialized or symbolized by this debate. But it is a fact, and it is a fact that the amendment that has been offered by Senator HELMS raises many questions.

I do not think the question is whether or not Boy Scout chapters have access to public schools. As the Senator from Washington said, that is not even debatable. The Supreme Court has ruled on that as late as this week. They had a specific ruling saying that no school district can keep any Boy Scout troop out of a public school. They have access. This amendment is not necessary. It is already the law of the land.

The amendment by Senator HELMS goes further. The amendment by Senator HELMS says that no school district can discriminate against a youth group that also says homosexuals may not belong.

This raises some serious problems because there are school districts in States across America, including the State of Illinois, which have a statement of policy, and they say: We will not let any groups be sponsored by our schools if they discriminate on the basis of race, creed, color, gender, or sexual orientation. It is just a school policy. You want your school group to be sponsored by the school? No way if they discriminate.

I would imagine those statements of policy were passed at school board meetings without a dissenting vote. Who is going to vote against that: That you would want a school district sponsoring a group that discriminates? Yet what Senator HELMS says in his amendment is that if your school district sticks with that policy of nondiscrimination in sponsorship, you lose your Federal funds.

What does that mean to the school district of the city of Chicago? Hundreds of millions of dollars coming in to help kids. With the Helms amendment, it is gone. It is not just Chicago. Many other States are also affected.

This amendment, which may have been offered as a tribute to the Boy Scouts or for whatever reason, has become much more. This has gone way beyond the Boy Scouts, I say to my colleagues in the Senate. What this amendment is trying to do is, frankly, create an environment which is antithetical, antagonistic to the beliefs of many school districts which have basically said: We will not sponsor organizations that discriminate. Yes, we may be forced to bring some in to have access to our schools, but we are not going to sponsor them.

According to Senator HELMS, if you do not sponsor them, it is discrimination. If it is discrimination, guess what. You lose your Federal funds.

Let me go to the point raised by Senator BYRD from West Virginia. Senator BYRD touched on an important point. He talked about what kinds of youth groups we are discussing. Senators started using hypothetical groups: What about skinheads, this group, that group, that happen to have some awful beliefs but also happen to discriminate against those of a different sexual orientation? As I read the Helms amendment, the school not only has to open the door to have access to use the school, but they also have to be willing to sponsor the group, and if they do not sponsor that group and others such as it, then they run the risk of losing their Federal funds.

Is this a farfetched idea that a group such as that might arise? I wish it was. I will tell my colleagues about my own home State of Illinois. Have you ever heard of the World Church of the Creator? Mr. President, I remind my colleagues, they did hear about it in the news not long ago.

This is a white supremacist organization that advocates openly the murder of Jewish individuals and people of color. It has what it calls ''holy books,'' ''ministers,'' and religious ceremonies all grounded in their ''religion'' of white supremacy.

Do my colleagues know when they heard about them? They heard about them in July of 1999. A young man named Benjamin Smith went on a shooting rampage throughout Springfield, IL, Urbana, Decatur, Skokie, Chicago, and Northbrook. He wounded nine and murdered Won-Joon Yoon, a doctoral student at Indiana University, and he killed Ricky Birdsong, an African American, the former Northwestern University basketball coach.

Mr. Smith wounded and killed these individuals because he hated those who were different from him and because his religion, the World Church of the Creator, supported taking violent action against them.

If the World Church of the Creator approached a school in Illinois and asked that school sponsor their youth group, under the Helms amendment, if

they said no, they would lose their Federal funds. Why? Because the World Church of the Creator also has a very clear policy when it comes to homosexuals. The World Church of the Creator does not allow homosexuals in the membership or in their leadership.

Think of the situation we are creating. Imagine serving on a school board with no pay under these circumstances. Senator HELMS, in trying to pay a tribute to the Boy Scouts, has opened the door wide for mischief from every crazy group in America that wants to not only use school premises but be sponsored by schools. If they don't go along, guess what. They get either a lawsuit or the loss of Federal funds.

I consider this amendment a complete disaster. It is a disaster when one considers the impact it has on schools across America that are trying to live under the four corners of the law. The Supreme Court has said open your doors for access, but the Supreme Court doesn't say a school has to sponsor the group, provide the schoolbus, make sure they have some sort of special treatment within the school, give them a page in the yearbook.

Do we want the World Church of the Creator to have a page in the yearbook of your child's high school? I certainly don't. I am embarrassed that this organization calls Illinois home. In an open and free society, these things are allowed to exist, but they are not in a situation where they ought to receive special treatment, which Senator HELMS wants to give them under this amendment.

I urge all of my colleagues on both sides of the aisle, take time to read this carefully. This is not as simple as it sounds. The language Senator HELMS has put in this bill will create nothing but trouble for school districts across America which will now be forced to face impossible decisions as these hate-filled groups come in, one after the other, asking for special treatment.

Join me in voting no against the Helms amendment.

Mr. REID. I have spoken to the Republican manager of the bill. The Senator from Wyoming is next, and then Senator WELLSTONE will be recognized for up to 15 minutes. Senator DASCHLE, the majority leader, wishes to use part of Senator WELLSTONE's 15 minutes. Senator WELLSTONE has given consent to give part of his time to Senator DASCHLE. We will not use any more time, but there will be another speaker, if that is OK with the Senator from Kansas.

Mr. BROWNBACK. That is correct. We will maintain the same flow of people as under the unanimous consent request.

Mrs. BOXER. I have another speaker. The next Democrat after Senators WELLSTONE and DASCHLE would be Senator CLINTON.

The PRESIDING OFFICER. Without objection, the order will be so modified.

The Senator from Wyoming.

Mr. ENZI. Madam President, I rise in support of amendment No. 648, the Boy Scouts of America Equal Access Act, offered by my distinguished colleague from North Carolina, Senator HELMS. I am certain, with some modifications, any of the inflammatory groups that have been mentioned will be excluded from the amendment. The amendment was intended to be simple and straightforward in its purpose, to ensure the constitutional rights of 6 million Boy Scouts in the United States are not violated by public schools that receive Federal education funds.

The Boy Scouts of America is one of the oldest and largest youth organizations in the United States and in the world today. The organization teaches its members to do their duty to God, to love their country, and to serve their fellow citizens. And they do that. The Boy Scouts have formed the minds and hearts of millions of Americans and prepared these boys and young members for the challenges they are sure to face for the rest of their lives.

I urge my colleagues to join in defending the Boy Scouts from unconstitutional discrimination by supporting the Helms amendment.

It has been said earlier in the discussion that this is an unnecessary amendment. It brings to mind two things. First, when did we stop doing unnecessary amendments around here? And second, this would not be brought up if it were not necessary.

I have had a number of opportunities, needs that should never have happened, to defend the Boy Scouts and make sure they have places to meet. I have a list of five times it happened during the year 2000, and eight times already this year. This is a young year.

An Iowa city school board voted to prohibit Boy Scouts from distributing any information in schools because of Scouts' membership criteria. Greg Shields, the national spokesman for Boy Scouts of America, said, ''We simply ask to be treated the same way as any other private organization . . . [and] that our free speech and right to assemble be respected just as we respect the rights of others.''

The New York Times reported that New York's Chappaqua School District officials were able to coerce two local Boy Scout troops into signing a document that denounced national policies of the Boy Scouts as a condition to allowing the troops access to school property.

I ask unanimous consent this list be printed at the end of my statement.

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

(See Exhibit No. 1.)

Mr. ENZI. Boy Scouts has been a part of my education. I am an Eagle Scout. I am pleased to say my son was in Scouts. He is an Eagle Scout. I say it is part of my education because each of the badges that is earned, each of the merit badges that is earned, is an education. I tell schoolkids as I go across my State and across my country that even though at times I took courses or merit badges or programs that I didn't see where I would ever have a use for them, by now I have had a use for them and wish I had paid more attention at the time I was doing it.

Boy Scouts is an education. It is an education in possibilities for careers. I can think of no substitution for the 6 million boys in Scouts and the millions who have preceded them. There are dozens on both sides of the aisle who have been Boy Scouts.

I always liked a merit badge pamphlet on my desk called ''Entrepreneurship.'' It is the hardest Boy Scout badge to earn. It is one of the most important ones. I believe small business is the future of our country. Boy Scouts promote small business through their internship merit badge. Why would it be the toughest to get? Not only do you have to figure out a plan, devise a business plan, figure how to finance it, but the final requirement for the badge is to start a business.

I could go on and on through the list of merit badges required in order to get an Eagle badge. There are millions of boys in this country who are doing that and will be doing that. They do need places to meet. They are being discriminated against. They are being told they cannot use school facilities.

It isn't just school facilities; it is Federal facilities. A couple of years ago, we had an opportunity to debate this again on floor, and it had to do with the Smithsonian. Some Boy Scouts requested they be able to do the Eagle Scout Court of Honor at the National Zoo and were denied. Why? The determination by the legal staff of the Smithsonian that Scouts discriminate because of their support for and encouragement for the spiritual life of their members. Specifically, they embrace the concept that the universe was created by a supreme being, although we surely point out Scouts do not endorse or require a single belief or any particular faith's God. The mere fact they asked you to believe in and try to foster a relationship with a supreme being who created the universe was enough to disqualify them.

I read that portion of the letter twice. I had just visited the National Archives and read the original document signed by our Founding Fathers. It is a good thing they hadn't asked to sign the Declaration of Independence at the National Zoo.

This happens in the schools across the country. Other requests have been denied. They were also told they were not relevant to the National Zoo. That is kind of a fascinating experiment in words. I did look to see what other sorts of things had been done there and found they had a Washington Singers musical concert, and the Washington premiers for both the ''Lion King'' and ''Batman.'' Clearly, relevance was not a determining factor in those decisions.

But the Boy Scouts have done some particular things in conservation that

are important, in conservation tied in with the zoo. In fact, the founder of the National Zoo was Dr. William Hornaday. He is one of the people who was involved in some of the special conservation movements and has one of the conservation badges of Scouts named after him.

If the situations did not arise, this amendment would not come up. But they do arise, as I mentioned with the list of eight incidents already this year. Four of those are on a statewide basis.

Last summer the Supreme Court in Boy Scouts of America v. Dale held that the Boy Scouts were entitled to full protection under the first amendment right of expressive association. The High Court held that State laws such as New Jersey's law of public accommodation unconstitutionally violated the first amendment rights of this venerable organization if they were applied to force the Boy Scouts to accept Scoutmasters whose lifestyles violated the Boy Scout oath. The Helms amendment will ensure that public schools that receive public education funds do not force the Boy Scouts to check their first amendment rights at the schoolhouse door.

The Helms amendment simply requires that the Boy Scouts are treated fairly, as any other organization, in their efforts to hold meetings on public school property. It does not require public schools to open their doors to any organization for before- or after-school meetings on public school property. It provides if the school is going to provide an open forum for youth or community groups before or after school, that school must allow the Boy Scouts the chance to use school property for their meetings.

Unfortunately, many school districts are bending to the pressure of far left interest groups in their attempt to deny the constitutional rights of the Boy Scouts of America. A number of school districts have prohibited the Scouts from meeting on public school property or have pressured local Scouting troops to denounce their very principles on which the organization was founded before they can have meetings there.

An example of this discrimination is in Broward County, FL, where the school board voted last November to prohibit the Boy Scouts of America from using public schools to hold meetings and recruitment drives. This is part of a growing trend of local schools, which are imposing viewpoint discrimination against the Boy Scouts because they disapprove of the Scout's message and the way they put this message into practice. Fortunately, the Federal courts have not looked favorably on this viewpoint of discrimination against the Boy Scouts in the early legal challenges to these actions.

In March of this year, the U.S. District Court for the Southern District of Florida issued a preliminary injunction against the Broward County School District to block their attempt to keep the Boy Scouts off public school property. The district court found that since the school district allowed numerous other groups to use public school facilities, they had established a limited forum. Accordingly, they were not allowed to discriminate against Boy Scout speech simply because they disagreed with the Scout's viewpoint on homosexuality. In granting this injunction, Judge Middlebrooks wrote:

> The constitutional rights to freedom of speech or expression are not shed at the school gate.

I have to mention, these are examples of where the Scouts were able to use the courts to assure that they were not discriminated against. I am pretty sure everybody in America recognizes if you have to use the courts to get your rights to use school buildings, it costs money. It costs time. This amendment eliminates that cost and eliminates that time, to allow the organizations to have the same rights as the other groups at school.

It is unfortunate, sometimes, that we have—the legal system is very important in the country but it has some interesting repercussions. Our system of lawsuits, which sometimes are called the legal lottery of this country, allow people who think they have been harmed to try to point out who harmed them and get money for doing that. It has had some difficulties for the Boy Scouts.

I remember when my son was in the Scouts their annual fundraiser was selling Christmas trees. One of the requirements when they were selling Christmas trees was that the boys selling trees at the lot had to be accompanied by two adults not from the same family.

I did not understand why we needed all of this adult supervision. It seemed as if one adult helping out at the lot would be sufficient. The answer was, they have been sued because there was only one adult there and that adult was accused of abusing the boys. Two adults provided some assurance that did not happen.

The interesting thing is, it was just me and my son at the lot and we still had to have another adult in order to keep the Boy Scouts from being sued.

They run into some of the same difficulties with car caravans.

So the legal system of this country has put them in the position where they are doing some of the things that they are doing. The legal system of the country has caused some of the discrimination that is done.

It is something we need to correct. This discussion of the Helms amendment is timely. On Monday of this week, the Supreme Court held that a public school in New York was not allowed to exclude the Good News Club, which is a private Christian organization for gradeschool children, from using public school facilities for the group's afterschool meetings. In the Good News Club v. Milford Central School, the Court determined that the school violated the club's first amendment free speech rights by discriminating against the group's viewpoint. The Helms amendment would assure that these free speech protections would also apply to the Boy Scouts of America.

The Boy Scouts of America is one of the oldest and largest youth organizations in the United States and the world today. The organization teaches its members to do their duty to God, to love their country, and serve their fellow citizens. The Boy Scouts have formed the minds and hearts of millions of Americans and prepared these boys and young men for the challenges they are sure to face the rest of their lives. It is an essential part of Americana. I urge my colleagues to join me in defending the Boy Scouts from constitutional discrimination by supporting the Helms amendment.

EXHIBIT NO. 1

EXAMPLES OF BOY SCOUTS BEING DISCRIMINATED AGAINST

On May 21, 2001, the Gay, Lesbian and Straight Education Network—an activist homosexual organization—reported that ''After launching a campaign last September [against the Boy Scouts] the Gay, Lesbian and Straight Education Network has tracked a total of 359 school districts which have severed sponsorships with the Scouts since the Supreme Court ruling last June'' [www.glsen.org].

On May 11, 2001, the Associated Press reported that the Iowa City School board voted to prohibit the Boy Scouts of America from distributing any information in schools because of the Scouts membership criteria. Greg Shields, the national spokesman for Boy Scouts of America said, ''We simply ask to be treated the same way as any other private organization . . . [and] that our free speech and right to assemble be respected just as we respect those rights of others.

On February 8, 2001, the Ashbury Park Press reported that the State [of New Jersey] is considering a rule change that would bar school districts from renting space to the Boy Scouts of America because of their position on homosexuality.

On February 7, 2001, The Arizona Republic reported that the Sunnyside School District, in Tucson [two-sawn], Arizona decided to charge the Boy Scouts of America fees to use school facilities, even though no other groups have to pay fees. The ACLU executive director said that, ''While Boy Scouts, atheists, Nazis, even Satanists have the right to express their views, government should not use public money to promote them.''

On January 28, 2001, the Boston Globe reported that the Acton School Committee in Massachusetts decided to prevent the Boy Scouts from distributing literature at school—even though other groups can do so. In defending its actions, Acton School Committee cited Massachusetts law, which says that schools cannot sponsor the Boy Scouts.

On January 14, 2001, the New York Times reported that New York's Chappaqua School District officials were about to coerce two local Boy Scout troops into signing a document that denounced the national policies of the Boy Scouts of America as a condition for allowing these troops access to school property.

On January 13, 2001, the Wisconsin State Journal reported that the Madison School Board voted unanimously to post a condemnation against the Boy Scouts of America in all 45 school districts.

On January 11, 2001, the News & Observer reported that ''The Chapel Hill-Carroboro school board voted to give Scouts until June to either go against the rule of their organization or lose their sponsorship and meeting places in schools.''

On December 18, 2000, the Seattle Union Record reported that a state coalition of advocates for gay and lesbian students has asked Seattle Public Schools to restrict the Boy Scouts of America's access to students and school buildings.

On December 2, 2000, the New York Times reported that the Schools Chancellor barred New York City public schools from: bidding on contracts with city schools, sponsoring Scout troops or allowing the Scouts to recruit members during school hours.

On November 20, 2000, the Associate Press reported that in Mount Pleasant, Michigan, School boards in Minneapolis and New York City, as well as other city and state governments and groups nationwide, have recently cut support of the Scouts because of its gay policy. In the Detroit suburb of Plymouth, a teachers union asked its school board to ban groups—including the Boy Scouts—that discriminate against gays.

On November 16, 2000 Fla. Today reported that ''Broward County's school board voted unanimously to keep the Boy Scouts of America from using public schools to hold meetings and recruitment drives because of the groups ban on gays.'' [District Court intervened.]

On November 15, 2000 the Telegram and Gazzete reported that in Worchester, Ma, ''Superintendent of Schools Alfred Tutela . . . banned the Boy Scouts from holding meetings in the properties of the Wachusett Regional Schools District.''

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, prior to my colleague, Senator WELLSTONE, I ask unanimous consent to speak for 1 minute.

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

Mrs. BOXER. I say to my colleague, I thank him for adding to this debate. But if you believe in the rule of law, which we all do, the Supreme Court has spoken very clearly on this point. The Boy Scouts have equal access to every single public school in this country. The Supreme Court has so declared. So I, again, say to my friend, what is the purpose of this amendment? It is gratuitous, it seems to me. It is unnecessary. It hurts a group of people. It divides the country. We already know the Boy Scouts have equal access. With all the remarks he has made, if schools are not allowing that, they are breaking the law.

We do not need another law which, by the way, opens up a can of worms, as Senator BYRD, who supports the underlying amendment, says. It is a can of worms. It could invite people in who you really do not want. He mentioned the Ku Klux Klan and skinheads and other groups.

I appreciate being given this 1 minute.

Mr. BROWNBACK. I ask unanimous consent for 1 minute before my colleague from Minnesota speaks.

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

Mr. BROWNBACK. Madam President, I think some of the reasons the Senator from California is raising may be valid to the point that this should pass 100–0. If this is not seen as a particularly contentious issue, if it is something that is going to happen and it is agreed to anyway, I hope we will all support the Boy Scouts. This is, indeed, about the Boy Scouts, and it is important to that organization that has 23 million members worldwide. I think it would be a good statement of support to them.

This issue is about the Boy Scouts and there are legitimate issues that have been raised. I think we can tighten the language; if some people are concerned about the expansiveness of ''youth group,'' make it just about the Boy Scouts and pass it 100–0.

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

Mr. WELLSTONE. Madam President, the majority leader is on the floor. I will limit my remarks to 3 minutes.

First of all, I am a son of a Jewish immigrant who fled persecution from Ukraine and then Russia. I grew up in a family where I was taught it was wrong to discriminate against anyone. I have tried to teach my children and my grandchildren the same. I am against discrimination of people because of nationality, race, gender, ethnicity, or sexual orientation.

I commend the Boy Scouts for all of the good work they have done for people. But I am very saddened that the Boy Scouts have engaged in what are discriminatory policies towards gays and lesbians. I think that is most unfortunate for what is otherwise a very fine organization.

There was a piece of legislation on this floor a number of years ago which said that any school district that ''promoted homosexuality'' would be cut off from Federal funds. Then I looked at the operational definition of it down a number of paragraphs, and that included counseling. So if you have a young man in high school and he goes to see a counselor, and if he says: I am gay, my friends disowned me, my parents have disowned me, and I feel worthless—I do a lot of work in suicide prevention and the mental health field. Unfortunately, a high incidence of suicide is among boys who are gay.

The way the Court has ruled, it is clear that if, in fact, community groups come into schools, so can Boy Scouts. That isn't even the issue. The question is whether or not if a school district has a policy of nondiscrimination and it chooses not to sponsor the Boy Scouts because the Boy Scouts discriminate against this group of citizens—against gays—it would no longer be able to do so, which then would provide Boy Scouts with not access but with special treatment.

That is wrong. It is wrong to say to any school district in any State and to any school board that you have to change your policy; that you have to sponsor a group which goes against the very values that you have professed, which is what we should not do; that is, discriminate against any group of citizens, any children anywhere.

That is why I oppose this amendment.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Madam President, I think what the Senator from Minnesota said so eloquently, passionately, and accurately probably leaves little left to be said in regard to what this amendment is.

I rise today to express my disappointment with this amendment.

The Senate has been debating the Elementary and Secondary Education Act—off and on—for more than eight weeks now.

This is an important debate. We are talking about the blueprint for federal education policy and funding.

So far, this has been an unusually bipartisan debate.

We have been making principled compromises, and real progress.

And now this.

Let me be clear: I believe the Boy Scouts should have the same access to public school facilities as any other private organization.

But I fear that is not what this amendment is about.

I oppose Senator HELMS' amendment for two reasons.

First: It could usurp the rights of states, counties and local communities to make certain decisions for their own schools.

Under this amendment, communities that feel strongly that discrimination based on sexual orientation is wrong could face a terrible choice. They could either disregard their own conscience. Or they could follow their conscience and lose millions of dollars that their children's schools need.

Both sides have said, throughout this debate, that one of our goals should be to find ways to allow communities to make more decisions about their own schools, not fewer.

This amendment does exactly the opposite.

The second reason this amendment is such a disappointment to me is that—in my opinion—it tolerates discrimination.

A year and a half ago, Congress awarded the Congressional Medal of Honor—the highest honor this nation can bestow on civilians—to the ''Little Rock Nine.'' More than a generation ago, as children, they had the courage to help desegregate the Little Rock public schools.

Back then, millions of Americans—in Little Rock and across this nation—believed that segregation was a moral imperative.

There are many people today who believe that discriminating against gays and lesbians is also a moral imperative. I understand that. But that is not the American way.

Over the years, I've been honored with awards from many groups.

There are only a few that I keep in my office in the Capitol. One is an award I got three years ago this week from the National Capital Area Chapter of the Boy Scouts.

It's a sculpture of a young boy. I keep it in my office because of my profound respect for the good work the Boy Scouts have done in this country for more than 90 years.

We believe in principled compromise. But we cannot compromise on fundamental issues of civil rights.

Supporters of this amendment say they are merely defending the constitutional right of free association. They say they are simply protecting the right of a private organization to set its own rules.

But the Supreme Court has already ruled that the Boy Scouts have the same right as any other community or youth group to use school facilities.

This amendment seeks special rights for one organization. It could force communities to grant that organization special privileges—or lose thousands, perhaps millions of dollars in federal education aid.

It is sad to see the Boy Scouts—a group that has worked for more than 90 years to avoid political polarization—being used now by some to foster political polarization in this Senate, and in our society as a whole.

I hope my colleagues will reject this amendment. I hope that we can work together to finish this good bipartisan education bill because our children's future, our country, and the rights of all people, minorities, and those who are not minorities, stand in the balance.

I yield the floor.

Mrs. CLINTON. Madam President, if I could have 2 minutes to associate myself completely with the majority leader's eloquent statement, I rise in opposition to this amendment for all of the reasons that the majority leader has just outlined; but also, further, to say I was honored to serve for 8 years as the Honorary Chair of the Girl Scouts of America. I know the value of the Girl Scouts and the Boy Scouts.

To deprive any youngster of the opportunity to participate over this issue strikes me as regrettable at the very least.

The Girl Scouts don't discriminate. We have had an organization that has gone for so many years without any of this difficulty. It should be up to the local level to determine whether or not a local school district wishes to have the Boy Scouts offer these services to youngsters in their schools and in their districts.

I am absolutely amazed that my friends on the other side would propose an amendment that so totally eviscerates local control. It is already unnecessary, as we know, with respect to the use of facilities. The Supreme Court has already, as it did again yesterday, reaffirmed access to public school facilities.

If we are saying that having the Boy Scouts either in its present form or with slight modifications determined by the local parents and the schools would in any way jeopardize all Federal funding, it just absolutely amazes me that people on the other side could make such an argument.

So I believe, with all my heart, that we should not be discriminating against anyone in our country. But certainly a local district that tries to work out whatever its problems are with the Boy Scouts, and makes a decision that it considers in the best interests of its children, should not face the peril of losing all Federal funding that should be made available to educate our children, which is what we have been debating now for more than a month.

So I hope all of us will join in rejecting this amendment and making clear that we respect the Boy Scouts, we respect the Girl Scouts, and we especially respect local control over educational facilities and opportunities.

Thank you, Madam President.

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon is recognized for 10 minutes.

Mr. SMITH of Oregon. Madam President, I think I am going to come at this issue more differently than any of my colleagues who have spoken so far.

I stand here as an Eagle Scout. I stand here as an Oregon Senator. I stand here as one who believes that gays and lesbians are due equal rights. I have tried to demonstrate that in the way I have conducted my service in the Senate, by supporting Jim Hormel's nomination to be an Ambassador for our country, by being the cosponsor, with Senator KENNEDY, of hate crimes legislation, and by now endorsing a new version of ENDA that has a broader religious exemption. I believe I stand here with some credibility when I come to the issue of tolerance.

One of my core values is that if we are to be true disciples, we should love one another. I try actively not to discriminate. But I believe I just heard the majority leader and the Senator from New York say that the Boy Scouts have a right to be in the schools but we can discriminate against them. And that is what impels me to this Chamber this morning.

This amendment of Senator HELMS is not raised in a vacuum. It hurts me personally, as one of five sons of my parents to have the Eagle badge, and the father of another Eagle, and another son on the way to Eagle, to see the values of that organization held up to ridicule by some on the left who I believe are terribly intolerant and who do discriminate against people of faith whenever they can.

I will tell you that in my working with the Human Rights Campaign, the folks there with whom I have worked have been very respectful of religious faith and have worked with me regarding religious organizations under the proposed ENDA law. I think that was a tolerant thing for them to do.

My great frustration is trying to say to the right and to the left: Toleration is a two-way street. What I have heard back and forth this morning is intolerance on both sides. I will tell you, as a Republican, how disappointed I was to see from the Republican Steering Committee this morning chapter and verse of instances where a homosexual man and Scout leader was also a pedophile. The inference they are trying to draw is that if you are a homosexual, ergo, you are a pedophile and cannot be a Scout leader. That is no more true than the proposition that a man who coaches a girl's soccer team will necessarily sexually abuse the girls.

We have to get beyond these stereotypes. This is wrong; this is intolerant; and it goes both ways.

So I believe Senator HELMS is here in good faith. I believe he is going to amend his amendment. I believe we can narrow it in a way to exclude those groups who do not have national charters with this Government or in some way to say that, yes, we do feel a need to stand up for the Boy Scouts of America.

Assuming we find that language, I intend to vote with Senator HELMS because, I will tell you, what I learned as a Scout is an ideal that I want to see preserved for our country. And I don't want them excluded from the national parks; I don't want them excluded from our public places; because I believe what I learned as a Boy Scout is as invaluable and as enduring today as it was when I learned it as a 12-year-old boy.

Madam President, we are doing a school bill here because we want to help our kids. Let me tell you what I learned as a Scout. We memorized it. I have to use these glasses now. I didn't then. But these are the qualities I would like taught in school: A Scout is trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean, and reverent.

Then you come to the Scout oath. The last phrase is what everybody focuses on anymore. I didn't even know what it meant in a modern context when I learned it as a boy. It is:

> On my honor I will do my best
> To do my duty to God and my country
> And to obey the Scout law;
> To help other people at all times;
> To keep myself physically strong,
> Mentally awake,
> and morally straight.

Do you know what I knew as a boy about ''morally straight''? I didn't know anything about gays or lesbians or ''straight.'' What I was taught that meant was that as a boy and a young man I should be sexually abstinent and that as an adult and a married man I should be sexually faithful to my spouse. Is that wrong? I know that that is a tough standard, but I say the U.S. Senate should keep that ideal high. And we can do it by supporting the Boy Scouts of America.

So while we are working out the language on the Helms amendment, I thank the Senator from North Carolina for the spirit of the amendment that

says these ideals, these values are valuable still.

Madam President, I think what is often lost in this debate about the Boy Scouts is how it is even organized. The Boy Scouts is a national institution with a national charter with this Government, and it is put out for any group that wants to sponsor it. They are called chartering institutions. Most of the chartering institutions are churches and synagogues. Some are police stations. Some may even be a school district. But I tell you, we ought to understand the spirit of religious accommodation. It ought to apply to the Boy Scouts as well. But in many cities in our country, this organization is being singled out for discrimination, and it is wrong because this is a standard.

These are values that I want taught in public school. And these are values that when I live them, my life is better for it and my pursuit of happiness is more full.

So I hope we can find the right language because this Eagle Scout feels a need to vote for the Boy Scouts of America on the floor of the U.S. Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, with the agreement and the graciousness of Senator BROWNBACK, we will have Senator MURRAY speak for 3 minutes, and I ask unanimous consent to speak for 30 seconds.

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

Mrs. BOXER. I will never forget my daughter when she was that little Brownie girl. All the women Senators are giving the proceeds of our book to the Girl Scouts. There isn't anyone on this side of the aisle who doesn't believe it is very important to have organizations such as these to help our kids. We also believe, however, if you read this amendment, it is not about equal access for the Boy Scouts.

I yield to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, I want to respond quickly to the Senator from Oregon. I was concerned with his mischaracterization of those who oppose this amendment. As I heard him, I felt he was saying those who support this amendment support the Boy Scouts and the values of the Boy Scouts, and those who oppose it oppose the Boy Scouts.

I tell the Senator from Oregon and our colleagues, that is absolutely not the case. I have sat here and listened to the entire debate. Everyone who has opposed this amendment has spoken about the Boy Scouts personally in their own lives, including me. I remind the Senator from Oregon that I was a Brownie. I was a junior Girl Scout. I was a Girl Scout. I was a Brownie leader. I was a junior Girl Scout leader. I was a senior Girl Scout leader, and I was a Boy Scout leader for my son.

I think the Boy Scouts do a tremendous job in this country for a lot of young people, and I want them to continue to do that.

The opposition to this amendment comes because the Boy Scouts already have equal access to our facilities. They have them under current law, and it has been affirmed by court decisions. The concerns on our side are that this amendment and the language of the amendment as written will give the Boy Scouts access above and beyond any other group that asks for a school facility.

As a former school board member, the bind that will put our school districts in, as they look at this language and are told that if a church group comes to them and another group, perhaps seniors who are looking for tutoring, and Boy Scouts, is that they will have to pick the Boy Scouts over those other groups. School boards make these decisions based on a lot of different local decisions: On space, on how the facility will be used, on how many janitors they are going to have to hire, on what other kinds of demands there are on their facilities. Their underlying goal as a school board is to make sure the kids in their district are educated. We have to leave this decision in their hands and not put language into the Elementary and Secondary Education Act that forces them to choose one group over another.

Equal access is currently provided under law and by the courts. What we cannot do is tie the hands of school boards to give unequal access to a group, even though all of us on the floor may agree that it is a great group.

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

Mrs. MURRAY. I am happy to yield for a question.

Mr. SMITH of Oregon. I say to Senator MURRAY, I don't cast aspersions on anyone. But I have heard a few say that the Boy Scouts are discriminators and therefore should be discriminated. I have heard that in several remarks. I am only making reference to that. I believe some legitimate concerns about the amendment have been raised. I am hearing from some that the Boy Scouts are out of date and old-fashioned. I am saying they ought to remain in fashion.

The PRESIDING OFFICER. Under the previous order, the Senator from Kansas is recognized for 10 minutes.

Mr. BROWNBACK. I appreciate that. I rise in support of the amendment. This is one that should pass 100–0. Hearing some of the comments on both sides of the aisle, I am not sure I understand why there should be any opposition to it.

I will read the applicable part of the amendment. It is on page 2. It says to any State educational agency, if a school, or schools served by the agency, denies equal access or a fair opportunity to meet or discriminates against any group affiliated with the Boy Scouts of America or any other youth group that wishes to conduct a meeting within that designated open forum—and that is where the language is being worked on right now—on the basis of the membership or leadership criteria of the Boy Scouts, their funding is limited.

As the Senator from North Carolina pointed out, most of these never get to that point. The Department of Education looks at it, investigates. It is worked out at the local school district level. This all gets worked out. The operative point here is that if the Boy Scouts are going to be discriminated against, you are going to go into a process of being reviewed on your Federal funding.

Is this a legitimate concern? Some have raised the point this is not a legitimate concern. Let's look at the headlines. In the year following the decision of the Supreme Court, the Boy Scouts v. Dale, which affirmed the Scouts' right of free association—that is the issue here, right of free association, in the Constitution; it has been a raging storm. The New York Times has compared the Scouts to a hate group. Robert Scheer of the Los Angeles Times characterizes Scouts as engaged in hateful politics. They have been accused of bigotry. Activists groups have expressed being appalled at some of the Scouts' positions. Unfortunately, many school districts have responded to the controversy by attempting to discriminate against the Boy Scouts.

This is a point I am reiterating from the Senator from Wyoming, a former Eagle Scout. I, unfortunately, was not an Eagle Scout. We didn't have the Boy Scouts in Parker, KS. I wish we had. My son was in the Boy Scouts. It is a great organization. Some of the school districts have followed on after this sort of hyperbole and rhetoric regarding the Boy Scouts and they have started to respond.

Listen to what is happening.

In Seattle, the home State of the Presiding Officer, from the Seattle Union Record:

Safe Schools Coalition Asks for Restricted Access for Seattle Scouts.

From the South Florida Sun-Sentinel:

Broward School Board to Review Scouts' Lease.

From the Detroit News:

Plymouth Schools to Vote on Ban on Scout Meetings.

This is an active issue against the Boy Scouts of America. People are saying the Boy Scouts is a good organization: we like the Boy Scouts, are part of the Boy Scouts, continue to be a part of the Boy Scouts; we should let them have public access. If you think this is an insignificant amendment, vote for it 100–0 then.

Unfortunately, the school districts' response to this controversy is based on what other people are saying about

the Boy Scouts of America and not what the Boy Scouts are doing or saying. In Kansas, we have a tradition and a thought that is appropriate to bring here; that is, that you take people at their word. Rather than attempting to characterize the nature of the Boy Scouts as an organization or offering just my opinions on that, I think we ought to let them speak for themselves. We talk a lot on the floor about character, the need for character, the need for that in this country. Everybody would agree we need character. We need to bring back those fundamental principles that this country was built upon.

Are the Boy Scouts a part of that? First and foremost, consider the question of whether or not Scouts are a hate group, as some have alleged. It is important to go back to the roots of this 90-year-old organization, look at the values upon which they exist.

Let's consider their oath the Senator from Oregon was citing, which I think is so beautiful. It is something we all ought to memorize as U.S. Senators and others:

On my honor I will do my best
To do my duty to God and my country

''In God we trust,'' above the halls of the Senate, major door through which we walk.

And to obey the Scout law;
To help other people at all times;
To keep myself physically strong,
mentally awake,
and morally straight.

As a parent of five, I like that. I think that is pretty good. I think that is pretty good character education. I don't see anything hateful in it. However, the oath does refer to the Scout laws. Maybe we need to look to see if this is a hate group or not.

In the Scout group, they call for trustworthiness. A Scout tells the truth, keeps his promises. Honesty is part of his code of conduct. People can depend on him. A Scout is loyal. A Scout is true to his family, Scout leaders, friends, school, and Nation. A Scout is helpful. A Scout is concerned about other people. He does things willingly for others without pay or reward. That is a nice notion to bring back.

A Scout is friendly. A Scout is a friend to all. He is a brother to other Scouts. He seeks to understand others. He respects those with ideas and customs other than his own.

A Scout is courteous. A Scout is polite to everyone, regardless of age or position. He knows good manners make it easier for people to get along together. A Scout is kind. A Scout understands there is strength in being gentle. He treats others as he wants to be treated. He does not hurt or kill harmless things without reason. A Scout is obedient. A Scout follows the rules of his family, school, and troop. He follows the rules of the school. He obeys the laws of his community and country. If he thinks these rules and laws are unfair, he tries to have them changed in an orderly manner rather than disobeying them.

A Scout is cheerful. A Scout looks for the bright side of things. He cheerfully does tasks that come his way. He tries to make others happy. They may be being tasked on that one at this point in time.

A Scout is thrifty. A Scout works to pay his way and to help others. He saves for unforeseen needs. He protects and conserves natural resources. He carefully uses time and property. A Scout is brave. A Scout can face danger, even if he is afraid. He has the courage to stand for what he thinks is right, even if others laugh at or threaten him. And they are being threatened today.

A Scout is clean. A Scout keeps his body and mind fit and clean. He goes around with those who believe in living by these same ideals. He helps keep his home and community clean. He helps keep his home and community clean. A Scout is reverent toward God and faithful in his religious duties. Listen to this one. He respects the beliefs of others.

I don't see any hate espoused there. In fact, quite the contrary, the Scout law advocates respecting the beliefs of others. Yet the Scouts' beliefs are not being respected here and they are being singled out for discrimination, and some are even alleging they are discriminatory. Helping others is part of it, as are being gentle and treating others with respect. That is part of their core values. Considering all of the violent and hateful influences which our children are exposed to on an hourly basis, I find it supremely ironic that school boards are so concerned with the influence of an organization whose slogan is ''do a good turn daily.''

Looking at the Scouts' founding principles may not be enough to clear the record. Perhaps it is better to take them at their word regarding the particular issue of this debate—their stand on having homosexual leaders. The question I believe many school boards in the country are asking is, Are the Boy Scouts of America a homophobic organization? To which I would aggressively respond: No. No, they are not. Even in their own creed they say ''respect for diversity.''

I want to put in a quote the Boy Scouts forwarded:

The Boy Scouts of America respects the rights of people in groups who hold values that differ from those encompassed in the Scout Oath and Law, and the Boy Scouts of America makes no effort to deny the rights of those whose views differ to hold their attitudes or opinions.

That is what the Boy Scouts say and do themselves. Scouts come from all walks of life. They are exposed to diversity in Scouting that they may not otherwise experience. I know from my work with the Scouts, it is a diverse group. It gives a lot of opportunity to a lot of kids. The Boy Scouts of America aim to allow youth to live and learn as children and enjoy Scouting without immersing them in the politics of the day.

I think this last quote from the Boy Scouts is particularly appropriate. In truth, this debate is not about the Scouts—it is about the politics of the day into which the Scouts have been swept. They have had this motto, and they have had these views and they have been an organization 90 years. As far as the politics of banning one of the oldest and most noble youth organizations in this country from public property, we cannot, should not, and we must not let this happen.

I call on all of my colleagues in the Senate to pass this worthy amendment. With that, I yield the floor.

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

Mr. KENNEDY. Madam President, the Helms amendment is a solution in search of a problem. The Senator from North Carolina says his amendment is needed because schools are excluding the Boy Scouts from using their facilities, and this is simply not true. Just this week, the Supreme Court reaffirmed the right of groups such as the Boy Scouts to use public school facilities. This amendment is about punishing schools that decided to no longer sponsor the Boy Scouts because of their exclusionary membership policy.

Currently, 359 school districts, with a total of 4,418 schools in 10 States, including Massachusetts, no longer sponsor the Boy Scouts. This is the statute in my State of Massachusetts:

Extracurricular activities, advantages, and privileges of public schools include all extracurricular activities made available, sponsored, or supervised by any public school. No school shall sponsor or participate in the organization of outside extracurricular activities conducted at such school that restricts student participation on the basis of race, color, sex, religion, national origin, or sexual orientation.

This does not prohibit school committees from allowing the use of school premises by independent groups with restrictive membership. Therefore, they can use the facilities. The Massachusetts statute indicates they can't be made to sponsor.

The Helms amendment is attempting to override the State statute and the decisions being made locally. I think that is unwise, unnecessary, and wrong. Although the schools do not sponsor the Boy Scouts, the Scouts are still given access to school facilities as any other group. The Boy Scouts may have a constitutional right to use public school facilities. They do not have the right to demand school sponsorship. Yet that is exactly what the amendment allows them to do.

The amendment also contains a harsh punishment on the schools that decide no longer to sponsor the Boy Scouts with the loss of all Federal education funds. I strongly urge my colleagues to vote against the Helms amendment.

Madam President, we have been on the floor for 8 weeks attempting to try to fashion and shape legislation that

was going to enhance the education of children all over this country. We have a good bill, and it seems to me to be unwise in that effort to bring effectively something that these children have no control over. We are giving accountability to the children to exceed themselves in the challenge they are facing. We put additional challenges on teachers, on parents, on schools. We are encouraging the States for greater participation and involvement. Now we have this amendment, the results of which would deny the benefits of the advantages of this legislation to reach many different children in our country. It seems to me to be unwise. I hope the amendment is defeated.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. As the Chair knows, I obtained unanimous consent that I might deliver my remarks from my chair for obvious reasons.

I have listened in fascination to the discussion on the Senate floor this morning and this afternoon. It bears out exactly what I was told was going on in the way of the lining up of opposition on the other side to this amendment by the homosexual-lesbian leaders in this area. Let me say at the outset that I don't like the corruption of a once beautiful word ''gay'' which has been adopted as a description of conduct that is anything but that.

It is all right with me if the other side wants to make a political football out of this thing, but they were not prepared and they had not been energized when this amendment came up the first time. In any case, I have heard here that the Boy Scouts are not being discriminated against and all of this is false, and so forth and so on.

Let me give a few examples. On May 11 of this year, the Associated Press reported that the Iowa City school board voted to prohibit the Boy Scouts of America from distributing any information in schools because of the Scouts' membership criteria. A spokesman for the Boy Scouts of America:

> We simply ask to be treated the same way as any other private organization and that our free speech and right to assemble be respected just as we respect the rights of others.

On February 8 of this year, the Asbury Park Press reported that the State of New Jersey is considering a rule change that would bar school districts from renting space to the Boy Scouts of America because of their position on homosexuality.

On February 7 of this year, the Arizona Republic reported that the Sunnyside School District in Tucson decided to charge the Boy Scouts of America fees to use school facilities, even though no other groups have to pay for use.

The ACLU executive director said:

> While Boy Scouts, atheists, Nazis, even satanists have a right to express their views, Government should not use public money to promote them.

What goes on here? Is this not really an attack by one group on the Boy Scouts of America? Of course, it is. Why do you think these people have been standing up and telling how long they served in the Girl Scouts in a tearful sort of way? The goal here is the goal of the organized lesbians and homosexuals in this country of ours.

On January 28 of this year, the Boston Globe reported that the Acton School Committee in Massachusetts decided to prevent the Boy Scouts from distributing literature at school even though all other groups can do so. In defending its actions, Acton School Committee cited Massachusetts law that says schools cannot sponsor Boy Scouts.

On January 14 of this year, the New York Times reported that New York Chappaqua School District officials were able to coerce two local Boy Scout troops into signing a document that denounced the national policies of the Boy Scouts of America as a condition for allowing these troops access to school property.

Don't you see what is going on here? The Supreme Court knocked them in the head. The Supreme Court stood up for the Boy Scouts of America, exactly as I am trying to stand up for them.

I am a little bit sick at my stomach at some of the mewling and puking that has gone on in this debate this morning and this afternoon.

On January 11 of this year, the News and Observer, my favorite newspaper in Raleigh, NC, said that the Chapel Hill-Carrboro School Board voted to give Scouts until June—la-di-da—either to go against the rule of their organization or lose their sponsorship and meeting places in schools.

I have two or three more pages. If anybody is interested, Madam President, I will be glad to read them into the RECORD. Otherwise, I am going to place them in the RECORD so they can be examined when the vote has been taken, and if the other side manages to defeat this amendment, as has been advocated and worked for by the organized groups to which I have been referring, then it will be there for the public to see who is who and who is for what.

I am going to pause momentarily, but I will be back, because Senator KYL has been waiting to address this amendment. I thank the Senator for coming. I yield to him.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I rise in support of the Helms amendment. Since 1910, for the past 91 years, the Boy Scouts of America have been instilling in young boys the values of personal responsibility, community, and duty to God, respect for individual beliefs, and patriotism. Millions of boys have become better citizens because of the availability of Scout troops in their communities.

I respect the message of the Boy Scouts and respect their commitment to instilling these ethical and moral values in young boys. Unfortunately, there are some who do not respect the Boy Scouts' message. Some school boards are taking action to prevent the Boy Scouts from distributing recruitment information and holding meetings and not, as has been suggested, because some more appropriate group needs the space but because of what the Scouts believe. That is why I have chosen to speak today to voice my concerns regarding the discrimination the Boy Scouts are facing and to support the Helms amendment that will allow the good work of the Scouts to continue in schools.

Last year, the U.S. Supreme Court upheld the Boy Scouts' first amendment right of association to create their own criteria for Scout leaders, even if that means prohibiting homosexual leaders in order to uphold its focus on strong moral values. That was in Boy Scouts v. Dale.

Since that critical Supreme Court decision, the Boy Scouts have experienced serious discrimination for exercising their constitutionally protected rights, and that is not right.

Boy Scout troops across America are facing obstacles put in place by school boards. In a Wall Street Journal article from last July, it was noted that poor minority children will suffer the most as a result of this all-out attack on the Boy Scouts.

It is vital to hold Scout meetings in local public schools, particularly in inner-city neighborhoods because often that is the only safe place for these kids to congregate.

The Senator from Massachusetts said the amendment is a solution looking for a problem, but the Congressional Research Service has reported already nine specific school boards have taken action to restrict Boy Scout access to public school facilities. The Senator from North Carolina had just gotten started reciting a litany of examples where this has occurred and apparently has several more pages from which he can read.

This is a problem, unfortunately, that requires a solution, and the point of his amendment is to stop the trend so we do not have any more examples and so the Boy Scouts do not have to continually litigate every time they want to enforce their constitutional rights.

This Congress has taken action over and over where the Supreme Court has guaranteed rights to a group or an individual or a cause of one kind or another, and we have sought to embody in the law a remedy so that the entity or the group does not have to constantly go to court to battle for these constitutionally guaranteed rights. That is what is meaningful about the kind of action that is being proposed today.

An example as recently as November 2000, the Broward County School Board voted to prevent the Boy Scouts altogether from using public schools to hold meetings and recruitment drives. They challenged this in the Federal

court, and the Boy Scouts won the initial victory.

In March 2001, the district court issued a preliminary injunction that will allow the Boy Scouts to continue their regular meetings and recruitment.

Yes, it is true that some have argued there is a remedy for the Boy Scouts to enforce their constitutionally protected rights. Why wouldn't we want to assist them so they do not have to go through expensive court litigation every time another school board decides to take this kind of discriminatory action.

This past Monday, the Supreme Court held that a public school violated the Christian organization's free speech rights by excluding the club from meeting after school. The Court found the school was discriminating against the club because of its religious nature, and the Court rejected this viewpoint discrimination.

More and more the Court is acknowledging the fact it is appropriate for us to protect these kinds of rights. There are about 85,000 Cub Scouts and Boy Scouts in my own State of Arizona. They rely on every public elementary school in Arizona to open the cafeteria or another room in afterschool meetings and help Scouts distribute information.

I have gone to these schools and participated in the awarding of Eagle Scout badges, for example. I suspect almost all of us have done that, and it makes us feel very good to be supporting these youngsters who really want to become very good citizens.

Even in my State of Arizona, the Boy Scouts have been subjected to this kind of discriminatory practice by school boards. One district outside of Tucson will simply not sponsor Scouting anymore. It has nothing to do with the need of other school activities for the space that has been devoted to the Scouts.

Another school district began charging fees for the Scouts to use its facilities, but the same district does not charge a fee for any other group. Why charge the Scouts? The district said the Boy Scouts do not meet the goals and objectives of the school district.

In another district, school employees took it upon themselves to throw away recruitment fliers in order to prevent the Boy Scouts from getting its information out to the students.

I think the need for this is clear. The Boy Scouts need our help to ensure equal access to our public schools. They should not be forced to continually go to court to protect their constitutionally guaranteed rights.

If they are denied access for legitimate purposes, this amendment does not apply. It is only to enforce their right against discrimination. They are experiencing hostility and exclusion from some public schools. It has to stop.

The Helms amendment ensures they are not going to have to go to court to protect their rights. They will continue to be able to meet and teach young boys strong moral values. I hope others will join in supporting this very important and needed amendment to this bill.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I appreciate the opportunity to discuss this issue. I think it is an important issue. There is a real problem we need to wake up and face. As a former Boy Scout and former Eagle Scout, I feel strongly about it and want to share some remarks on the subject.

We grew up in a little community outside of town with nine boys in the community. Of the nine, eight became Eagle Scouts and one was a Life Scout. We always teased him, why he didn't finish, and he always said he regretted not having completed the program, one step from being an Eagle Scout.

Every Thursday evening, we went to town, and we had to pool our cars. A parent or kids who had their license would drive to our meeting. We would do camps together. We did the Scout oath and Scout laws every Thursday night:

> On my honor I will do my best
> To do my duty to God and my country
> And to obey the Scout law;
> To help other people at all times;
> To keep myself physically strong,
> mentally awake,
> and morally straight.

I never thought that much about it, but over the years that had an impact on my life. In our town, people remained in Scouts into their senior year in high school.

The first time I came to Washington was with a Boy Scout troop. We had a 50th anniversary of that troop, and 60 had been Eagle Scouts. From the 9 boys of my little community, 15 miles outside of the town, every one of them had a full degree from college, several have Ph.D.'s, law degrees, and advanced degrees. One is a medical doctor. One is a dentist.

It meant a lot to me. We also did the Scout laws every Thursday night: A scout is trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty—that is a good word we don't use much anymore—brave, clean, and reverent. The word ''God'' is used and the word ''reverent'' is used, but it is decidedly not a sectarian organization. Not one bit of the literature or otherwise suggests that. To the contrary, it is an organization that encourages boys to develop a spiritual side and to recognize that they are indeed more than a random collection of particles but are created persons. That is a key component of the Boy Scouts.

Several years ago my friend, Senator ENZI from Wyoming, talked about being an Eagle Scout, as is his son. He told a story about the Washington zoo in the U.S. capital. The Washington zoo would not allow the Boy Scouts to have a Court of Honor. And, by the way, one of the founders of the Washington zoo was one of the founders of Boy Scouts. They were not allowed because they discriminate against atheists. The oath required that boys do their duty to God. They said if you were an atheist, you could not take the oath; therefore, you were a discriminatory organization and you could not use the property at the Washington zoo to have a Court of Honor.

We raised that point. It was not lightly taken. There were letters written to defend it. But when confronted with it, the leader of the zoo capitulated and apologized and said that was not a good policy and they would not continue to adhere to it.

What is troubling to me is that we have skirted the issue some, but there is a group of Americans who believe very strongly—and I don't disparage their motives—that the Boy Scouts' position on gay Scoutmasters is not appropriate, and they have set about to punish the Boy Scouts. I don't think there is anybody here who would deny it. They are politically active. They work United Fund committees, and they work school boards and city councils. And they seek to get them to eliminate Boy Scouts from public facilities. That is what is happening. There is no mystery about that.

We give a lot of Federal money to school systems. I don't believe every time something irritates us that the Federal Government ought to get involved, but I feel strongly abut this. The Supreme Court of the United States upheld the right of the Boy Scouts to make this determination.

Some say there is no discrimination going on against the Scouts. There plainly is. It will plainly continue. As far as I am concerned, if there is a school system in America that says to a little Boy Scout troop, such as troop 94 in Camden, AL, you can't have a meeting on school grounds because of your policy concerning your leadership and the behavior of your members, you can't have it here, even though the Supreme Court said yes, as far as I am concerned, they don't need Federal money and I am not voting to give it to them.

That is where we are. I am not sure exactly how the language is going to come out. I know Senator HELMS would like to make sure there was the least possible controversy over it. I would like that also. I firmly believe we ought to affirm through governmental entities and organizations the kind of character-building program to which the Boy Scouts are committed. ''Do a good turn daily'' is the motto.

I read and clipped an article that brought tears to my eyes, an article in one of the newspapers about Boy Scouts in Rwanda. They had all their uniforms confiscated, but they had their kerchiefs. The picture with that article showed those Scouts at a hospital in war-torn Rwanda, cutting the grass. They were interviewed, and they said: We always do a good turn daily. I

tried to get them some help. The article went on to say that when the totalitarian leader took over, he oppressed the Scouts; he took their uniforms and their books, and he forced all the young people to join, for lack of a better word, a Hitler-type youth group of which everybody had to be a part. They refused. They stayed true to their oath. Under oppression we have the finest example of commitment. That was very moving to me.

These ideals are wonderful ideals. I find it difficult for anyone to conclude that there is something unhealthy in the way the Boy Scouts do business. It ought to be affirmed and nurtured. A school system that will not provide them their constitutional right does not deserve a dime of Federal money, in my opinion. I think the Helms amendment will help deal with that and get some attention from around the country.

I yield the floor.

Mr. REID. Mr. President, today, the U.S. Senate made a strong statement in support of the right of the Boy Scouts of America and other youth groups to enjoy equal access and a fair opportunity to use the facilities of our Nation's public schools. I am proud to have joined my Senate colleagues in supporting an amendment to S. 1, the Elementary and Secondary Education Act, which will codify in Federal law recent decisions by the Supreme Court of the United States upholding these basic rights of equality and fairness for the Boy Scouts.

I am also a strong supporter of the right of private organizations such as the Boy Scouts to organize as they wish. My son was on Eagle Scout, and I know firsthand the values on which the Boy Scouts and the Girl Scouts stand. The Scouts stand for strong moral character, duty to God, a respect for the rule of law, service to others and loyalty and allegiance to country. Based upon these high standards, the Boy Scouts and any such private organization should be allowed to determine its own membership without interference. This prerogative has been upheld by the U.S. Supreme Court as recently as this week, and I commend the Senate for endorsing this fundamental right.

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by the Senator from North Carolina, Senator HELMS. This amendment, the Boy Scouts of America Equal Access Act, is very clear in its purpose, which is ''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.'' I am pleased to be a cosponsor of this amendment.

It is appropriate that this amendment be considered and adopted on this education bill. Since its founding in 1910, the Boy scouts of America, BSA, has complemented youth education with a program that teaches skills and values that will help those youth throughout their lifetimes. Over the past 91 years, more than 100 million young men and women have been served by Scouting. For those young people, Scouting has provided a program of values and leadership, joined with an opportunity to improve themselves by helping others.

The BSA is primarily concerned about the youth it serves. Its mission statement states: ''The mission of the Boy Scouts of America is to prepare young people to make ethical choices over their lifetimes by instilling in them the values of the Scout Oath and Law.'' The Scouting program has three specific objectives, commonly referred to as the ''Aims of Scouting.'' They are character development, citizenship training, and personal fitness. The methods by which the aims are achieved are Advancement, Uniforms, Outdoor Program and Skills, Youth Leadership, Patrol Method, Community Service, and Adult Association. In addition, the Scouting Program through a variety of means works to prevent child abuse, drug abuse, hunger, functional illiteracy, and teen unemployment.

Scouting has become an American institution, a natural element in most communities. Scouts exemplify the values outlined in the Scout Oath and Law and dedicate themselves to serving their communities.

The BSA respects the rights of people and groups who hold values that differ from those encompassed in the Scout Oath and Laws, and the BSA makes no effort to deny the rights of those whose views differ to hold their attitudes or opinions. Likewise, the Boy Scouts of America aims to allow youth to live and to learn as children and enjoy Scouting without immersing them in the politics of the day. Unfortunately, certain groups dissatisfied with the Boy Scouts of America's membership policies and the moral views on which they are based have suggested that the BSA not have the privilege of meeting in public schools or distributing recruitment information at public schools. I do not agree with that suggestion. Just as other student or community groups are permitted to have access to public school facilities, the Boy Scouts of America should have the same access.

I am proud of my association with the Boy Scouts of America. I strongly support the amendment that would permit the Boy Scouts to have equal access to public school facilities. This amendment is consistent with the decision by the United States Supreme Court which reaffirmed the Boy Scouts of America's standing as a private organization with the right to set its own membership and leadership standards.

Mr. LEAHY. Mr. President, the amendment offered by Senator HELMS entitled the ''Boy Scouts of America Equal Access Act'' aims to ensure that the Boy Scouts of America has access to our nations' public school facilities. The Boy Scouts already have access to our public schools, access that is guaranteed by the Constitution. As recently as this past Monday, the Supreme Court confirmed in the case of Good News Club v. Milford Central School that when a public school establishes a limited open forum, the school may not discriminate on the basis of viewpoint among groups wishing to use that forum. Under that decision and its predecessors, the Boy Scouts already have the same right to use public schools as any other group. We do not need to echo the Constitution's clear protections through an amendment to the reauthorization of the Elementary and Secondary Education Act.

Moreover, this amendment does more than simply reiterate what the Supreme Court has already made clear about access to our public schools. It conditions federal funding on the willingness of school districts to accept groups with ''membership or leadership criteria, that prohibit the acceptance of homosexuals.'' Districts that refuse space to any groups besides the Boy Scouts, or groups with similar views on homosexuality, are subject to no Congressionally-mandated penalty. Indeed, the only specially protected viewpoint under the Elementary and Secondary Education Act would become the refusal to accept gays and lesbians. I am uncomfortable with the Congress endorsing these particular views above all others, and I believe that the courts would likely find this to be impermissible viewpoint discrimination. The Supreme Court has stated that: ''Regulations which permit the Government to discriminate on the basis of the content of the message cannot be tolerated under the First Amendment.'' *Simon & Schuster, Inc.* v. *Members of the N.Y. State Crime Victims Bd.*, 112 S. Ct. 501, 508 (1991). In my opinion, this amendment would do precisely what the Court has said the First Amendment prohibits.

I oppose the Helms amendment because it accomplishes nothing except to provide special and unprecedented protection for one particular and deeply controversial view, the Boy Scouts' decision to ''prohibit the acceptance of homosexuals.'' This is not the job of Congress, and it should not interfere with the important work we are doing to reform our education system. It is also worth noting that this amendment does not prevent schools from withdrawing their sponsorship of the Boy Scouts, as some supporters have stated. It simply guarantees the organization the access that they already have.

This amendment is unnecessary. This debate needs to be about the education of our children, about pressing problems such as providing high quality teachers; ensuring access to technology; funding programs to assist low-income and disadvantaged students;

and, renovating and repairing deteriorating schools. We have had a good debate on these issues over the past several weeks and have done so in a bipartisan and cooperative manner. As we come to what may be the closing hours of our consideration of the critical issue of education reform, I urge my colleagues to maintain the focus on our school children and the quality of the programs, facilities and services they receive and to oppose this divisive and unnecessary amendment.

Mrs. FEINSTEIN. Mr. President, I rise in opposition to the Helms amendment. Under our Federal Constitution and laws, public schools are already required to provide equal access to their facilities. This amendment, therefore, is unnecessary. As such, its only result would be to divide our communities rather than bring them together.

It is unfortunate that an organization that has meant so much to our nation has now become the object of a larger debate on civil rights and national unity. This amendment is not a vote on the legitimacy of the Boy Scouts as a national institution. Rather, it is a vote on the direction in which we want our country to go.

I have heard from constituents who are opposed to this amendment. One was a teacher who spoke eloquently to the divisiveness of the amendment. He wrote:

DEAR SENATOR FEINSTEIN:

As your constituent, I strongly urge to oppose the Helms amendment to the Education Bill (S. 1), which would deny all Federal education funding to any school that has been found to discriminate against the Boy Scouts or any other youth group that denies membership to gays and lesbians.

Aside from being politically divisive and unrelated to the underlying bill, the Helms amendment is completely unnecessary and is a punishment in search of a problem. The use of public school facilities is governed by the First Amendment. The Helms amendment does nothing to further the goals of improving education and serves only as an anti-gay attack. I urge you to oppose this amendment and look forward to hearing your views on this important issue.

Other constituents voiced their concerns about the message of intolerance such an amendment would carry if passed. A family from Valley Glen, CA wrote:

We are very much offended by the discrimination that the [Boy Scouts of America] is able to operate with under the blessings of the U.S. Supreme Court. On one hand we applaud the actions of school boards, city councils, police departments, corporations and United Way agencies for standing up for what they believe. On the other hand, as members of Temple Beth Hillel (Valley Village, CA), we are quite proud of our Pack 311 and Rabbi Jim Kaufman's stand that the basic program is great and that the best way to make change is from within.

Additionally, as a family who is very active in the Girl Scouts . . ., we are quite proud that [the Girl Scouts] are inclusive of all girls and their families.

Our tax dollars should not be used to support the discrimination that the ''Boys Scouts Equal Access Act'' is trying to affirm. We urge you to help to defeat this act and to help to hold the [Boy Scouts of America] to the same standards that the country as a whole is striving for. The [Boys Scout of America] is a great American institution and we hope that it can continue to be so following the same non-discriminatory rules as the rest of the country.

Here are my views on the matter: first, the Supreme Court has already spoken to the issue of equal access for private organizations. Last year, the Court ruled in Dale v. Boy Scouts of America that the Boy Scouts had a First Amendment right to prohibit gay men and lesbians from serving as leaders in the Boy Scouts. What this decision means is that the governments cannot directly penalize the Boy Scouts for constitutionally protected views and policies, as the New Jersey public accommodations law had sought to do in the case. Nor can they indirectly penalize the Scouts by denying access to public facilities and other benefits available to other private groups.

So, for me, the matter is settled. Already a school must allow access to an organization like the Boy Scouts, regardless of the organization's viewpoints, or risk losing federal funding. The Constitution already protects the Boy Scouts and similar youth groups, so there is no reason for Congress to intervene.

I also oppose the Helms amendment because of its sweeping potential to limit the rights of state and local governments to make decisions for their own school districts, and for their own children, as to their communities' tolerance of discrimination. One provision of the amendment in particular troubles me: It would provide special protection to groups that prohibit the acceptance of homosexuals. Basically, it singles out for protection a type of discrimination. A consensus developing in our country is that discrimination of this kind is wrong. Across the nation, local jurisdictions are voting to prohibit discrimination against gays and lesbians.

In my hometown of San Francisco, a city that prides itself on the diversity of its views and the diversity of its people, a cornerstone of the community is its belief that basic civil rights protections should extend to every American, and not only to a few and under certain circumstances. A vote in favor of this amendment would be an indictment against the people of San Francisco and of their rich tradition of accepting others.

And it would be an indictment of the many other communities throughout California and the rest of the nation that promote diversity and tolerance for all. I urge my colleagues to oppose this amendment, which would foster a sense of division and disunity.

Mr. FEINGOLD. Mr. President, the work of the Boy Scouts of America is commendable, and I am proud to have been a Boy Scout. However, I must oppose the amendment offered by the Senator from North Carolina, Mr. HELMS, on constitutional grounds.

The Helms amendment would prohibit federal education funding for schools, school districts, or States that deny access to their facilities to the Boy Scouts, or other such organizations that discriminate based on sexual orientation. In fact, the Supreme Court has already held that if school districts provide some groups access to their facilities as an open forum, they must provide all groups equal access to those facilities. The Helms amendment is not needed to assure the Boy Scouts equal access if a local school district decides to open its facilities to outside groups.

Regrettably, the effect of the Helms amendment as drafted is to give specific groups additional rights to school resources not afforded to other groups. As such, the amendment would thus violate the first amendment by singling out groups that discriminate on the basis of sexual orientation for special treatment. Just as government may not retaliate against or be hostile toward a particular viewpoint, it may not endorse or show favoritism toward such a message. I do not believe that the Federal Government should single out particular policies for special protection using the power of education funding.

Because the Helms amendment violates the first amendment, I will vote ''no.'' I hope that the amendment can be revised in conference to protect all groups from unfair treatment at the hands of federally funded schools based on the views that they express. That would be the right, and the constitutional, way to handle this issue.

Mr. BAUCUS. Mr. President, I rise today to share my thoughts on Senator HELMS' amendment that would deny Federal education funds to schools that deny access to the Boy Scouts of America.

I want to be very clear that my vote against this amendment in no way represents a vote against the Boy Scouts of America. I have always been, and will continue to be, a strong supporter of the Boy Scouts of America. The Boy Scouts provides an opportunity for our children to create and accomplish goals, increasing their sense of self worth and discipline. Boy Scouts learn about the importance of maintaining respect and honor for themselves and others, and Scouts are often excellent role models for their peers. I am firmly convinced that organizations like the Boy Scouts and Girl Scouts play an important role in the development of well-adjusted and productive children.

I voted against this amendment because I felt it provided a Federal solution to a local issue, and I think that is wrong. Under current law, local school board members decide which organizations are permitted to meet in their schools. I want community members and school board members to continue to have that ability. They know best what their children need, and their decisions reflect local values and priorities.

I further want to point out that the Boy Scouts already have equal access

to our schools under current law. I firmly believe that the Boy Scouts should be allowed in our schools, and I am pleased that the Supreme Court has upheld the right of the Boy Scouts to have equal access to our public schools. Should there be cases where the Boy Scouts are denied access to our schools, I think our judicial system is well positioned to determine whether a school's decision was fairly and equitably reached.

I felt that this Supreme Court decision fairly addressed the issue of equal access while keeping control at the local level. I further felt that this decision would give the necessary support to the Boy Scouts of America to meet in our schools without necessitating Congressional intervention. For these reasons, I voted against this amendment.

In my mind, a better alternative, in the form of an amendment introduced by Senator BOXER, existed. I supported that amendment, which affirms the right of the Boy Scouts to meet in our schools without imposing a Federal mandate.

Mr. REID. Madam President, if I could direct a question to the Senator from North Carolina, does the Senator have an idea how much longer he wishes to have this matter debated, just so we can inform Senators when we can expect a vote?

Mr. HELMS. I would say not more than 4 more hours.

Mr. REID. The Senator has said for not more than 4 more hours, so everyone should keep that in mind. If Senator HELMS uses the time he wants, we would vote about 5:30.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. ENSIGN. Madam President, I was listening to the debate and wanted to come down and offer a few thoughts.

First of all, I have heard all the people talking about their days in Scouting. I wish I could add to those voices except I was not necessarily the cleanest cut kid in the world. As a matter of fact, I tried Scouting for only about 3 weeks. So I cannot join the chorus of those who were Eagle Scouts and made it on to the U.S. Senate. But scouting was something that I witnessed growing up. I saw a lot of people whose lives it transformed. Perhaps if I had stayed with Scouting my life would have been transformed a little earlier than it otherwise was.

I have seen many children over the years whose lives have been influenced so greatly by Scouting. The Eagle Scout ceremonies I have gone to honor incredible people. They honor not only the Scouts themselves, but the leaders of the Scout troops who dedicate so many hours to young people and their development. These are the types of activities we should be encouraging.

But I also wanted to add a few words. We do not want to be gay bashing around this Chamber. At least I do not believe we should be. People have the right to live their lives as they choose to live their lives. But I believe in freedom in America. I believe, for instance, if there was a group of people who believe in a gay lifestyle, they may require that same lifestyle or belief of their leadership. I believe that group should be allowed all of its constitutional rights; the right to require that their leaders have their same beliefs. This is, to me, a matter of freedom.

The Boy Scouts have chosen what they want and what they determine as their organization. In America, we should be able to have these types of organizations.

As a matter of fact, there is a group called the Royal Rangers. For those who are not familiar with the Royal Rangers, they are Christian organizations who believe that the Boy Scouts have become too secularized. So the Royal Rangers was formed to bring more of a Christian perspective to scouting because they did not feel that the Boy Scouts were meeting their religious needs.

The point of that is they did not try to change the Boy Scouts. They respected the Boy Scouts' right to believe and to operate how they were operating. But instead of trying to destroy the Boy Scouts or try to hurt the Boy Scouts, they formed their own organization based on their own beliefs. That is the direction we should be going in this country.

If people want to form their own organization, they can form it based on their own beliefs—that really is what America is supposed to be about. This amendment here simply says that a group that has a certain belief system, and has proven that their belief system leads to good citizenship, then we should be encouraging this group. We should not be discriminating against those groups going into our public school systems.

I hope we can get a bipartisan vote in favor of this amendment. I believe that in the long run this amendment will be good for America because I believe the Boy Scouts are good for America.

I yield the floor.

Mr. REID. Madam President, this is just to notify Senators, Democrats and Republicans, that when this amendment is finished, whatever time that may be, we have a number of other matters that will be completed today. Whenever this amendment is completed, we have a number of other important amendments to move to. Senator GREGG told me earlier today he has at least one other amendment that could take a little bit of time, maybe two other amendments. But this is to notify everyone we are going to work tonight until we finish this bill. If we cannot finish it late tonight, then we will come back tomorrow and finish it. It was announced as early as Monday. We are going to work until we finish this bill. I know people feel very strongly about this issue and other issues developed during the day.

We want to make sure everyone has every opportunity to speak and let the Senate know how they feel. But I think there is a time that comes when we have to vote. As my friend, Mo Udall, said in the House one time when he came to appear before a committee: Everything has been said, but not everyone has said it.

I think we may be arriving at that point in the near future on this amendment.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Madam President, it is, frankly, really a sad day when we have to be here on the floor of the Senate to defend the Boy Scouts of America as if they have done something wrong and they have to be defended.

I have seen a lot of things since I have been in this place. We have had a lot of interesting debates on a lot of interesting subjects. I sit at the desk of Daniel Webster. Daniel Webster didn't know about the Boy Scouts of America in his time. I cannot imagine what Webster would think if he were here today to listen to this debate—or Washington or Jefferson or any of the great leaders.

I rise today without equivocation to support the amendment of my friend from North Carolina, to protect one of America's treasures, the Boy Scouts of America.

I would like to call your attention to the photograph behind me during the course of these brief remarks. These are the bad people we are keeping out of our schools, these young boys. I had two sons who were Boy Scouts. I was a Boy Scout.

I can't think of anybody who is hurt to be a Boy Scout. When you talk about precluding ''the Scouts,'' the Boy Scouts from being in a school, what does that mean? Does it mean if a Boy Scout comes in in his uniform for his class, is he going to be thrown out of class and sent home? I guarantee you, if some boy came into class and created a disturbance, it is highly unlikely he would be thrown out of class under the current rules and regulations that some teachers have to face.

I am trying to be as unemotional as I can about this, but this is such an outrage. The organization, the Boy Scouts of America, has one of the most rich traditions and history in American history, in American culture for all time. How many Boy Scouts are there whose names are on that Vietnam Wall? How many Boy Scouts were in the greatest generation that Tom Brokaw talked about? How many Boy Scouts led the fight in World War I? How many?

These are the boys we want to keep from having their meetings in schools that receive billions of taxpayer dollars. I never thought I would see the day when I would have to stand on the Senate floor and go to bat for the Boy Scouts to have that right. But do you know what. Senator HELMS, I am proud to stand here with you and do it.

We need to do it. Then we will do it. I am with him.

The Boy Scouts of America was recognized by Federal charter in 1916 to provide an educational program for boys and men to build character and to train citizens—yes—to promote reverence for God and country. How horrible that must be. We are going to promote reverence for God and country in this time of political correctness. Isn't it awful that somebody might take an oath of allegiance to God and country? What are we coming to? How bad does it have to get before we wake up?

Some of the people who are standing here today in opposition to Senator HELMS on this amendment not too long ago were standing on this floor defending the right to immerse a crucifix in urine and get Federal dollars to display it as art—the same people. That is what we have come to in America. God bless us.

The largest voluntary youth organization and movement in the world—the Boy Scouts—is under siege right on the Senate floor. Six million American boys are members from a wide diversity—religious, ethnic, economic, disability, special needs, honor students, Eagle Scouts, all of it—are under siege.

A large number of Boy Scouts are sponsored by local churches. They meet in church basements.

This tradition should be revered and protected by the Federal Government, not attacked by the Federal Government. We shouldn't discriminate against an organization because it teaches boys morality.

Senator HELMS says we are going to condition Federal education money on a State or locality not discriminating against the Boy Scouts of America. And Senator HELMS is right. He is absolutely right. In your heart you know he is right.

On June 28, 2000, the Supreme Court of the United States, in the case Boy Scouts of America v. Dale, upheld the first amendment rights of Boy Scouts of America to maintain its almost century-old moral code and its standard for membership and leadership.

The Supreme Court concluded that the Boy Scouts have a right under the first amendment to set standards for membership and leadership by concluding that the first amendment protects the right of a private organization to determine its own membership.

The Senate has conditions for membership in this body. Maybe we shouldn't have any conditions. Should we be attacked by the same groups?

The Boy Scouts embrace the following oath. I want to repeat that oath. I think it has been repeated here before. But it is the central purpose of why we are here. Why does Senator HELMS need to be here to offer this amendment to protect the Boy Scouts? Why? Here is their honor code and the oath that they take:

> On my honor I will do my best
> To do my duty to God and my country
> And to obey the Scout law;
> To help other people at all times;
> To keep myself physically strong,
> mentally awake,
> and morally straight.

These boys, and boys like them, by the millions, are being told they can't even have a meeting in their school or in a school in some communities across America.

I will tell you something. Rome died from a lot less than this. When you dilute your moral code to this extent, and if this keeps up, the obituary for America is going to be written. And it is sad to see it is being written here on the floor of the Senate.

When the count is taken, I know where I want to be, and I know where Senator HELMS is going to be.

This is wrong, pure and simple. It is wrong to do this to this organization. There is an organized campaign against the Boy Scouts. It is under siege by the American Civil Liberties Union. It is attacked.

The Boy Scouts have recently suffered discrimination and unfounded accusations of prejudice resulting in discriminatory actions being taken against the organization and its members.

I know this has been said before. It is not meant to be a cheap shot. It is meant to bring up a point. Senator BYRD talked about it.

Delegates at the Democratic National Convention on August 17, 2000, booed the Boy Scouts while the Boy Scouts were leading the delegates in the Pledge of Allegiance. Not all Democrats did that. Very few Democrats did that. But they did it. No one threw them out of the convention. No one threw them out of the meeting. They sat there under their rights booing the Boy Scouts for leading their convention. If I had been a Democrat at that meeting, I would have sought them out and had them thrown out. What a sad day in America.

On September 5, 2000, in Framingham, MA, the superintendent of schools considered prohibiting the local Boy Scout troop from recruiting other Scouts on school grounds for exercising their constitutionally protected rights. Can you believe that? They cannot even recruit a Boy Scout on the grounds of Framingham, MA, schools.

You wonder why we have problems in America. Should you really be surprised when you hear that children shoot children or children commit crimes or children don't respect their parents or children don't respect their authority? What are we telling them? What message are we sending here? How bad does it have to get before America wakes up?

We are in this age of political correctness. That is what we are talking about here—political correctness.

Another shocking example of this same thing is in Robbinsdale district elementary school in Minnesota. One of the teachers in that school states that she will not let the Boy Scouts into her classroom.

Again, is that the Boy Scouts, the organization, a Boy Scout in his uniform—or a Girl Scout, for that matter?

The teacher wrote to the State attorney general:

> Schools and teachers who continue to do business as usual with the Boy Scouts of America participate in discrimination through complicity, acceptance through silence. I will not.

That was printed in the Star Tribune on September 3, 2000.

The State of Connecticut has banned contributions to the Boy Scouts—banned contributions to the Boy Scouts by State employees through a State-run charity. Can you believe that? It is unbelievable. I never thought I would live to see the day that this would happen in this country.

If Jefferson, Madison, Hamilton, and Washington aren't rolling in their graves now, I can't imagine what would ever motivate them to.

Let's look at some of the horrible, terrible things the Boy Scouts of America do.

Let me read from the Bergen County Record of May 29, 2001. This is a good example of what the Boy Scouts do:

> Americans marked Memorial Day with solemn remembrance by making pilgrimages to grave sides, bearing flowers and flags to honor soldiers who sacrificed their lives in battle.
>
> ''It means a lot to me, coming out here and seeing the veterans,'' said Boy Scout Lee Booker, 15, as he helped place miniature American flags at the foot of 46,850 veterans headstones at the Memphis National Cemetery in Tennessee.

And those boys can't meet on school grounds? And you wonder why we are losing our kids.

Is it time to defund the Boy Scouts of America? Is this the group that we want to expel from our public schools? That is what this is all about.

I applaud the Boy Scouts for all the wonderful contributions that group has provided to American society. I am proud to have an Eagle Scout on my staff—one that I know of; there may be more. Jeff Marschner is a shining example of what an important contribution the Boy Scouts of America make to all of us.

They ought to be held in esteem. When they ask to have a meeting, they ought to be asked: Which room do you want?

What have they done that is so wrong? The answer is, nothing. What they have done is so right. And they are being punished for it.

I am going to say it: Every leader in this country who takes that position—local, State, or Federal—ought to have to pay a political price for it. I would say to my critics on this: What were you doing on Memorial Day while the Boy Scouts of Tennessee were placing miniature American flags on the tombstones of Tennessee soldiers?

All persons have the right of freedom of speech and freedom of association. And the Boy Scouts have earned theirs. I hold the first amendment rights of every American in esteem. Freedom of association is fundamental. I do not support the Government attacking groups because of their membership

policies. Some membership policies I don't like. I don't like the KKK. I don't like the skinheads. I don't like those organizations. And anybody who can stand in this Senate Chamber and equate them to the Boy Scouts has a real serious problem.

If the first amendment is gutted for the cause of forcing the Boy Scouts to change their membership policies, what is next?

The Boy Scouts, as an organization, is empowered by our Constitution to determine their own membership criteria—not the Federal Government, not a State, not a local government, not a local school board, not a mayor, not a Governor, not the President, not any unelected bureaucrat in this country. Only the Boy Scouts have a right under the Constitution of the United States to determine their membership requirements for their Boy Scouts, for these boys. That is who has the obligation and the responsibility to do it, and no one else under this Constitution.

Children—boys, girls—are this Nation's most precious resource. Yet this is what we do to them in this Senate Chamber—unbelievable.

I support the Helms amendment. I have never been prouder in my entire political life than I am today to stand here with Senator JESSE HELMS in support of this amendment. I cannot think of one issue that I have ever stood here and talked about that I am more proud to do than what I am doing today. It is not discriminatory. It is fair and simple. It is to protect the Boy Scouts from discrimination, that Boy Scouts cannot be banned from schools that receive millions and millions—and billions—of dollars.

The education bill has money. This bill has money, more money than we have ever given to education from this body. And all Senator HELMS is asking is that governments that accept this money not discriminate against these young men, and young men like them, shown in this picture. Is that asking too much? I certainly hope not.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. If the other side is willing to yield back its time, I will yield back my time.

Mr. REID. We have no time to yield back, but we are ready for a vote, Madam President.

Mr. HELMS. I yield back the remainder of my time.

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

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

The PRESIDING OFFICER. The yeas and nays have already been ordered. The question now is on agreeing to Helms amendment No. 648. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—51

Allard	Dorgan	Lugar
Allen	Ensign	McCain
Bennett	Enzi	McConnell
Bond	Fitzgerald	Miller
Breaux	Frist	Murkowski
Brownback	Gramm	Nickles
Bunning	Grassley	Roberts
Burns	Gregg	Santorum
Byrd	Hatch	Sessions
Campbell	Helms	Shelby
Carnahan	Hollings	Smith (NH)
Cochran	Hutchinson	Smith (OR)
Collins	Hutchison	Stevens
Conrad	Inhofe	Thomas
Craig	Johnson	Thompson
Crapo	Kyl	Thurmond
Domenici	Lott	Warner

NAYS—49

Akaka	Edwards	Murray
Baucus	Feingold	Nelson (FL)
Bayh	Feinstein	Nelson (NE)
Biden	Graham	Reed
Bingaman	Hagel	Reid
Boxer	Harkin	Rockefeller
Cantwell	Inouye	Sarbanes
Carper	Jeffords	Schumer
Chafee	Kennedy	Snowe
Cleland	Kerry	Specter
Clinton	Kohl	Stabenow
Corzine	Landrieu	Torricelli
Daschle	Leahy	Voinovich
Dayton	Levin	Wellstone
DeWine	Lieberman	Wyden
Dodd	Lincoln	
Durbin	Mikulski	

The amendment (No. 648) was agreed to.

CHANGE OF VOTE

Ms. LANDRIEU. Madam President, on rollcall vote 189, I voted yea. It was my intention to vote nay. Therefore, I ask unanimous consent I be permitted to change the vote since it will not affect the outcome.

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

(The foregoing tally has been changed to reflect the above order.)

Mr. BROWNBACK. I move to reconsider the vote.

Mr. SMITH of Oregon. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from West Virginia.

Mr. BYRD. Madam President, may we have order in the Senate.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. I ask unanimous consent to explain my vote. I ask unanimous consent for 3 minutes.

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

Mr. BYRD. Madam President, the Senate is not in order. I will not proceed until it is in order. This was a very important vote.

Madam President, I want Senators to get out of the well. I am entitled to be heard, and I want other Senators to have the same respect and same entitlement.

This was not an easy vote for me. I believe just as strongly as any Senator on that side of the aisle about the rights of the Boy Scouts and about the respect we ought to show the Boy Scouts. I was ashamed and embarrassed by the actions of some people—not by the Democratic Party—by some people at the Democratic Convention who may or may not have been delegates, in showing disrespect for the Scouts.

Having said that, I had some concerns about this language, and I took those concerns to the author of the amendment, Mr. HELMS. He indicated he would try to have that language changed. Several other Members on that side of the aisle voiced their sentiments as being equal and square with mine: That the language needed to be clarified and modified.

The language was this language: ''Any other youth group.'' Similar language is used in at least one other place in the amendment.

My question was: What is the definition of ''youth group'' as it is being used in this amendment? The definition in the amendment reads as follows:

> Youth Group—the term ''youth group'' means any group or organization intended to serve young people under the age of 21.

That can be a Black Panthers group. That can be a skinhead group. That can be a Ku Klux Klan group. I do not mind speaking on that subject. I detest the Klan. I have been a member of it. That is not news. Everybody in this Senate knows that, and I do not carry that badge with pride. But I do not want the Ku Klux Klan or any other hate group in our schools. So, I thought there ought to be a clarification and better definition of ''youth group.''

I came to the floor when the vote occurred. Nobody came to me and said: With regard to your concern, we have changed the language, or, we have not. Nobody said that.

When I saw on the television screen that the vote on the amendment was in progress, I came to the floor, and I went to Senator HELMS. I said: Was there a modification of that language?

He said: No.

He was in accord with having a modification but he said, ''they didn't want it modified.'' I do not know who ''they'' were. But in any event, faced with having to vote up or down on this amendment, I voted for it, but I am still concerned that the definition of ''youth group'' was not changed. I am concerned because that request, which I think was a reasonable request, was somehow rejected by somebody. I voted for the amendment.

I take the floor now to say I hope that in conference that language will be changed. The distinguished Senator from Oregon, Mr. SMITH, earlier suggested that it be changed to mean groups that have national charters. I believe I am correct in the way he stated it—groups that are nationally chartered. That would be fine with me. But that change was not made.

I only take the floor now to explain my vote and to express my regrets that what I thought was a very reasonable request was apparently just rejected out of hand.

I hope that attention will be given in conference to changing this language to make it clear that the term ''other groups'' pertains to groups that are nationally chartered.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. I ask unanimous consent that the amendment of Senator HELMS that just passed be allowed to be amended as Senator BYRD has explained it and as some Members lobbied to have it changed. I think it will be a better amendment. If it is not done here, it ought to be done in the conference committee. We all understand that. No one wants this opened up to skinheads, Nazis, the Ku Klux Klan, or any other hate group, but we want to say the standards of the Boy Scouts of America are standards and values that are valuable still.

Mr. REID. Madam President, did the Senator make a unanimous consent request?

The PRESIDING OFFICER. Yes.

Mr. REID. Reserving the right to object, we, in good faith, during the 8 weeks of this debate have been doing amendments side by side. If your side has an amendment, we have an amendment. We have been doing that and have done it 25 times. We certainly have done it the last week many times. I personally—and I don't know how anyone else feels—think that is not a bad idea as long as we have the opportunity to have our amendment debated, if we have an amendment we believe is an appropriate amendment, and we would be happy to show it to any Member who wants to see it and we have a right to vote on the Helms amendment, which has already been voted on. If you want to modify, that is fine, but we want an opportunity to have an up-or-down vote. We have done it for weeks and I don't see why this amendment should be any different.

Mr. SMITH of Oregon. I withdraw my request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. KENNEDY. I listened to the Senator from West Virginia. A similar amendment has already passed in the House of Representatives, so we have the House language and this language. It is identical. If we follow past precedence, there is not the flexibility to take into consideration what the Senator from West Virginia has requested. That, I think, is part of the reality in terms of the way these institutions run. They have passed a similar amendment by a voice vote, we passed an amendment, and for all intents and purposes that is what will be before the conference. If we follow the precedent, that flexibility that the Senator had mentioned would not be before the conference.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. 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. DASCHLE. Madam President, I ask unanimous consent the order for the quorum call be dispensed with.

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

Mr. DASCHLE. Madam President, we have been discussing this matter over the last few moments. I ask, after I have given a description of our circumstances, that Senator BYRD be recognized for a unanimous consent agreement.

Just for the notification of our colleagues, we would then recognize Senator BOXER who has the right to offer a second-degree amendment. It is a free-standing, side-by-side amendment.

Mrs. BOXER. To my own amendment.

Mr. DASCHLE. That will be offered. Then we will also have the Sessions amendment vote.

Ms. LANDRIEU. Reserving the right to object, Madam President.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. May I inquire if we could amend the consent request, if Senator BYRD would allow me to be recognized for 30 seconds prior to his statement?

Mr. LOTT. Madam President, reserving the right to object, and I do not object to the request of the Senator, but just to make sure I understood, was there an original request? Did Senator DASCHLE make a unanimous consent request?

Mr. DASCHLE. I only asked Senator BYRD be recognized to make the unanimous consent request. Following that, we would go to a vote on the Sessions amendment. After the Sessions amendment is disposed of, we would recognize Senator BOXER for purposes of offering another amendment.

Mrs. BOXER. A second-degree.

Mr. LOTT. You were just announcing the intention with regard to how to proceed? The UC was to allow Senator BYRD to offer a modification, and then I believe the Senator just wanted 30 seconds to speak?

Ms. LANDRIEU. Prior to Senator BYRD.

Mr. LOTT. I withdraw my reservation.

Mr. BYRD. Madam President, may we have order in the Senate?

Madam President, in an effort to help the Senate to reach the best possible product of the amendment's status at this point, so that a consensus of minds in this body may come to a conclusion as to what in their judgment seems to be the best outcome, I ask unanimous consent that on page 2 of the amendment, section 2 titled ''equal access'' subsection (a), paragraph (2), line 12 thereof, be amended as follows: To insert the words, following the word ''group'': ''listed in title 36 of the United States Code as a patriotic society,'' and I ask unanimous consent further that I may be allowed, additionally, to amend the amendment, as modified, which is presently pending, in a second place.

The second place being on page 4 under section (C), titled ''Youth Group,'' on line 8 strike the comma following the numerals ''21'' and insert the following: ''and which is listed in title 36 of the United States Code as a patriotic society.''

So I am asking to amend the bill in two places with the amendment—I am asking to amend the pending amendment, as modified, in two places and as I have outlined.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The majority leader.

Mr. DASCHLE. Madam President, is it now not in order to move to the Sessions amendment?

The PRESIDING OFFICER. The Senate must first adopt the Helms amendment, as amended and modified.

Mr. DASCHLE. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment, No. 574, as modified.

The amendment (No. 574), as modified, was agreed to.

Mr. HELMS. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DASCHLE. Madam President, as I understand, each side now has 1 minute to make their presentation prior to the vote on the Sessions amendment.

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

Mr. SESSIONS. Madam President, we are on the verge and so close to making a realistic and fair and just step in dealing with the complications and frustrations our school systems are wrestling with every day involving disciplinary situations with disabled students. Anyone who talks to them knows it is a very real problem.

Our legislation is a middle-ground position. It is more cautious than the Gorton amendment which got almost 50 votes. It is more modest than the House amendment that passed. It simply says, if a child is disabled and commits a violation of discipline rules that would result in discipline for them, they would be treated as any other child, unless and only after a hearing has been held to ensure that the misbehavior the child committed was not connected to that disability—because some children have emotional problems and have difficulty containing themselves. Those children would not be able to be disciplined like other students.

We think this is a fair and progressive step. I urge your support. I believe with the Vice President we would be able to pass this. I urge its consideration.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Madam President, the Senator from Iowa is not here. I will take one moment.

We have fought for 25 years to try to mainstream disabled children. I remember when there were 5 million who were kept in the closets and shut away. IDEA may not be perfect, but we have a GAO study, which is an authoritative study, that says the changes that were made 2 years ago on discipline seem to be working.

The previous vote was 50–50. We are divided.

Next year we are going to have a complete reauthorization of IDEA. Why have a major step backward in terms of assisting the children in this country?

If we have to change it, let's do it at the time we have the reauthorization—not on the basis of a 50–50 vote or 1 hour of debate and discussion on this measure.

Make no mistake about it. If we accept the Sessions amendment, history will record this as the first major step backward instead of forward with regard to disabled children.

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

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider. Is there a sufficient second?

There is a sufficient second. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. SMITH) is necessarily absent.

I further announce that if present and voting, the Senator from New Hampshire (Mr. SMITH would vote ''yea.''

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

The result was announced—yeas 51, nays 47, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—51

Allard	Enzi	McCain
Allen	Fitzgerald	McConnell
Bennett	Frist	Miller
Bond	Gramm	Murkowski
Breaux	Grassley	Nickles
Brownback	Gregg	Roberts
Bunning	Hagel	Santorum
Burns	Hatch	Sessions
Campbell	Helms	Shelby
Cochran	Hutchinson	Smith (OR)
Conrad	Hutchison	Stevens
Craig	Inhofe	Thomas
Crapo	Johnson	Thompson
Domenici	Kyl	Thurmond
Dorgan	Landrieu	Torricelli
Durbin	Lott	Voinovich
Ensign	Lugar	Warner

NAYS—47

Akaka	Cantwell	Corzine
Baucus	Carnahan	Daschle
Bayh	Carper	Dayton
Biden	Chafee	DeWine
Bingaman	Cleland	Dodd
Boxer	Clinton	Edwards
Byrd	Collins	Feingold
Feinstein	Levin	Rockefeller
Graham	Lieberman	Sarbanes
Harkin	Lincoln	Schumer
Hollings	Mikulski	Snowe
Jeffords	Murray	Specter
Kennedy	Nelson (FL)	Stabenow
Kerry	Nelson (NE)	Wellstone
Kohl	Reed	Wyden
Leahy	Reid	

NOT VOTING—2

Inouye Smith (NH)

The motion was agreed to.

The PRESIDING OFFICER. The question is on agreeing upon reconsideration to amendment No. 604 offered by the Senator from Alabama. The yeas and nays are automatic.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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. REID. Madam President, I ask unanimous consent that the matter before us, the Sessions amendment, be handled on a voice vote.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. It takes unanimous consent to vitiate the yeas and nays. I ask unanimous consent that we vitiate the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 604) was agreed to.

Mr. NICKLES. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

AMENDMENT NO. 562 TO AMENDMENET NO. 358

Mrs. BOXER. Madam President, I send amendment No. 562 to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 562.

The amendment is as follows:

(Purpose: To express the sense of the Senate regarding, and authorize appropriations for, part F of title I of the Elementary and Secondary Education Act of 1965)

At the end of title IX, add the following:

SEC. 902. SENSE OF THE SENATE.

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

(1) The afterschool programs provided through 21st Century Community Learning Centers grants are proven strategies that should be encouraged.

(2) The demand for afterschool education is very high, with over 7,000,000 children without afterschool opportunities.

(3) Afterschool programs improve education achievement and have widespread support, with over 80 percent of the American people supporting such programs.

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

(1) Congress should continue toward the goal of providing the necessary funding for afterschool program by appropriating the authorized level of $1,500,000,000 for fiscal year 2002 to carry out part F title I of the Elementary and Secondary Education Act of 1965; and

(2) such funding should be the benchmark for future years in order to reach the goal of providing academically enriched activities during after school hours for the 7,000,000 children in need.

AMENDMENT NO. 803 TO AMENDMENT NO. 562

Mrs. BOXER. Madam President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 803 to amendment No. 562.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 1. SHORT TITLE.

This title may be cited as the ''Equal Access to Public School Facilities Act.''

SEC. 2. EQUAL ACCESS.

IN GENERAL.—No public elementary school, public secondary school, local educational agency, or State educational agency, may deny equal access or a fair opportunity to meet after school in a designated open forum to any youth group, including the Boy Scouts of America, based on that group's favorable or unfavorable position concerning sexual orientation.

Mrs. BOXER. Madam President, I need literally a minute.

In this amendment, we are codifying what the Supreme Court has said, and that is every group, including the Boy Scouts, has equal access to school facilities. It is very simple. It is very straightforward. It stays away from the can of worms we believe was opened in the Helms amendment.

I hope all of our colleagues, 100 strong, will vote in favor of this simple, straightforward statement that all groups, regardless of their viewpoint, be allowed equal access to the public schools.

I yield the floor. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I rise in opposition to this amendment, and I wish to express some concerns regarding it.

We just adopted an amendment which I think addressed the issue at the core, and that was concerning the treatment of the Boy Scouts of America.

The Boy Scouts of America, as many people know, has been recently pursued by a number of organizations saying they were not going to allow them to

participate and use public schools for Boy Scout meetings. That was the direction of the amendment on which we worked.

I will point out what some of the organizations and schools are pursuing with the Boy Scouts. They are saying: Look, we do not want to allow them to have access to our schools. We do not want to allow them to meet.

Listen to some of these examples:

On May 11, 2001, the Associated Press reported the Iowa City School Board voted to prohibit the Boy Scouts of America from distributing any information in schools because of the Scouts membership criteria. Greg Shields, the national spokesman for Boy Scouts of America, said:

> We simply ask to be treated the same way as any other private organization . . . [and] that our free speech and right to assemble be respected just as we respect those rights of others.

On February 8, 2001, the Asbury Park Press reported that the State of New Jersey was considering a rule change that would bar school districts from renting space to the Boy Scouts because of their position on homosexuality.

On February 7, 2001, the Arizona Republic reported that the Sunnyside School District in Tucson decided to charge the Boy Scouts of America fees to use school facilities, even though no other groups have to pay fees.

The ACLU executive director said:

> While Boy Scouts, atheists, Nazis, even satanists have the right to express their views, Government should not use public money to promote them.

On January 28, 2001, the Boston Globe reported that the Acton School Committee in Massachusetts decided to prevent the Boy Scouts from distributing literature at school, even though other groups can do so. Defending its actions, Acton School Committee cited Massachusetts law which says schools cannot sponsor the Boy Scouts.

On January 14, 2001, the New York Times reported that New York's Chappaqua School District officials were able to coerce two local Boy Scout troops to sign a document that denounced the national policies of the Boy Scouts of America as a condition for allowing these troops access to school property.

I have several more pages of examples. The reason I wanted to point these out is to show what the problem is, and that is, the Boy Scouts are being threatened to have access to public schools denied. That is the reason for the amendment. That was the reason for the Helms amendment.

The Boy Scouts is a 90-year-old organization with millions of members in the country. My guess is a fair number of Members of this body were Boy Scouts or their children are Boy Scouts. Senator NELSON of Nebraska was an Eagle Scout. Senator SMITH of Oregon was an Eagle Scout. Senator ENZI's son was an Eagle Scout. Senator LANDRIEU's family members were Eagle Scouts.

My point in saying this is here is an organization that has been next to God and country and mom and apple pie for as long as we can think of, and it is being pursued. It is being pursued, being castigated. The ACLU executive director mentioned the Boy Scouts in the same sentence as atheists, Nazis, and satanists. They are trying to categorize them in a dark category, a negative category, and all they want to do is do a good deed daily. That is their motto. They are being pursued.

What did we do? What was the response this body voted on by a bare margin of victory? This body said we are not going to tolerate them being pursued or kept out of school buildings. We said in this amendment: If you are going to try to keep them out of school buildings, then we are going to review the Federal funding for you because we so strongly believe in this organization—90 years old, basic value training, character training in which many people in this body participated.

The Senator from California then proposes an additional amendment apparently trying to address much of the same topic. In that amendment, she puts forward:

> No public elementary school, public secondary school, local educational agency, or State educational agency, may deny equal access to meet after school in designated open forum to any youth group, including the Boy Scouts of America, based on that group's favorable or unfavorable viewpoint concerning sexual orientation.

She is trying to cover it. The problem is it does not cover it. It does not cover this for the Boy Scouts. It does not have any enforcement mechanism for the Boy Scouts. They are going to have to go into court with this language the same as they would right now to try to get access to public schools in school districts across the country that are trying to deny them access.

What we did instead was flip the burden. We flipped it to the school districts, saying: If you are going to deny the Boy Scouts, you are going to have to state why and clearly to the Federal educational agency if you are going to continue to get Federal funds. We put the onus and burden on the school districts in the Helms amendment, which is the proper and appropriate place to put it, instead of draining these private coffers of the Boy Scouts of America to pursue lawsuit after lawsuit in various jurisdictions to simply get access to public schools.

What do you want to do? The Boxer amendment, while on its face would look fine, puts the burden back on the Boy Scouts. It says the Boy Scouts are going to have to go to court to get access. You have this law, yes; you have the Supreme Court ruling; but you are going to have to go to court and spend thousands and, at the end of the day, millions of dollars to get access to public schools for the Boy Scouts of America. Let's deny apple pie access to public schools next. They are going to make the Boy Scouts spend millions of dollars to get in and have a meeting at the public school.

That is not appropriate. That is not the right place, to put this burden on the Boy Scouts. They raise private moneys to do character education and do what all of us laud, I believe, in this body. I believe all of us laud the Boy Scouts and what they are after and what they are doing. Maybe that is not the case. Maybe some do not. I hope everybody supports the Boy Scouts.

This is not the right way to go. The Boxer amendment puts the burden back on the Boy Scouts to spend millions of dollars to fight their way into public schools. We should not do that. We do not need to do that. I would rather the Boy Scouts spend millions of dollars on camping, doing things as a scouting troop, as my son did when he was a part of the Boy Scouts, as some of the Eagle Scouts here did. I would rather they buy campgrounds and land to explore and take care of underprivileged youth, as Boy Scouts do across the country. I would rather they take underprivileged youth from inner cities as part of the Boy Scouts, take them to the countryside and camp and spend millions of dollars doing that rather than millions of dollars in court simply to gain access to the public educational institutions in our country for which we provide substantial funding.

That is why this amendment is flawed and should fail and why I oppose this amendment.

I urge my colleagues to oppose and vote against this amendment because we are shifting the burden back to the Boy Scouts and making them fight their way into the public schools. We really do not need to do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. With all due respect to my distinguished colleague, I don't quite understand the argument that the Boy Scouts will have to fight their way into the schools. Constitutionally, they cannot be denied access to the schools now. They cannot be denied access. I suspect if one argues that you are going to have to fight your way in, there is the implication a lot of schools are trying to keep the Boy Scouts out.

Second, since Brown v. The Board, you cannot keep black kids from going to school. If we had an amendment that took the language out of Brown, parroted it, as my distinguished colleague from California does, from the 1998 Supreme Court case that sets out this principle—we cannot do this—it means every black child has to spend thousands of dollars to fight their way into the schools.

One of the things that distinguishes the United States of America, when the Supreme Court of the United States speaks clearly, and particularly when the Senate then legislatively parrots the exact language that the Supreme Court uses—guess what. The American

people, even those who do not agree, obey. That is the pattern we have in this country.

The idea that there will be Boy Scouts—and I was a Boy Scout and proud of it; I was an Explorer Scout; I support the Scouts; I will match my merit badges against my colleague's merit badges—Boy Scouts standing with tin cups in front of schools saying, ''We need to raise money to go to Federal court to make sure we can get in,'' is not going to happen. Theoretically, it could happen, just as theoretically today a school in the State of Delaware, or Kansas, could say, ''We will not let black folks in.'' Theoretically, that can happen. Guess what. The black parents have to go to court.

This is as much a threat to the Boy Scouts having to raise millions and millions of dollars as black folks having to raise millions and millions to get access to public schools. There is a constitutional amendment.

My friend—and he knows he is my friend—Senator HELMS from North Carolina, has an amendment that I voted against. I think it got pretty well cleaned up by the Byrd amendment, but it has some arcane problems. I will not take the time of Senators and bore them, but the reason it is probably still unconstitutional, although I have no objection to the way it got cleaned up—the reason it is arguably still unconstitutional is it is not content neutral because—and this is a constitutional principle—we will deny a school district funds—money—if in fact they discriminate, they violate the Constitution, by not letting in Boy Scouts or like organizations that determine their leadership based on criteria that are their own, to which others may object.

The problem with that is, technically, constitutionally, it does not include every group in the world. It does not include every group in the world. It is no longer viewpoint neutral. It says we are only going to penalize school districts that discriminate against one type of organization as opposed to all. I know that is not my friend's intention, but that is why the amendment is still probably flawed, although I am willing to take a chance on it.

As I said to my friend from California, I am not sure this amendment is needed. I will support it. I think we all should support it. All we are doing is supporting the Supreme Court decision.

On this idea that we have to go further, then it seems to me you should say, okay, we will cut off all moneys to all schools that violate the Supreme Court's rulings that you are not allowed to have organized prayer. How about that one? Does anybody want to sign up on that one? Same folks who want to sign up on this want to sign up on that? I don't think so. I don't think we will have people running across the aisle saying, look, if that school district or that school allowed organized prayer—and I am not opposed to prayer, obviously, but that is what the Supreme Court said, in a Supreme Court decision.

What is done if a school violates the decision? Bring an action. Very few schools violate. But to make the Helms amendment content neutral—and I did not want to start playing games, and I know occasionally it is suggested I am too constitutional. The mistake I make is I teach constitutional law. My mother would say a little bit of knowledge is a dangerous thing.

The truth is, if you wanted to make the Helms amendment pass constitutional muster, you could arguably say, OK, as long as you do not discriminate, you deny school funds to any school district that violated any constitutional right of anybody. That is why technically it is not constitutional. It doesn't do that. It protects only one viewpoint as opposed to all viewpoints.

I don't want to get into that because the truth is, we all know on this floor, nobody, if we are a private citizen, is going to go home to the school district and say, by the way, I don't like the fact that the Boy Scouts don't allow homosexual Scout leaders so I will go to the school board meeting tomorrow and insist they be blocked access to my school.

This is a bit of a charade. Everybody on the floor supports the Boy Scouts. We may disagree whether they should or should not allow homosexuals to be members. And I think they should. We may disagree on that. But no one disagrees on the ruling of the Supreme Court which says you cannot discriminate against them because the Court ruled it is OK for this organization to say we don't want homosexual Scout leaders. That is what the Supreme Court said. It is OK. I accept that. It is the Supreme Court of the United States of America.

I also accept the fact that the Supreme Court says you cannot discriminate against the Boy Scouts because of the decision they made.

I think it is Kafkaesque. We are arguing about something on which we don't disagree. This is about politics. This is a political game we are playing. It is a joke—who is more Boy Scout. I am as big a Boy Scout as anyone here. We can all compare merit badges and our support for the Boy Scouts. So let's not make a mockery of this thing.

The fact is there is a technical, legal, constitutional argument that the last amendment is unconstitutional. That is the core of the objection of those who voted for it before it got amended. After it has been amended, it is arguably still unconstitutional. I am willing to take a chance on it. I am satisfied to let it go at that.

This clearly is constitutional. This clearly restates what I thought we all want. No school district can deny Boy Scouts access if they have access for anybody.

Again, I conclude by saying the idea this could cost the Boy Scouts millions of dollars I find a bit of a stretch.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I rise in opposition to the amendment and point out one of the real values of Boy Scouts is that it isn't designed to be competitive. It isn't designed to see who is the best Boy Scout, who has the most merit badges, who has better merit badges. It is designed to teach young men good values. It is designed to teach young men about the world. It is designed to teach young men about possible careers. That is being thwarted.

I will not repeat everything I said this morning. I am sure that is a relief. I hope Members look at the record. I am convinced they did not pay attention when I spoke earlier. An important point: The record of five cases a year ago, where the Boy Scouts had to go to court. We are not talking hypothetical; we are not talking about the possibility that somebody's constitutional rights were violated. We are talking about actual situations. Some of those will be resolved over the years at great cost. We are not talking hypothetical on the cost either.

I am not going to pretend to be a constitutional lawyer because I am one of the few people here who is not a lawyer at all. But I was a Boy Scout. I am watching what is happening to the Boy Scouts in this country.

Five times in the year 2000, this instance came up. I have to tell you, already this year, eight times. That is just ones that I was able to find, which means they are ones that made national press. It doesn't mean it is all the instances of it happening.

The five last year and the eight this year are cases where it happened in school. I am not talking about all of the discrimination that there is out there against the Boy Scouts. I am just talking about in school.

We cleared up the definitional problem that I think would have made that a near unanimous vote before. It should have made it a near unanimous vote before. Now we have an amendment that tries to eliminate anything that the Helms amendment could have done. Here is how it eliminates it. It does it in two ways.

It eliminates the enforcement mechanism. There was not anything in the Helms amendment that automatically took money away from schools. There was a review process. If the review process said they discriminated, there was the possibility that they would lose their funds.

Enforcement: There is no enforcement in this amendment. It may say what the Constitution says, but it doesn't provide enforcement. The amendment we agreed to before, that provides enforcement.

The second problem is this one allows discrimination against the Boy Scouts. The wording in here does not preclude—this is a big problem with the school—does not preclude charging them exorbitant rates. They would still

have equal access; they would have, depending on how you took it to court, a fair opportunity. But it would not be the same thing as in the Helms amendment where you could not be charged discriminatory fees to keep the Scouts out. Every one of those things would require another court action.

I am not an attorney. I am told a lot, when I go back to Wyoming, that one of the problems in this country is we have too many attorneys. They talk about the old towns in the West where the first attorney came to town and he went broke. In other towns the first attorney came to town, he was accompanied by another attorney, and they both did very well. That is what is happening to the Boy Scouts. We have enough attorneys; they can all do very well at the expense of the Boy Scouts.

The dollars being spent on litigation ought to be spent on good programs for youth. We have been talking throughout the education bill about the need to do things for youth, the need to have kids taken care of after school. This is an organization where you do not take care of the kids after school, the kids help take care of us after school. We are talking about a communitarianism group, a group focused on helping their community through their volunteer efforts.

In order to get your Eagle award you have to do a community project—not a personal project, not a family project. It has to be a community project. So these kids get to find out what voluntarism is. It is not voluntarism for them. It is that grand distinction; it is for other people, that chance to do something for other people.

We need to make sure every time we can get a free program such as the Boy Scouts that will teach character and take care of the community, we do everything we can to promote it. We have taken care of this through the Helms amendment. We can destroy it through the Boxer amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, as soon as Senator REID is done, I will claim the floor.

Mr. REID. Madam President, I wanted to ask a question of the manager. I am speaking to a Chamber empty on the minority side.

The question we have on this side is, When, if at all, are we going to vote on this? Does anybody know? Maybe one of the managers is in the back. It is now 4 o'clock, approximately. We have an amendment that says:

> No public elementary school, public secondary school, local educational agency, or State education agency, may deny equal access or a fair opportunity to meet after school in a designated open forum to any youth group, including the Boy Scouts of America, based on that group's favorable or unfavorable viewpoint concerning sexual orientation.

A little different from my friend from Wyoming, I am a lawyer. If there is something wrong with this legally, I suggest voting against it as some did on the underlying amendment that passed. It does not seem to me, at this late time, we are going to benefit by continuing to talk about this. So I would like to get something from the minority.

This morning I talked to Senator HELMS. He said he wanted 4 more hours. That at least gives people an idea how much time it will take. Does anyone have any idea how much longer the minority wishes to debate this 1-paragraph amendment?

Mr. GRAMM. Madam President, as far as I am aware, I am the last speaker. I was just waiting to get an opportunity to speak.

I do not know. There may be someone else over here who is welling up in their chest with a speech, but as far as I know, I am it.

Mr. REID. I will say to my friend, if they are not now, they will after your speech.

Mr. GRAMM. Maybe there will be a rush of people on your side, although I do not think so. I would not want to defend this amendment.

Mr. REID. The Senator from California yielded to me. I apologize to my friend from Texas. I return the floor to the Senator from California.

Mrs. BOXER. I say thank you to my friend from Texas. I will only speak for about 60 seconds, and then I am happy to yield the floor.

There are some days when I wonder where I am and what I am doing. This is really one of those days.

I have an amendment that simply codifies a Court decision that was a victory for the Boy Scouts of America. When it was announced, everyone said: OK, in our Nation, regardless of an organization's viewpoint, they have a right to equal access to our public schools; freedom of speech. For those people, and I count myself among them, who believe we are all God's children, and I abhor discrimination against anyone for any reason, including their sexual orientation, I thought: This is tough because if a school district really has a strong feeling and they believe this to be a fight for civil rights, they are still going to have to let the Boy Scouts in. But that is America. We allow equal access and that is the way it is.

Now I have an amendment that simply guarantees this equal access, that says the Senate agrees on equal access for all groups, whatever their view is on sexual orientation. And I have people who stand up and say I am undoing the Boy Scouts.

Again, my most enduring memory of my little girl, who is now a mother herself, is her in her little outfit when she was a little Brownie, and the character building that went with that. So no one can get up on the other side and say Members on this side do not care. We do care.

This amendment, again—and then I will yield the floor to my friend because I know he has reasons that he is against this, and I am interested to hear his explanation—simply says what the Supreme Court said: Equal access for the Boy Scouts to every single public school in America because every group, regardless of their viewpoint, has a right to have such equal access.

So I am kind of glad I proposed this amendment. I am kind of stunned that anyone would be against it. But that is their right, their privilege. As a matter of fact, it is their duty if they find something wrong with it. But I thought the Supreme Court decision was cheered by the Boy Scouts, and I am a little stunned that my Republican friends somehow do not view it that way.

I hope we will have a bipartisan vote in favor of this amendment.

I yield the floor.

Mr. GRAMM. Madam President, if someone showed up from Mars and listened to this discussion, I am sure they would be convinced that this was somehow a simple amendment that was protecting the Boy Scouts. But they would be convinced only if they showed up in the last 30 minutes, because we spent much of this day debating and voting on an amendment by Senator HELMS that said if a school system denied access of facilities on a nondiscriminatory basis to the Boy Scouts of America, they would lose Federal funds.

In listening to our dear colleague from California, you would think Boy Scouts using public schools would be a noncontroversial amendment. Maybe if you came from Mars 30 minutes ago you would be convinced of that. But if you came from Mars an hour ago, you would realize that after a lengthy debate 49 Members of the Senate voted to not deny Federal funds to school systems that discriminate against the Boy Scouts of America. We had a vote on exactly this subject. The vote was 51–49.

What is wrong with the amendment that is before us? There are several things that are wrong with it. I think I can explain it pretty simply.

First of all, we have an unequivocal statement in the bill right now with a Helms amendment that says you lose Federal funds if you deny the Boy Scouts of America the ability to use your facilities after school on a nondiscriminatory basis.

How does the Helms amendment work? It has an enforcement mechanism. That enforcement mechanism is, you lose Federal funds. So the Boy Scouts of America don't have to go out and hire a lawyer, go to the district court, the circuit court, and the Supreme Court to get to use the local schools for Scout meetings after school. The Helms amendment has an enforcement mechanism in it.

Second, the Helms amendment says the Boy Scouts can use the schoolhouse on a nondiscriminatory basis, which means they cannot be charged a higher fee than anybody else. They cannot face separate rules than anybody else, where they could be denied

the right to hand out material, for example. That is the Helms amendment. That is the position of the education bill as it now stands.

We voted on that issue. The vote was 51–49. Where I come from, that is about as close as you can get and have a determinant result.

Now in comes this amendment which says no public elementary school or public secondary school or local education agency or State agency may deny equal access. No one is opposed to this freestanding, but this now clouds the position of the underlying bill.

Why is this amendment a very weak amendment which does virtually nothing to protect the Boy Scouts? Let me explain why.

First of all, there is no enforcement mechanism. Unlike the Helms amendment, which is currently part of this bill, there is no enforcement mechanism if a school violates the law. What would that force the Boy Scouts of America to do? It would force the local troop to hire a lawyer and to go to court. You could literally dissipate the assets of the Boy Scouts of America in trying to enforce a bill that has no enforcement clause in it.

The amendment which is now in the bill, which is undercut by adding this amendment to it, has an enforcement mechanism, because you lose funding, and any school faced with giving up Federal funding is going to allow the Boy Scouts to use their facility.

Second, this amendment does not guarantee that the Boy Scouts would be able to use the facility on an equal basis. They couldn't discriminate against the Boy Scouts or anybody else in terms of using it. But it does not have a provision, as the Helms amendment does, to guarantee that you don't have to pay a higher fee or that you wouldn't get to use it on an equal basis or you wouldn't be able to hand out materials

I am not saying this is a bad amendment. If this had been offered freestanding, if we had not debated the other amendment all day long, I think some might have found some merit in it.

My point is, we have a provision in the bill that has an enforcement mechanism, which this does not. We have an unequivocal statement in the bill that was passed 51–49. My basic position is that this actually weakens the bill by putting two provisions in it, one which is strong and enforceable and has an enforcement mechanism, and one which does not.

Therefore, my view is, with all due respect, that we have already decided this on a 51–49 vote, and if your objective is to guarantee that the Boy Scouts of America get to use the schoolhouse like other organizations, then the thing to do would be to leave the provision which is currently in the bill there and to reject this amendment.

If we adopt this amendment, then we have two amendments in the bill that are very different. Then you are going to leave it up to conferees to decide which one they want to take.

If your objective is to have the strongest possible language for the Boy Scouts, I assert—this is a free country, and people have their own opinions—that the way to keep the strongest language is to not dilute it by putting weaker language without an enforcement mechanism next to it. With all due respect, that is why I am going to vote no on it.

I would be very happy to yield to my dear friend.

Mr. BIDEN. Madam President, if the Senator will yield for a brief comment and question, my objective is to make sure the Boy Scouts have access to the school.

My worry is, having been the guy who wrote the statutory language on flag burning, the Supreme Court is going to rule unconstitutional the Helms amendment, if you pass it. Ask any conservative or liberal lawyer. There is a 60-percent chance that will happen.

I view it in the exact opposite way, although approaching it with the same objective as my friend from Texas does. The reason to include this other provision is to have a fail-safe constitutional guarantee because what the Court is going to say on the Helms amendment—which I support as amended—is the following. It is going to say that you do not have a guarantee to take away funds from any school district that denies homosexual organizations the right to be in the school. You do not deny funds to any organization or any school that denies or permits prayer in school, which is unconstitutional.

The Court is going to look at it and say it is not content neutral. That is what I mean. I know my friend from Texas knows as well. That is why—it is not content neutral—the same rationale that declared my constitutional statute against flag burning unconstitutional. It was not content neutral.

I argue, for those of you who truly want to make sure the Boy Scouts have access, even if you voted for and support the Helms amendment—which I think is a reasonable position—you should vote for this amendment as well because it guarantees you double protection.

This is clearly, unequivocally constitutional. The Helms amendment, as amended, is unquestionably constitutional.

I yield the floor. I thank my colleague.

Mr. GRAMM. Madam President, responding very briefly, first of all, if you believe a provision is unconstitutional, in my opinion, you ought to vote against it. We sort of hide behind this idea of ''let the Supreme Court decide.'' But when we put our hand on the Bible and swear to uphold, protect, and defend the Constitution, in my opinion, we are swearing to do that.

I personally do not believe the Helms amendment is unconstitutional. We have passed amendments and bills all the time that deny or grant Federal funds based on what a school system does. But everybody has their own opinion about that.

My basic position is that the Helms amendment is quite strong and has an enforcement mechanism. This amendment would require that the Boy Scout troops all over America get lawyers and go to court on an individual basis. It would be really unenforceable, except with the expenditure of tremendous amounts of money that the Boy Scouts don't have.

I think we have a strong measure in the bill now. Fifty-one Members voted for it. My suggestion is, keep it strong if you want the Boy Scouts in schools, and I would vote no on this. Obviously, people have other opinions. That is why——

Mr. NICKLES. Will the Senator from Texas yield for a question?

Mr. GRAMM. I am happy to yield.

Mr. NICKLES. I appreciate the Senator yielding. I also appreciate the discussion on the amendment.

I may be off base, but I am reading the amendment, and it says:

> . . . State educational agency, may deny equal access or a fair opportunity to meet after school in a designated open forum to any youth group, including the Boy Scouts of America, based on that group's favorable or unfavorable position concerning sexual orientation.

Maybe I am misreading that, but it looks to me as if it is an invitation for gay activist groups, for all kinds of groups, to meet. If you give access to the Boy Scouts, then you have to give access to gay activists in elementary schools, grade schools, schools up to the 12th grade, senior high schools.

Mr. GRAMM. May I respond to that?

Mr. NICKLES. Please do.

Mr. GRAMM. Let me respond by saying, remember Senator BYRD got up and asked that we change the Helms amendment because it had language in it that said ''or other groups.'' So the argument was made by Senator BYRD that the language in the Helms amendment that said ''other groups'' was so vague that it could include Nazis, skinheads.

My point is, this language is at least as broad as the language we took out of the Helms amendment because this requires that they open it up to any youth group, including the Boy Scouts. And the question is, Do we want to force public schools to open up to skinheads? Or to the Ku Klux Klan? I do not think we do.

Senator BYRD made the point. I supported him in changing the Helms amendment because it said: Boy Scouts or other groups. And we made that change by unanimous consent.

Now we have this amendment before us that says that we open it up ''to any youth group, including the Boy Scouts'' without regard to their view on sexual orientation. But what about their view on America or race or numerous other things?

I am saying that the criticism Senator BYRD raised of the Helms amendment—that it opened it up for all these hate groups—that same criticism can, and I think should, be leveled against this amendment. Maybe it should be corrected by modifying these other youth groups to assure they are groups that have a Federal patent, for example.

But I simply say that the point Senator BYRD made was as valid against this amendment as it was against the Helms amendment and we changed the Helms amendment.

AMENDMENT NO. 803, AS MODIFIED

Mrs. BOXER. Mr. President, I ask unanimous consent to make that modification, as we allowed that modification to be made in the Helms amendment, to mirror that.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Is there objection?

Mr. BROWNBACK. Reserving the right to object.

Mr. GRAMM. No, let's not object.

Mr. BROWNBACK. I just want to understand.

Mrs. BOXER. Instead of saying ''other youth groups,'' we would say that have a national charter. It would mirror the Helms amendment.

Mr. BROWNBACK. OK. So you would insert that language? You would strike the language ''any other youth group'' and instead insert those in section 36?

Mrs. BOXER. That is absolutely correct. We would do it the same way we allowed you to modify yours.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment, as modified, is as follows:

In lieu of the matter proposed to be inserted insert the following:

SEC. 1. SHORT TITLE

This title may be cited as the ''Equal Access to Public School Facilities Act.''

SEC. 2. EQUAL ACCESS

IN GENERAL.—No public elementary school, public secondary school, local educational agency, or State educational agency, may deny equal access or a fair opportunity to meet after school in a designated open forum to any youth group, listed in title 36 of the U.S. Code as a patriotic society, including the Boy Scouts of America, based on that group's favorable or unfavorable position concerning sexual orientation.

Mrs. BOXER. I thank my colleague for making that point.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I am glad that correction was made, but that does not change any of the other points I made. There is no enforcement mechanism here. We have a provision in the bill that does have an enforcement mechanism. So we are weakening our commitment to it by putting this amendment in the bill.

Secondly, we do not have any guarantees that the Boy Scouts—while they might be permitted to come to the school grounds, they might be charged a higher fee or separate conditions may be imposed on them. And for both those reasons, I believe this amendment ought to be rejected.

We have already acted on it. It was a tough vote. It was 51–49 as to who wanted to guarantee the right to the Boy Scouts. I think we have spoken. I think this is a weaker amendment.

I hope we will not move away from the strong, unequivocal position we took that the Boy Scouts of America, and their commitment to God and country, is a commitment we believe belongs in every schoolhouse in America where they want to operate. So I urge my colleagues to reject the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, this week, this month, we have been seeking to redefine the role of the Federal Government in education in our country.

For much of this day we have spent our time in this Chamber trying to make sure that Boy Scouts have the opportunity to have their meetings and their activities in our public schools.

As a number of my colleagues, I was a Boy Scout. As a number of our colleagues, I am the father of not one Boy Scout but two Boy Scouts. One just made Star this past week, two steps away from Eagle. The other guy is a new guy, brand new, just was a Weeblo, just crossed over. He is going camping tomorrow night with Troop 67 to Lum's Pond outside Newark, DE.

My friends, we have talked about this long enough today. I suggest that we call a halt to this debate and go ahead and vote. There are those of us who want to go camping with the Boy Scouts this weekend. I don't want to be here tomorrow night talking about this issue; I want to be camping.

Mr. REID. I would ask we vote.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I have a couple comments I would like to make regarding this amendment.

We have talked in the abstract on this issue of: Will the Boy Scouts have to sue to get into schools or will they not? There have been some allegations made. Several Members have said this is not the case.

I want to put a real case in front of us. On January 11, 2001, the News & Observer reported that the Chapel Hill-Carroboro school board voted to give Scouts until June to either go against the rule of their organization or lose their sponsorship and meeting places in schools.

That was January of this year. That school board says: By June, you either change—go against the Boy Scouts organization—or lose your privileges to get into the schools.

We have two different proposals in front of us: the Helms amendment that was adopted and the Boxer amendment that is being proposed.

Under the Helms amendment that was adopted, the school board in this district would be the one that would have to say: This is why we are blocking the Boy Scouts from being in this school. This is what we are doing. And if they don't, if they don't have the rationale, then they are going to lose their Federal funding.

Under the Boxer amendment, which is basically the current law, the Boy Scouts have to sue to say: We have a right to be in this school. That is the law today. The Boxer amendment just basically renews the law as it is currently today. The Boy Scouts would have to sue to say: Look, we are not going to go against our Federal charter, and we still want into the school. This is current law, what this school district did. The Boxer amendment basically puts forward current law again. So the Boy Scouts would have to hire a bunch of lawyers to go against the school district—in this situation as well as in hundreds of thousands of situations across the country—to get into the school.

That is a real live case. That is an example of what we are talking about. The Boxer amendment does not cure that.

On the other hand, the Helms amendment that was adopted—by a very tight vote, a close vote—would say that the Department of Education goes to the Chapel Hill School District and says: Why are you blocking the Boy Scouts? And if you are going to continue down this road, we are going to pull Federal funding. So then it is on the school districts, in that particular case, to defend as to why they are blocking the Boy Scouts or they will get their Federal funding pulled.

The Boy Scouts have an access to be able to get in. They have a tool to be able to get there. On the other side, they have to fight their way through court. And for those who are saying: You are dreaming up cases, here is an example:

I read five others when I took the floor earlier. There are more that I could read. The simple point of this is, thankfully, the amendment is being changed some, so it is not all organizations—skinheads and others, but the fact of it is, who are you going to put the burden on, on the school district or are you going to put it on the Boy Scouts?

The Boxer amendment puts it on the Boy Scouts. The Helms amendment puts it on the school district. I hope we will all say we want the Boy Scouts in the schools. We don't want to charge them a bunch of money to get there. We don't want to charge undue fees. We don't want to charge them more to be able to get into the schools. That is the point.

I urge my colleagues to vote against the Boxer amendment, if they support the Boy Scouts and keeping them from having to spend a lot of money just to get into the schools, places where they presently deserve to be.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 803, as modified.

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

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

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

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—52

Akaka	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Edwards	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Boxer	Graham	Reed
Breaux	Harkin	Reid
Cantwell	Hutchison	Rockefeller
Carnahan	Jeffords	Sarbanes
Carper	Johnson	Schumer
Chafee	Kennedy	Snowe
Cleland	Kerry	Specter
Clinton	Kohl	Stabenow
Conrad	Landrieu	Torricelli
Corzine	Leahy	Wellstone
Daschle	Levin	Wyden
Dayton	Lieberman	
Dodd	Lincoln	

NAYS—47

Allard	Enzi	McConnell
Allen	Fitzgerald	Murkowski
Bennett	Frist	Nickles
Bond	Gramm	Roberts
Brownback	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Hagel	Shelby
Byrd	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Cochran	Hollings	Stevens
Collins	Hutchinson	Thomas
Craig	Inhofe	Thompson
Crapo	Kyl	Thurmond
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Ensign	McCain	

NOT VOTING—1

Inouye

The amendment (No. 803), as modified, was agreed to.

Mrs. BOXER. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 562, as amended.

The amendment (No. 562), as amended, was agreed to.

Mr. KENNEDY. Mr. President, this might not be the case, but there is a possibility that it might be the case, and that is, to my knowledge, Senator CLINTON is going to speak for 1 to 2 minutes on her amendment, and I understand it is going to be accepted.

I suggest the absence of a quorum.

Mr. DOMENICI. Will the Senator let me speak?

Mr. KENNEDY. I withhold the request.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I rise today to discuss the Better Education for Students and Teachers Act.

Education no longer simply involves students learning the fundamentals of reading, writing, and arithmetic. Rather, students must possess the resources to compete and succeed as we proceed into the new, highly technical millennium. The computer and the Internet have become integrated into every aspect of our lives, and are becoming essential teaching tools in our schools and a basic component of any classroom.

To meet this challenge, we must strive for innovative ideas and to determine exactly how we can maximize the Federal Government's resources because: Even on its best day the Federal Government can never be a replacement for local administrators, educators, and parents.

Simply put, New Mexicans are in a far better position to know exactly what our schools and students need than government officials here in Washington.

Most Washingtonians probably do not know the Corona School District has 82 students, the Deming School District has 5,300 students, and the Albuquerque School District has 85,000 students. Additionally, the Gallup School District encompasses nearly 5,000 square miles, an area greater than Rhode Island and Delaware combined.

My point is simple, a one-size-fits-all approach cannot work in New Mexico and will not work in many areas of our country. Consequently, we must have solutions that are flexible and meet the diverse needs of our States, school districts, and schools.

I want to take a couple of minutes and provide my perspective on how we arrive at the point we are today with the BEST bill.

Not too long ago during the mid 1990's a number of us came to the conclusion that the current K–12 education status quo could no longer be maintained. I think this realization may have been spurred by Senator FRIST's excellent work as the chair of the Senate Budget Committee Task Force on Education. The task force produced: ''Prospects for Reform: The State of American Education and the Federal role.''

The report asked the simple question of ''how well are our children doing?'' The answer was mediocre at best because student achievement had stagnated over the past two decades even though America had established a record of near universal access and completion of high school. Thus, the report concluded that we must address the issue of a quality educational system. In other words the need for academic competence and rigor.

Building upon the excellent work of the Task Force, Senator FRIST soon introduced the Education Flexibility Partnership Act of 1999 commonly referred to as Ed-Flex. The bill simply said: one size does not fit all and thus, States should be allowed to waive-out of the regulations pertaining to certain Federal K–12 education programs.

Ed-Flex already existed as part of a demonstration program and Senator FRIST's bill merely sought to provide all 50 States within that same flexibility. The Senate passed the bill overwhelmingly by a vote of 98–1 and within a month the President had signed the measure into law. Unfortunately, after the passage of Ed-Flex for a variety of reasons there was not any further fundamental changes made to our K–12 system. Instead, since the last reauthorization of the ESEA in 1994 there is no approach that we learned is a complete failure: merely providing more funding.

In 1996 the Federal Government spend about $23 billion on education and within a few short years the number ballooned to over $42 billion in FY 2001. The logical conclusion is that a near doubling of educational funding would result in dramatic improvements in student achievement. Sadly, for all of our funding we simply do not have the matching results.

For instance, in 1996 the average reading score for a 4th grader was 212 and the Federal Government spent about $11 billion on the ESEA. Five years later, Federal spending on the ESEA has nearly doubled to $20 million, while the average reading score of a 4th grader remained at 212.

In New Mexico, the number of 4th graders testing at or above proficient in reading actually fell from 23 percent in 1992 to 22 percent in 1998. I submit that we are not receiving a very good return on our investment, a near doubling of funding with no corresponding improvement. Imagine savings a greater and greater portion of your paycheck each week and after 5 years actually having less money. I think it is fair to say that very few individuals would stand for these results, if instead of students we were talking about our retirement savings.

Thus, we are now debating the BEST bill because many of us believe we simply must have a new approach to measuring academic success. The bill fundamentally alters the practice of Washington deciding the best educational practices and then distributing increasingly greater and greater sums of money without any accountability.

Make no mistake, we have not abandoned our commitment to providing the necessary resources to our States and school districts. In fiscal year 2001 ESEA spending totaled $18.4 billion.

President Bush's fiscal year 2002 budget proposal requested a $19.1 billion authorization for ESEA for fiscal year 2002, a 9-percent increase.

Building upon the President's proposal, the FY 2002 budget resolution includes the President's 9-percent increase in federal education spending for reading education, the Individuals and Disabilities Education Act, IDEA, and teacher training.

I think it is also important to note that on May 3 when the Senate began debate, the BEST bill already authorized $27.7 billion for ESEA in FY 2002, a 57-percent increase over 2001 and nearly

$190 billion over the authorization period of FY 2002–2008.

If one does not believe that is enough then you will be interested to hear how much spending we have added since May 3:

$11 billion in ESEA and other education spending for a total of $38.8 billion in FY 2002, an increase of 120 percent over FY 2001.

$211 billion in ESEA and other education spending for a total of $416 billion over the seven year authorization period of the bill.

And of that total, $112 billion is mandatory spending under the Individuals with Disabilities Education Act.

With the preceding as a backdrop, I believe the BEST bill follows the President's promise to leave no child behind by ensuring academic success through a fresh approach to education like: Accountability.

Our schools will be held accountable for their progress in educating our children through high standards, testing, and consequences for failure.

Every child in grades 3–8 will be tested in reading and math proficiency annually. In New Mexico alone about 151,000 students will be tested. Also, the State will receive an additional $4.5 million next year and more than $33 million over the next 7 years to offset any new costs.

Instead of simply continuing to receive increased Federal funding in the face of failure, schools will now face consequences for persistent failure.

Schools failing to demonstrate improvement will face corrective action, parents will be given the option of public school choice and supplemental services for their children, and ultimately a school's persistent failure could lead to reconstitution.

Consolidation of duplicative education programs will provide maximum local flexibility to focus on improving student achievement. For instance, title II of the BEST bill created a new State teacher development grant program with a substantially larger pot of money by combining all of the current teacher funding. States will have the option to use the funding for professional development, teacher mentoring, merit pay, teacher testing, as well as recruiting and training high-quality teachers.

For example, New Mexico maintains a commendable student-teacher ratio of 15.2 and under the bill will no longer be required to use a portion of these funds for class size reduction. Instead, New Mexico will have the option to use that money for teacher recruitment and retention programs or maybe additional training.

The new accountability provisions will ensure that historic increases in Federal education funding will be based upon school performance. The bill includes the President's Reading First initiative to ensure all children and kindergarten through third grade become proficient readers by the end of third grade. The bill also includes programs to create Math and Science Partnerships, Strengthen After-School Care, and provide for Early Childhood Reading Instruction.

Parents and the public will be given detailed school-by-school report cards on the performance of their schools. Parents will have the option to transfer their child from a failing public school to an effective public school with transportation provided or to redirect their child's share of federal funds towards tutoring or after-school academic services. Parents will be given the option to transfer their child out of a persistently unsafe public school to another public school of their choice.

As Congress proceeds, one of its primary missions will be to determine what is working, what is not working, and what can be improved to give our children a better chance of succeeding in the future.

Before I conclude, I want to briefly talk about several provisions that are of personal importance to me:

First, Senator DODD and a bipartisan group of Senators joined me earlier this year to introduce the Strong Character for Strong Schools Act. I think it is important to note that reform does not only apply math, science, and reading; instead we must also reform the culture of our schools.

Our bill will be part of an amendment offered by Senator COCHRAN and seeks to encourage the creation of character education programs at the State and local level by providing grants to eligible entities. I believe our bill builds upon the highly successful demonstration program to increase character education that was contained in the last ESEA bill.

Since 1994, the Department Of Education has made $25 million in ''seed money'' grants available to 28 States to develop character education programs. Currently, there are 36 States that have either received federal funding, or have enacted their own laws mandating or encouraging character education. Thus, the time is now to ensure that there is a permanent and dedicated funding source available for character education programs.

I also believe schools must not only have the resources for core missions like teaching reading, writing, math, and the sciences, but the additional resources to face emerging challenges.

Thus, I am extremely pleased the Senate has accepted an amendment authored by Senator KENNEDY and I to increase student access to mental health services by developing links between school districts and the local mental health system.

School districts would partner with mental health agencies, juvenile justice authorities, and any other relevant entities to better coordinate mental health services by: Improving preventive, diagnostic, and treatment services available to students; providing crisis intervention services and appropriate referrals for students in need of mental health services and continuing mental health services; and educating teachers, principals, administrators, and other school personnel about the services.

Finally, we must provide our school districts and schools with the resources to both recruit and retain the best available teachers for our children.

Earlier this year I introduced the Teacher Recruitment, Development, and Retention Act of 2001. I am very pleased to see elements of that bill included in the pending legislation. I am also grateful the Senate has accepted my amendment that will allow States the option of using Teacher Quality funds for the creation of Teacher Recruitment Centers. Teacher Recruitment Centers will serve as statewide clearinghouses for the recruitment and placement of K–12 teachers. The centers would also be responsible for creating programs to further teacher recruitment and retention within the state.

Thank you and I look forward to the working with my colleagues on this important issue and final passage of this bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. 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. KYL. Mr. President, before turning to my tuition tax credit amendment, I am pleased to inform the people of Arizona that an agreement has been reached to allow the T.J. Pappas School to remain open and eligible for federal funds, including homeless education funds.

As I understand it, a modified version of the amendment I have offered to secure this objective will be incorporated into the bill shortly.

The Pappas School is well-known and well-regarded in the greater Phoenix area because it combines a high-quality education with essential social services required by the homeless students who attend.

I have visited the school and I believe that the work that they are doing is good work. I also believe that it would be a grave disservice to children who have already borne significant misfortune if the Federal Government deprived them of the opportunity to attend an institution that serves them so well.

Last fall, President Bush visited the school and came away impressed by the commitment of the staff and the hope that those dedicated professionals have instilled in their students.

The agreement that was hammered out by my self, Senator FEINSTEIN, Senator MURRAY, and Senator BOXER, revises the language in the underlying bill to allow Pappas and a number of

other worthy schools to continue serving children in need. It also ensures that essential safeguards for homeless students and their families are protected.

Of course, a homeless child should be able to attend any school he or she wishes—whether it be the school he or she attended before becoming homeless, or a school like Pappas that addresses their distinct needs on a transitional basis with the objective of enabling them to return to a mainstream school.

I am very pleased that despite some fundamental philosophical differences, it was possible to reach this agreement.

Mr. President, I want to make a brief statement on behalf of Senator MCCAIN and myself and others who have worked out the language of an amendment which will permit some schools for homeless children to continue to operate.

I ask unanimous consent to print in the RECORD an article from the Arizona Republic of June 14, 2001, relating to just one of the success stories of this school, the Thomas J. Pappas School.

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

''From the Arizona Republic, June 14, 2001''

PAPPAS VALEDICTORY?

SOLE GRADUATE MAY BE LAST FOR SCHOOL

(By Karina Bland)

Crystal Sumlin is all there is to the Class of 2001, graduating tonight from the Thomas J. Pappas School for homeless children.

She is the school's first—and possibly last—graduate depending on a vote expected today in Congress to ban federal funding for homeless schools. The School is under fire for segregating kids from their public school peers.

''If it weren't for Pappas, I don't think I would have made it to graduation,'' Sumlin said. ''And I know I wouldn't be going to college.'' The school, open for more than a decade, added a high school three years ago, so its oldest students are juniors. But Sumlin, 17, who has almost straight A's—she got a C in trigonometry—finished her course work a year early.

Despite the uproar in Congress over her school, Sumlin is thinking only of finishing up a report on Arizona's unemployment rate and the new dress she'll wear under her black cap and gown.

Sumlin, her three younger sisters and little brother have been at Pappas for three years after a lifetime of switching schools. One year, she switched schools seven times.

She said her family moves about every three months, usually because the rent is too high, the landlord complains of too many kids, or her brother Jason, 16 and in a detention center, sometimes gets into trouble.

But they've been in the same place since November, the longest most of the kids remember without a move. They've lived in a shelter, cheap motels and apartments.

''I hate moving,'' Sumlin said. ''When I got older, I thought I wanted to travel, but, now, I don't know. I think I'll find a place and stay in it.''

EYE ON THE BALL

Shy at first, Sumlin starts talking and her plans spill out: Arizona State University in the fall. Maybe a class this summer to start. She wants to be an attorney.

School officials are helping her apply for financial aid and promising a scholarship.

''I'm going to be somebody,'' she said.

She is determined, said Mary Michaelis, the school's student services coordinator. And, unlike many kids at Pappas, Sumlin is pushed by her mother, Velma Williams, to do well.

''She is too big on school, my mom is,'' Sumlin said. ''She says I'm not going to drop out if she has anything to do with it.''

MOM HELPS OUT

Williams has everything to do with it. She volunteers at the school and stops by regularly to check on her kids.

''I push my kids a little harder than most people push their kids so that they make something of their lives and not have to work a job like I'm working now,'' Williams said.

She works 40 to 50 hours for less than $300 a week, collecting bills for a telemarketing company.

She knows about unpaid bills. Her phone doesn't work because she spent the money on new shoes, stockings and a rented limousine for Pappas', and the girls', first prom.

They'll eat bologna for a week.

She is raising six kids. Her oldest, Chris, 21, is on his own in school in Seattle, with no government assistance and no child support. The kids have no contact with their fathers.

All the kids need new shoes. She'll buy two pairs this week, two the week after and two more after that.

''I have always taught them if you want something, you work for it,'' Williams said. ''You don't expect the next person to hand it to you.''

PAPPAS PICKS UP THE SLACK

Pappas is the only place her kids have had a chance to do well, she said. Now, no matter how often they move, they stay put at school—the same teachers, the same friends.

It is the one stable thing in their lives, their mother said.

Most schools require kids to live within attending boundaries or get there on the their own. Pappas buses travel hundreds of miles a day, picking up kids wherever they live.

Kids can eat, get clothes and even medical treatment there.

Pappas could lose $850,000, almost two-thirds of its annual budget, if Congress decides today to pull its federal funding.

Maricopa County Schools Superintendent Sandra Dowling said she'd come up with the money somehow rather than lose the school at Fifth Avenue and Van Buren Street.

HOLDING DOWN THE FORT

Sumlin is in charge in her family's two-bedroom townshouse near 24th Street and McDowell Road until Mom gets off work, sometimes 8 or 9 p.m.

In the long afternoons, she weaves complicated braids in her sister's hair. They listen to music, singing along with Mariah Carey.

''We don't have vocal skills,'' Sumlin said, laughing. ''But we do it anyway.''

Michael, 9, the youngest and only boy at home, has hazel eyes and girlfriends in sixth and eighth grades. He wants to be a firefighter.

Report cards are out. The kids pass them proudly. Berry a tubby Basset hound, rolls belly up.

Sumlin cooks for the kids, often making spaghetti or chicken and Rice-A-Roni.

She hopes her family stays put awhile, though she plans to live in a dormitory at ASU.

Sumlin is nervous about going to college but said, ''I think I'll be all right as long as I can come home and visit.''

No matter where home may be.

Mr. KYL. Mr. President, I will briefly explain what we accomplished in this amendment. An agreement was reached to allow the Thomas J. Pappas School in Arizona to remain open and eligible for Federal funds, including these homeless education funds. A modified version of the amendment I offered to accomplish this will be incorporated into the bill shortly.

For the information of my colleagues, the Pappas School is well known and very well regarded in the greater Phoenix area because it combines a high-quality education with essential social services required by the homeless students who attend the school.

I have visited the school, and I know the work they are doing is very good. I also think it would be a grave disservice to the children who have already borne significant misfortune in their lives if the Federal Government deprived them of the opportunity to attend an institution that has served them so well.

Last fall, president Bush visited the school and came away very impressed by the commitment of the staff and the hope those dedicated professionals have instilled in their students.

The agreement I speak of was hammered out by Senator FEINSTEIN, Senator MURRAY, Senator BOXER, Senator MCCAIN, and myself, and revises the language in the underlying bill to allow the Pappas School and a number of other worthy schools to continue serving children in need.

It ensures essential safeguards for homeless students, and their families are protected. Of course, a homeless child should be able to attend any school, whether it is the school he or she attended before becoming homeless or a school that addresses their distinct needs on a transitional basis with the objective of enabling them to return to a mainstream school.

I am very pleased, despite fundamental philosophical differences, it was possible to reach this agreement. We have done something for homeless children, and for that I think we should be rightly proud.

Secondly, Mr. President, I would like to offer a few words about an amendment that I will not be offering. I believe that these comments will go some distance toward explaining the reasons why I plan to vote against final passage of the bill before us.

Mr. President, I appreciate the opportunity to say a few words about my amendment number 580.

I will not be offering this amendment so that there will be no blue slip problems with the House.

This amendment, like the Gregg amendment, that—unfortunately—was defeated earlier this week, would make real reforms that address the urgent need to improve elementary and secondary education in our country.

The tax bill that we passed last month takes a very important first step along these same lines by allowing

the Coverdell education IRAs to be used not only to facilitate savings for college education but for grades K through 12 as well.

While the administration of our schools is and should remain a local responsibility, we have a compelling national interest in improving the quality of K through 12 education.

And there are ways to discharge that responsibility without adding to the bureaucracy in Washington and without adding new mandates.

As has been noted repeatedly during debate on this bill: It is a fact that America is currently not educating the workforce it needs for the economy of the 21st century. Raising overall achievement will enhance America's competitiveness.

It is a fact that international tests reveal that American high school seniors rank 19th out of 21 industrialized nations in mathematics achievement and 16th out of 21 nations in science achievement.

Ironically, this threat to our competitiveness is the result of our failure to apply the very principles undergirding our economy's success in the area of education.

Our Nation has thrived because our leading industries and institutions have been challenged by constant pressure to improve and to innovate. The source of that pressure is vigorous competition among producers of a service or a good for the allegiance of their potential customers or consumers.

So why not promote innovation by producers and choice for consumers in the field of education?

The quasi-monopoly of public education today discourages this innovation.

We must find a way to promote innovation and opportunity through greater choice of parents. Those are the concepts that have built this country through our great free market economic system, and it is the same concept that can improve our educational system.

The other problem with our education system is that too many of our children are literally being left behind.

Anyone who has followed this debate has heard the particulars, but they demand our repeated attention: Thirty-seven percent of American fourth graders' tests show that they are essentially unable to read. For Hispanic fourth graders, the proportion is 58 percent, and for African-American fourth graders, it is 63 percent.

As President Bush has repeatedly noted, far too many of America's most disadvantaged youngsters pass through public schools without receiving an adequate education. It is intolerable that millions of children are trapped in unsafe and failing schools.

Parents should have a right in the United States of America to get the best education possible for their children as they see it, and the amendment I offer today will help secure that right.

My amendment would provide a $250 tax credit, $500 for joint filers, to partially offset the cost of donations to tuition scholarship organizations.

These organizations—usually founded by business leaders—that provide tuition scholarships to enable needy youngsters to attend a school of their families' choosing. The idea first came to light about a decade ago when the first one was founded in Indianapolis. Now there are more than 80 such programs serving more than 50,000 students nationwide.

For families who benefit, these programs are a godsend. A study that was just released by the Kennedy School of Government found that 68 percent of parents awarded scholarships are very satisfied with academics at their child's school compared with only 23 percent of parents not awarded scholarships.

I should pause on that point to observe if this amendment became law and scholarships were to become more widely available, the schools these students left would have a much greater incentive to improve than is the case today.

Because we anticipate that the tax credit would foster competition, we anticipate that its adoption will bring improvement of all schools, not just a few.

But today, the problem is that demand for scholarships far outstrips supply, even though these low-income families must agree to contribute a significant portion of the total cost of tuition.

For example, in 1997, 1,000 partial tuition scholarships were offered to needy families in the District of Columbia. Nearly 8,000 applications were received.

Another example: In 1999, 1.25 million applied for 40,000 scholarships in a national lottery. Clearly, there is a huge unmet demand for this kind of assistance.

In 1997, Arizona implemented an innovative plan to meet that demand in our State: A $500 tax credit to offset donations to organizations that provide tuition scholarships to elementary and secondary students. The results: Upwards of $40 million in donations to tuition scholarship organizations.

The number of school tuition organizations operating in my State of Arizona is up from 2 to 33, and the organizations have a very wide range of emphasis and orientations. For example, they range from the Jewish Community Day School Scholarship Fund to the Fund for Native Scholarship Enrichment and Resources to the Foundation for Montessori Scholarships.

Nearly 15,000 Arizona students, nearly all of them from disadvantaged backgrounds, have received this scholarship assistance.

While some have charged that the law was unconstitutional—particularly given the explicit prohibition on direct aid to parochial schools in Arizona's constitution—our State supreme court recognized that allowing taxpayers to use their own money to support education is a different matter and upheld the program.

And consistent with previous holdings on the subject, the U.S. Supreme Court declined to review the decision.

In other words, the Arizona tax credit should be embraced by those concerned that Federal dollars going to vouchers which students would then take to the school of their choice could possibly be unconstitutional.

In Arizona, you do not have public dollars being given to students in the form of vouchers which are then taken to the school of their choice.

Instead, what we provide is that if people want to contribute money to a duly qualifying scholarship fund, that scholarship fund can then give that scholarship to needy students and those students can take that scholarship to whatever school in which they want to be educated and the donors receive a tax credit.

That is constitutional. It does not violate any notion of separation of church and state.

And yet it permits people to help those who need the help the most to have the flexibility that only the most wealthy in our society have today: the ability to take their kids to the school of their choice.

I have come to believe that it offers the best possible way to resolve this problem of choice and innovation.

It meets the constitutional challenges; it involves the private sector; it involves personal donations; it does not give the Federal Government the task of funding and administering a large voucher program.

Yet it gets the benefits to the students who need it the most, who are willing to contribute part of their own income to match that scholarship and pay the tuition at the school of their choice.

Now when I brought this amendment up during the debate on the tax bill, I listened carefully to the arguments that were offered in opposition by my colleague, Senator BINGAMAN.

In his remarks, my colleagues made two basic contentions.

First he said:

> What we are saying [if we pass this amendment] is we will not appropriate money directly to those schools, but we will give each taxpayer a $250 credit if they will give that $250 to the private school. That, to men, seems to be a pretty direct way of providing Federal support for private and parochial schools.

But as Arizona Republic columnist Robert Robb noted, this argument equating tax credits with direct appropriations ''ultimately rests on the odious theory that government is entitled to all your money, and anything it doesn't grab is in fact expended.''

Senator BINGAMAN went on to argue that it would be imprudent to enact a proposal this ''costly'' at a time ''when we are unable to make [a comparable] commitment to the public schools.''

But the recent history of the bill before us today rebuts the premise of that argument.

The Joint Committee on Taxation has estimated this credit could cost the Federal Treasury $43.4 billion over a 10-year period.

Meanwhile, the Budget Committee's staff report that, as of last week, the Senate has added $211 billion to this bill for a total seven-year price tag of $417 billion.

And given the concern about public schools, it is also worth noting that this tax credit is neutral as to whether scholarships should be used at public or non-public schools.

Scholarships could be used to offset tuition costs at a private school, or to pay the tuition costs families in most states must pay to enroll a child in a school across district boundaries.

I hope that my colleagues will think about what a magnitude of difference that money would make in the lives of our children: $43 billion would finance 12.4 million $3,500 scholarships.

Think of the opportunity provided to those 12.4 million students with a $3,500 scholarship to take them out of the condition of education they are in now, out of the failing school, out of the unsafe school, and to a school where they can achieve, where they can learn, where they can be competitive, where they can learn their full potential.

I have said many times that if we can get education right, almost everything else in this country will follow. By ''we,'' I do not just mean the Federal Government. In fact, I mean primarily the parents and local school folks.

First, it will help people realize their full potential.

Second, it will make them more qualified to compete for the kinds of jobs that are going to exist in the future.

Third, it will help our Nation compete. We are going to need to compete in a world environment.

Fourth, it is going to make us more secure because we are going to have the kind of young students who can invent the things that are going to help us keep our technological edge when it comes to national security.

Fifth, it is going to make us better citizens.

I have been somewhat appalled at what some of our schools do not teach about the history of this great country of ours, about the foundation for the self-governance we have, about the need for people, especially young people, to participate in our democratic Republic.

I fear that generations of Americans are growing up not being taught the fundamentals of our society, our Government, and our free-market system that we were taught, and I think fairly well.

If we go a couple generations without teaching our children accurately and adequately in subjects from math and reading to history to government to economics and all the other subjects that students in this complex world have to master, then we are not going to progress as a nation and be the leading superpower and the leader of the world we are today, in economic terms or in terms of human rights, democratic principles, and other societal values.

If we get education right, we can flourish in all of these areas, and if we stay 19th out of 21 countries on these tests, then Americans are not going to be as well educated and we will be overtaken by other nations.

We have led the world in foreign aid and assistance. We have led the world in our insistence on human rights.

In other words, America stands for what is good on this Earth, and for us to continue to be the leader of the world to promote these values requires an educated citizenry, a citizenry that will be educated and committed to these ideals, to these propositions.

We cannot sustain that kind of education with the system we have today. The scholarship tuition credits I am proposing with this amendment will enable parents to allow their children to be educated in the very best schools for those students and to enable them to escape the kind of system we have today to one where each child can grow to their full potential. We must demand nothing less of our system.

This scholarship tax credit is an idea whose time has come, and that is why I have pressed it repeatedly and will continue to do so.

AMENDMENTS NOS. 571 AS MODIFIED, 527 AS MODIFIED, 457 AS MODIFIED, 582 AS MODIFIED, 432 AS MODIFIED, 585 AS MODIFIED, 586, 587 AS MODIFIED, 588, 589, 590, 591, 592 AS MODIFIED, 593, 595, 512 AS MODIFIED, 435 AS MODIFIED, 386, 424, 516, 804, EN BLOC, TO AMENDMENT NO. 358

Mr. KENNEDY. Mr. President, we are in a position to clear amendments by consent. I ask unanimous consent to consider these amendments en bloc, the amendments be agreed to en bloc, and the motion to reconsider be laid upon the table.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 571, AS MODIFIED

(Purpose: To provide grants to states with high growth rates in Title I children)

Beginning on page 141, strike line 23 through line 13 on page 142, and insert the following:

''(A) IN GENERAL.—Notwithstanding any other provision of this Act, the amount made available for each local educational agency under sections 1124 and 1124A for the fiscal year shall not be less than the greater of—

''(i) 100 percent of the amount the local educational agency received for fiscal year 2001 under sections 1124 and 1124A, respectively; or

''(ii) 100 percent of the amount calculated for the local educational agency for the fiscal year under sections 1124 and 1124A, respectively, determined without applying the hold harmless provisions of this subparagraph.

''(C) APPLICABILITY.—Notwithstanding any other provision of law, the Secretary shall not take into consideration the hold harmless provisions of this subsection for any fiscal year for purposes of calculating State or local allocations for the fiscal year under any program administered by the Secretary other than a program authorized under this part.

''(D) POPULATION UPDATES.—

''(i) IN GENERAL.—Notwithstanding paragraph (4), in fiscal year 2001 and each subsequent year, the Secretary shall use updated data, for purposes of carrying out section 1124, on the number of children, aged 5 to 17, inclusive, from families below the poverty level for counties or local educational agencies, published by the Department of Commerce, unless the Secretary and the Secretary of Commerce determine that use of the updated population data would be inappropriate or unreliable.

''(ii) INAPPROPRIATE OR UNRELIABLE DATA.—If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this subparagraph are inappropriate or unreliable, the Secretary and the Secretary of Commerce shall—

''(I) publicly disclose their reasons;

''(II) provide an opportunity for States to submit updated data on the number of children described in clause (i); and

''(III) review the data and, if the data are appropriate and reliable, use the data, for the purposes of section 1124, to determine the number of children described in clause (i).

''(iii) CRITERIA OF POVERTY.—In determining the families that are below the poverty level, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, as the criteria have been updated by increases in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics.

''(iv) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for each fiscal year such sums as may be necessary to update the data described in clause (i).

AMENDMENT NO. 527, AS MODIFIED

(Purpose: To establish an exception to the prohibition on segregating homeless students)

On page 284, strike lines 6 through 13 and insert the following:

''(3) PROHIBITION ON SEGREGATING HOMELESS STUDENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) and section 723(a)(2)(B)(ii), in providing a free public education to a homeless child or youth, no State receiving funds under this subtitle shall segregate such child or youth, either in a separate school, or in a separate program within a school, based on such child's or youth's status as homeless.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), paragraphs (1)(H) and (3) of subsection (g), section 723(a)(2), and any other provision of this subtitle relating to the placement of homeless children or youth in schools, a State that has a separate school for homeless children or youth that was operated in fiscal year 2000 in a covered county shall be eligible to receive funds under this subtitle for programs carried out in such school if—

''(i) the school meets the requirements of subparagraph (C);

''(ii) any local educational agency serving a school that the homeless children and youth enrolled in the separate school are eligible to attend meets the requirements of subparagraph (E); and

''(iii) the State is otherwise eligible to receive funds under this subtitle.

''(C) SCHOOL REQUIREMENTS.—For the State to be eligible to receive the funds, the school shall—

''(i) provide written notice, at the time any child or youth seeks enrollment in such school, and at least twice annually while the child or youth is enrolled in such school, to

the parent or guardian of the child or youth (or, in the case of an unaccompanied youth, the youth) that—

''(I) shall be signed by the parent or guardian (or, in the case of an unaccompanied youth, the youth);

''(II) reviews the general rights provided under this subtitle; and

''(III) specifically states—

''(aa) the choice of schools homeless children and youth are eligible to attend, as provided in subsection (g)(3)(A);

''(bb) that no homeless child or youth is required to attend a separate school for homeless children or youth;

''(cc) that homeless children and youth shall be provided comparable services described in subsection (g)(4), including transportation services, educational services, and meals through school meals programs;

''(dd) that homeless children and youth should not be stigmatized by school personnel; and

''(ee) contact information for the local liaison for homeless children and youth and State Coordinator for Education of Homeless Children and Youth;

''(ii)(aa) provide assistance to the parent or guardian of each homeless child or youth (or, in the case of an unaccompanied youth, the youth) to exercise the right to attend the parent's or guardian's (or youth's) choice of schools, as provided in subsection (g)(3)(A); and

''(bb) coordinate with the local educational agency with jurisdiction for the school selected by the parent or guardian (or youth), to provide transportation and other necessary services;

''(iii) ensure that the parent or guardian (or youth) shall receive the information required by this subparagraph in a manner and form understandable to such parent or guardian (or youth), including, if necessary and to the extent feasible, in the native language of such parent or guardian (or youth); and

''(iv) demonstrate in the school's application for funds under this subtitle that such school—

''(I) is complying with clauses (i) and (ii); and

''(II) is meeting (as of the date of submission of the application) the same Federal and State standards, regulations, and mandates as other public schools in the State (such as complying with sections 1111 and 1116 of the Elementary and Secondary Education Act of 1965 and providing a full range of education and related services, including services applicable to students with disabilities).

''(D) SCHOOL INELIGIBILITY.—A separate school described in subparagraph (B) that fails to meet the standards, regulations, and mandates described in subparagraph (C)(iv)(II) shall not be eligible to receive funds under this subtitle for programs carried out in such school after the first date of such failure.

''(E) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—For the State to be eligible to receive the funds described in subparagraph (B), the local educational agency described in subparagraph (B) shall—

''(i) implement a coordinated system for ensuring that homeless children and youth—

''(I) are advised of the choice of schools provided in subsection (g)(3)(A);

''(II) are immediately enrolled in the school selected in accordance with subsection (g)(3)(C); and

''(III) are provided necessary services, including transportation, promptly to allow homeless children and youth to exercise their choices of schools in accordance with subsection (g)(4);

''(ii) document that written notice has been provided—

''(I) in accordance with subparagraph (C)(i) for each child or youth enrolled in a separate school described in subparagraph (B); and

''(II) in accordance with subsection (g)(1)(H)(ii);

''(iii) prohibit schools within the agency's jurisdiction from referring homeless children or youth to, or requiring homeless children and youth to enroll in or attend, a separate school described in subparagraph (B);

''(iv) identify and remove any barriers that exist in schools within the agency's jurisdiction that may have contributed to the creation or existence of separate schools described in subparagraph (B); and

''(v) not use funds received under this subtitle to establish—

''(I) new or additional separate schools for homeless children or youth, other than schools described in subparagraph (B); or

''(II) new or additional sites for separate schools for homeless children or youth, other than the sites occupied by the schools described in subparagraph (B) in fiscal year 2000.

''(F) REPORT.—

''(i) PREPARATION.—

''(I) IN GENERAL.—The Secretary shall prepare a report on the separate schools and local educational agencies described in subparagraph (B) that receive funds under this subtitle in accordance with this paragraph.

''(II) CONTENTS.—The report shall contain, at a minimum, information on—

''(aa) compliance with all requirements of this paragraph;

''(bb) barriers to school access in the school districts served by the local educational agencies; and

''(cc) the progress the separate schools are making in integrating homeless children and youth into the mainstream school environment, including the average length of student enrollment in such schools.

''(ii) COMPLIANCE WITH INFORMATION REQUESTS.—For purposes of enabling the Secretary to prepare the report, the separate schools and local educational agencies shall cooperate with the Secretary and the State Coordinators for the Education of Homeless Children and Youth, and shall comply with any requests for information by the Secretary and State Coordinators.

''(iii) SUBMISSION.—Not later than 2 years after the date of enactment of the Better Education for Students and Teachers Act, the Secretary shall submit the report described in clause (i) to—

''(I) the President;

''(II) the Committee on Education and the Workforce of the House of Representatives; and

''(III) the Committee on Health, Education, Labor, and Pensions of the Senate.

''(G) DEFINITION.—In this paragraph, the term 'covered county' means—

''(i) San Joaquin County, CA;

''(ii) Orange County, CA;

''(iii) San Diego County, CA; and

''(iv) Maricopa County, AZ.''

AMENDMENT NO. 457, AS MODIFIED

(Purpose: To increase parental involvement and protect student privacy)

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

''PART C—INCREASING PARENTAL INVOLVEMENT AND PROTECTING STUDENT PRIVACY

''SEC. 6301. INTENT.

''It is the purpose of this part to provide parents with notice of and opportunity to make informed decisions regarding the collection of information for commercial purposes occurring in their children's classrooms.

''SEC. 6302. COMMERCIALIZATION POLICIES AND PRIVACY FOR STUDENTS.

''(a) PROHIBITION.—Except as provided in subsection (b), no State educational agency or local educational agency that is a recipient of funds under this Act may—

''(1) disclose data or information the agency gathered from a student to a person or entity that seeks disclosure of the data or information for the purpose of benefiting the person or entity's commercial interests; or

''(2) permit a person or entity to gather from a student, or assist a person or entity in gathering from a student, data or information, if the purpose of gathering the data or information is to benefit the commercial interests of the person or entity.

''(b) PARENTAL CONSENT.—

''(1) DISCLOSURE.—A State educational agency or local educational agency that is a recipient of funds under this Act may disclose data or information under subsection (a)(1) if the agency, prior to the disclosure—

''(A) explains to the student's parent, in writing, what data or information will be disclosed, to which person or entity the data or information will be disclosed, the amount of class time, if any, that will be consumed by the disclosure, and how the person or entity will use the data or information; and

''(B) obtains the parent's written permission for the disclosure.

''(2) GATHERING.—A State educational agency or local educational agency that is a recipient of funds under this Act may permit or assist a person or entity with the gathering of data or information under subsection (a)(2) if the agency, prior to the gathering—

''(A) explains to the student's parent, in writing, what data or information will be gathered including whether any of the information is personally identifiable, which person or entity will gather the data or information, the amount of class time if any, that will be consumed by the gathering, and how the person or entity will use the data or information; and

''(B) obtains the parent's written permission for the gathering.

''(c) DEFINITIONS.—In this part:

''(1) STUDENT.—The term 'student' means a student under the age of 18.

''(2) COMMERCIAL INTEREST.—The term 'commercial interest' does not include the interest of a person or entity in developing, evaluating, or providing educational products or services for or to students or educational institutions, such as—

''(A) college and other post-secondary education recruiting;

''(B) book clubs and other programs providing access to low cost books or other related literary products;

''(C) curriculum and instructional materials used by elementary and secondary schools to teach if—

''(i) the information is not used to sell or advertise another product;

''(ii) the information is not used to develop another product that is not covered by the exemption from commercial interest in this paragraph; and

''(iii) the curriculum and instructional materials are used in accordance with applicable Federal, State, and local policies, if any; and

''(D) the development and administration of tests and assessments used by elementary and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of aggregate data if—

''(i) the information is not used to sell or advertise another product;

''(ii) the information is not used to develop another product that is not covered by the exemption from commercial interest in this paragraph; and

''(iii) the tests are conducted in accordance with applicable Federal, State, and local policies, if any.

''(d) LOCALLY DEVELOPED EXCEPTIONS.—A local educational agency, in consultation with parents, may develop appropriate exceptions to the consent requirements contained in this part if—

''(1) the information to be collected is not personally identifiable;

''(2) the local educational agency provides written notice to all parents of its policy regarding data or information collection activities for commercial purposes; and

''(3) with respect to any particular data or information gathering or disclosure, the agency provides written notice to all parents of—

''(A) the data or information to be collected;

''(B) the person or entity to whom the data or information will be disclosed;

''(C) the amount of class time, if any, that will be consumed by the collection activities; and

''(D) the manner in which the person or entity will use the data or information.

''(e) FUNDING.—A State educational agency or local educational agency may use funds provided under subpart 4 of part B of title V to enhance parental involvement in areas affecting children's in-school privacy.

''(f) TECHNICAL ASSISTANCE.—Upon the request of a State educational agency or local educational agency, the Secretary shall provide technical assistance to such an agency concerning compliance with this part.

''(g) ENFORCEMENT.—The Secretary shall take appropriate actions to enforce, and address violations of, this section, in accordance with this chapter.

''(h) OFFICE, FUNCTIONS.—The Secretary shall designate an office to enforce this section and to provide technical assistance.

''(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supersede the Family Educational Rights and Privacy Act (20 U.S.C. 1232g).''.

AMENDMENT NO. 582, AS MODIFIED

(Purpose: To protect student privacy)

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

SEC. ___. GUIDELINES FOR STUDENT PRIVACY.

(a) DEVELOPMENT OF STUDENT PRIVACY GUIDELINES.—A State or local educational agency that receives funds under this Act shall develop and adopt guidelines regarding arrangements to protect student privacy that are entered into by the agency with public and private entities that are not schools.

(b) NOTIFICATION OF PARENTS OF PRIVACY GUIDELINES.—The guidelines developed by an educational agency under subsection (a) shall provide for a reasonable notice of the adoption of such guidelines to be given, by the agency or a school under the agency's supervision, to the parents and guardians of students under the jurisdiction of such agency or school. Such notice shall be provided at least annually and within a reasonable period of time after any change in such guidelines.

(c) EXCEPTIONS.—This section shall not apply to the development, evaluation, or provision of educational products or services for or to students or educational institutions, such as the following:

(1) College or other post-secondary education recruitment or military recruitment.

(2) Book clubs, magazines, and programs providing access to other literary products.

(3) Curriculum and instructional materials used by elementary and secondary schools to teach.

(4) The development and administration of tests and assessments used by elementary and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of aggregate data.

(5) The sale by students of products or services to raise funds for school- or education-related activities.

(6) Student recognition programs.

(d) INFORMATION ACTIVITIES BY THE SECRETARY.—Once each year, the Secretary shall inform each State educational agency and each local educational agency of the educational agency's obligations under section 438 of the General Education Provisions Act (added by the Family Educational Rights and Privacy Act of 1974; 20 U.S.C. 1232g) and the Children's Online Privacy Protection Act of 1998 (15 U.S.C. 6501 et seq.).

(e) FUNDING.—A State educational agency or local educational agency may use funds provided under subpart 4 of Part B of title V of the Elementary and Secondary Education Act of 1965 to enhance parental involvement in areas affecting children's in-school privacy.

(f) DEFINITIONS.—In this section, the terms ''elementary school'', ''local educational agency'', ''secondary school'', ''Secretary'', and ''State educational agency'' have the meanings given those terms in section 3 of the Elementary and Secondary Education Act of 1965.

AMENDMENT NO. 432, AS MODIFIED

(Purpose: To broaden local applications, and for other purposes)

On page 324, between lines 10 and 11, insert the following:

''(11) A description of how the local educational agency will provide training to enable teachers to—

''(A) address the needs of students with disabilities, students with limited English proficiency, and other students with special needs;

''(B) involve parents in their child's education; and

''(C) understand and use data and assessments to improve classroom practice and student learning.

On page 326, line 2, strike ''and''.

On page 326, line 7, strike the period and insert ''; and''.

On page 326, between lines 7 and 8, insert the following:

''(D) effective instructional practices that involve collaborative groups of teachers and administrators, using such strategies as—

''(i) provision of dedicated time for collaborative lesson planning and curriculum development meetings;

''(ii) consultation with exemplary teachers;

''(iii) team teaching, peer observation, and coaching;

''(iv) provision of short-term and long-term visits to classrooms and schools;

''(v) establishment and maintenance of local professional development networks that provide a forum for interaction among teachers and administrators about content knowledge and teaching and leadership skills; and

''(vi) the provision of release time as needed for the activities;

''(E) teacher advancement initiatives that promote professional growth and emphasize multiple career paths (such as career teacher, mentor teacher, and master teacher career paths) and pay differentiation.''

AMENDMENT NO. 585, AS MODIFIED

(Purpose: To improve the Early Reading First Program)

On page 207, strike line 8 and all that follows through page 212, line 15, and insert the following:

''Subpart 3—Early Reading First

''SEC. 1241. PURPOSES.

''The purposes of this subpart are as follows:

''(1) To support local efforts to enhance the early language, literacy, and prereading development of preschool age children, particularly those from low-income families, through strategies and professional development that are based on scientifically based research.

''(2) To provide preschool age children with cognitive learning opportunities in high-quality language and literature-rich environments, so that the children can attain the fundamental knowledge and skills necessary for optimal reading development in kindergarten and beyond.

''(3) To demonstrate language and literacy activities based on scientifically based research that support the age-appropriate development of—

''(A) spoken language and oral comprehension abilities;

''(B) understanding that spoken language can be analyzed into discrete words, and awareness that words can be broken into sequences of syllables and phonemes;

''(C) automatic recognition of letters of the alphabet and understanding that letters or groups of letters systematically represent the component sounds of the language; and

''(D) knowledge of the purposes and conventions of print.

''(4) To integrate these learning opportunities with learning opportunities at preschools, child care agencies, and Head Start agencies, and with family literacy services.

''SEC. 1242. LOCAL EARLY READING FIRST GRANTS.

''(a) PROGRAM AUTHORIZED.—From amounts appropriated under section 1002(b)(3), the Secretary shall award grants, on a competitive basis, for periods of not more than 5 years, to eligible applicants to enable the eligible applicants to carry out the authorized activities described in subsection (e).

''(b) DEFINITION OF ELIGIBLE APPLICANT.—In this subpart the term 'eligible applicant' means—

''(1) one or more local educational agencies that are eligible to receive a subgrant under subpart 2;

''(2) one or more public or private organizations or agencies, acting on behalf of 1 or more programs that serve preschool age children (such as a program at a Head Start center, a child care program, or a family literacy program), which organizations or agencies shall be located in a community served by a local educational agency described in paragraph (1); or

''(3) one or more local educational agencies described in paragraph (1) in collaboration with one or more organizations or agencies described in paragraph (2).

''(c) APPLICATIONS.—An eligible applicant that desires to receive a grant under this section shall submit an application to the Secretary which shall include a description of—

''(1) the programs to be served by the proposed project, including demographic and socioeconomic information on the preschool age children enrolled in the programs;

''(2) how the proposed project will prepare and provide ongoing assistance to staff in the programs, through professional development and other support, to provide high-

quality language, literacy and prereading activities using scientifically based research, for preschool age children;

''(3) how the proposed project will provide services and utilize materials that are based on scientifically based research on early language acquisition, prereading activities, and the development of spoken language skills;

''(4) how the proposed project will help staff in the programs to meet the diverse needs of preschool age children in the community better, including such children with limited English proficiency, disabilities, or other special needs;

''(5) how the proposed project will help preschool age children, particularly such children experiencing difficulty with spoken language, prereading, and literacy skills, to make the transition from preschool to formal classroom instruction in school;

''(6) if the eligible applicant has received a subgrant under subpart 2, how the activities conducted under this subpart will be coordinated with the eligible applicant's activities under subpart 2 at the kindergarten through third-grade level;

''(7) how the proposed project will evaluate the success of the activities supported under this subpart in enhancing the early language, literacy, and prereading development of preschool age children served by the project; and

''(8) such other information as the Secretary may require.

''(d) APPROVAL OF APPLICATIONS.—The Secretary shall select applicants for funding under this subpart on the basis of the quality of the applications, in consultation with the National Institute for Child Health and Human Development, the National Institute for Literacy, and the National Academy of Sciences. The Secretary shall select applications for approval under this subpart on the basis of a peer review process.

''(e) AUTHORIZED ACTIVITIES.— An eligible applicant that receives a grant under this subpart shall use the funds provided under the grant to carry out the following activities:

''(A) Providing preschool age children with high-quality oral language and literature-rich environments in which to acquire language and prereading skills.

''(B) Providing professional development that is based on scientifically based research knowledge of early language and reading development for the staff of the eligible applicant and that will assist in developing the preschool age children's—

''(i) spoken language (including vocabulary, the contextual use of speech, and syntax) and oral comprehension abilities;

''(ii) understanding that spoken language can be analyzed into discrete words, and awareness that words can be broken into sequences of syllables and phonemes;

''(iii) automatic recognition of letters of the alphabet and understanding that letters or groups of letters systematically represent the component sounds of the language; and

''(iv) knowledge of the purposes and conventions of print.

''(C) Identifying and providing activities and instructional materials that are based on scientifically based research for use in developing the skills and abilities described in subparagraph (B).

''(D) Acquiring, providing training for, and implementing screening tools or other appropriate measures that are based on scientifically based research to determine whether preschool age children are developing the skills described in this subsection.

''(E) Integrating such instructional materials, activities, tools, and measures into the programs offered by the eligible applicant.

''(f) AWARD AMOUNTS.—The Secretary may establish a maximum award amount, or ranges of award amounts, for grants under this subpart.

''SEC. 1243. FEDERAL ADMINISTRATION.

''The Secretary shall consult with the Secretary of Health and Human Services in order to coordinate the activities undertaken under this subpart with preschool age programs administered by the Department of Health and Human Services.

''SEC. 1244. INFORMATION DISSEMINATION.

''From the funds the National Institute for Literacy receives under section 1227, the National Institute for Literacy, in consultation with the Secretary, shall disseminate information regarding projects assisted under this subpart that have proven effective.

''SEC. 1245. REPORTING REQUIREMENTS.

''Each eligible applicant receiving a grant under this subpart shall report annually to the Secretary regarding the eligible applicant's progress in addressing the purposes of this subpart. Such report shall include, at a minimum, a description of—

''(1) the activities, materials, tools, and measures used by the eligible applicant;

''(2) the professional development activities offered to the staff of the eligible applicant who serve preschool age children and the amount of such professional development;

''(3) the types of programs and ages of children served; and

''(4) the results of the evaluation described in section 1242(c)(7).

''SEC. 1246. EVALUATIONS.

''From the total amount appropriated under section 1002(b)(3) for the period beginning October 1, 2002 and ending September 30, 2008, the Secretary shall reserve not more than $5,000,000 to conduct an independent evaluation of the effectiveness of this subpart.

''SEC. 1247. ADDITIONAL RESEARCH.

''From the amount appropriated under section 1002(b)(3) for each of the fiscal years 2002 through 2006, the Secretary shall reserve not more than $3,000,000 to conduct, in consultation with National Institute for Child Health and Human Development, the National Institute for Literacy, and the Department of Health and Human Services, additional research on language and literacy development for preschool age children.''.

AMENDMENT NO. 586

(Purpose: To improve the Pupil Safety and Family School Choice Program)

On page 83, strike lines 3 through 9.

AMENDMENT NO. 587, AS MODIFIED

(Purpose: To refine the Improving Academic Achievement Program)

On page 774 strike line 1 and all that follows through page 778, line 21, and insert the following:

''PART B—IMPROVING ACADEMIC ACHIEVEMENT

''SEC. 6201. EDUCATION AWARDS.

''(a) ACHIEVEMENT IN EDUCATION AWARDS.—

''(1) IN GENERAL.—The Secretary may make awards, to be known as 'Achievement in Education Awards', using a peer review process, to the States that, beginning with the 2002–2003 school year, make the most progress in improving educational achievement.

''(2) CRITERIA.—

''(A) IN GENERAL.—The Secretary shall make the awards on the basis of criteria consisting of—

''(i) the progress of each of the categories of students described in section 1111(b)(2)(B)(v)(II)—

''(I) towards the goal of all such students reaching the proficient level of performance; and

''(II) beginning with the 2nd year for which data are available for all States, on State assessments under the National Assessment of Educational Progress of 4th and 8th grade reading and mathematics skills;

''(ii) the progress of all students in the State towards the goal of all students reaching the proficient level of performance, and (beginning with the 2nd year for which data are available for all States) the progress of all students on the assessments described in clause (i)(II);

''(iii) the progress of the State in improving the English proficiency of students who enter school with limited English proficiency;

''(iv) the progress of the State in increasing the percentage of students who graduate from secondary school; and

''(v) the progress of the State in increasing the percentage of students who take advanced coursework, such as advanced placement and international baccalaureate courses, and who pass advanced placement and international baccalaureate tests.

''(B) WEIGHT.—In applying the criteria described in subparagraph (A), the Secretary shall give the greatest weight to the criterion described in subparagraph (A)(i).

''(b) ASSESSMENT COMPLETION BONUSES.—The Secretary may make 1-time bonus payments to States that complete the development of assessments required by section 1111 in advance of the schedule specified in such section.

''(c) NO CHILD LEFT BEHIND AWARDS.—The Secretary may make awards, to be known as 'No Child Left Behind Awards' to the schools that—

''(1) are nominated by the States in which the schools are located; and

''(2) have made the greatest progress in improving the educational achievement of economically disadvantaged students.

''(d) FUND TO IMPROVE EDUCATION ACHIEVEMENT.—The Secretary may make awards for activities other than the activities described in subsections (a) through (c), such as character education, that are designed to promote the improvement of elementary and secondary education nationally.

''SEC. 6202. LOSS OF ADMINISTRATIVE FUNDS.

''(a) 2 YEARS OF INSUFFICIENT PROGRESS.—

''(1) REDUCTION.—If the Secretary makes the determinations described in paragraph (2) for 2 consecutive years, the Secretary shall reduce, by not more than 30 percent, the amount of funds that the State may reserve for the subsequent fiscal year for State administration under the programs authorized by this Act that the Secretary determines are formula grant programs.

''(2) DETERMINATIONS.—The determinations referred to in paragraph (1) are determinations, made primarily on the basis of data from the State assessment system described in section 1111 and data from State assessments under the National Assessment of Educational Progress of 4th and 8th grade reading and mathematics skills, that—

''(A) the State has failed to make adequate yearly progress as defined under section 1111(b)(2) (B) and (D) for all students and for each of the categories of students described in section 1111(b)(2)(B)(v)(II);

''(B) beginning with the 2nd year for which data are available on State assessments under the National Assessment of Educational Progress of 4th and 8th grade reading and mathematics, the State has failed to demonstrate an increase in the achievement of each of the categories of students described in section 1111(b)(2)(B)(v)(II); and

''(C) the State has failed to meet its annual measurable performance objectives, for helping limited English proficient students develop proficiency in English, that are required to be developed under section 3329.

''(b) 3 OR MORE YEARS OF INSUFFICIENT PROGRESS.—If the Secretary makes the determinations described in subsection (a)(2) for a third or subsequent consecutive year, the Secretary shall reduce, by not more than 75 percent, the amount of funds that the State may reserve for the subsequent fiscal year for State administration under the programs authorized by this Act that the Secretary determines are formula grant programs.

''SEC. 6203. GRANTS FOR STATE ASSESSMENTS AND RELATED ACTIVITIES.

''(a) STATE GRANTS AUTHORIZED.—From amounts appropriated under subsection (c) the Secretary shall award grants to States to enable the States to pay the costs of—

''(1) developing assessments and standards required by amendments made to this Act by the Better Education for Students and Teachers Act;

''(2) working in voluntary partnerships with other States to develop such assessments and standards; and

''(3) other activities described in this part or related to ensuring accountability for results in the State's public elementary schools or secondary schools, and local educational agencies, such as—

''(A) developing content and performance standards, and aligned assessments, in subjects other than those assessments that were required by amendments made to section 1111 by the Better Education for Students and Teachers Act; and

''(B) administering the assessments required by amendments made to section 1111 by the Better Education for Students and Teachers Act.

''(b) ALLOCATIONS TO STATES.—

''(1) IN GENERAL.—From the amount appropriated to carry out this section for any fiscal year, the Secretary first shall allocate $3,000,000 to each State.

''(2) REMAINDER.—The Secretary shall allocate any remaining funds among the States on the basis of their respective numbers of children enrolled in grades 3 through 8 in public elementary schools and secondary schools.

''(3) DEFINITION OF STATE.—For the purpose of this subsection, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this section, there are authorized to be appropriated $400,000,000 for fiscal year 2002, and such sums as may be necessary for each of the succeeding 6 fiscal years.

''SEC. 6204. AUTHORIZATION OF APPROPRIATIONS.

''(a) NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.—For the purpose of administering the State assessments under the National Assessment of Educational Progress, there are authorized to be appropriated $110,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years.

''(b) EDUCATION AWARDS.—For the purpose of carrying out section 6201, there are authorized to be appropriated $50,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years.''.

On page 458, strike lines 10 through 12, and insert the following:

''(C)(i) who was not born in the United States or whose native language is a language other than English, and who comes from an environment where a language other than English is dominant;

On page 486, strike lines 10 and 11, and insert the following:

''(1) parts A, C, E (other than section 3405), and F shall not be in effect; and''.

AMENDMENT NO. 588

(Purpose: To amend the local educational plan under section 1112(c) of the Elementary and Secondary Education Act of 1965 regarding models of high quality, effective curriculum)

On page 74, strike line 24, and insert the following:

''parents and teachers; and

''(14) make available to each school served by the agency and assisted under this part models of high quality, effective curriculum that are aligned with the State's standards and developed or identified by the State.''; and

AMENDMENT NO. 589

(Purpose: To improve section 1116 of the Elementary and Secondary Education Act of 1965 regarding assessment and local educational agency and school improvement)

On page 83, line 25, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 84, line 4, insert '', principals, teachers, and other staff in an instructionally useful manner'' after ''schools''.

On page 84, line 25, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 88, line 6, strike ''meet'' and insert ''make continuous and significant progress towards meeting the goal of all students reaching''.

On page 90, line 5, insert ''(including problems, if any, in implementing the parental involvement requirements described in section 1118, the professional development requirements described in section 1119, and the responsibilities of the school and local educational agency under the school plan)'' after ''problems''.

On page 91, line 15, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 92, line 13, insert ''and giving priority to the lowest achieving students'' after ''basis''.

On page 95, line 9, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 95, beginning with line 13, strike all through page 96, line 6, and insert the following:

''(i)(I) provide all students enrolled in the school with the option to transfer to another public school within the local educational agency, including a public charter school, that has not been identified for school improvement under paragraph (1); and

''(II) if all public schools in the local educational agency to which children may transfer are identified under paragraph (1) or this paragraph, the agency shall, to the extent practicable, establish a cooperative agreement with other local educational agencies in the area for the transfer of as many of those children as possible, selected by the agency on an equitable basis;

''(ii) make supplemental educational services available, in accordance with subsection (f), to children who remain in the school;

On page 96, line 7, strike ''(ii)'' and insert ''(iii)''.

On page 96, line 21, strike ''(iii)'' and insert ''(iv)''.

On page 96, strike line 23 and all that follows through page 97, line 23.

On page 97, line 24, strike ''(E)'' and insert ''(D)''.

On page 98, line 7, strike ''(F)'' and insert ''(E)''.

On page 98, line 16, strike ''and fails'' and all that follows through ''this paragraph'' on page 98, line 20.

On page 98, line 25, strike ''(D)'' and insert ''(C)''.

On page 99, line 6, insert ''(i)'' after ''(B)''.

On page 99, line 12, strike ''(i)'' and insert ''(I)''.

On page 99, line 14, strike ''(ii)'' and insert ''(II)''.

On page 99, line 16, strike ''(iii)'' and insert ''(III)''.

On page 99, line 19, strike ''(iv)'' and insert ''(IV)''.

On page 99, line 21, strike ''(v)'' and insert ''(V)''.

On page 99, between lines 22 and 23, insert the following:

''(ii) A rural local agency, as described in section 5231(b), may apply to the Secretary for a waiver of the requirements of this subparagraph if the agency submits to the Secretary an alternative plan for making significant changes to improve student performance in the school, such as providing an academically focused after school program 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 under this subparagraph not later than 30 days after 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 such 30 days, the application shall be considered approved by the Secretary.

On page 100, line 6, strike ''(D)'' and insert ''(C)''.

On page 100, line 23, strike ''(A)''.

On page 101, strike lines 5 though 20.

On page 102, lines 15 and 16, strike ''(7)(C) and subject to paragraph (7)(D)'' and insert ''(5)''.

On page 102, line 21, strike '', and that'' and all that follows through ''1111(b)(2)(B)(v)(II),'' on page 102, line 25.

On page 103, line 1, strike ''(D)'' and insert ''(C)''.

On page 103, line 7, strike '', and that'' and all that follows through ''disadvantaged students,'' on page 103, line 10.

On page 103, line 20, strike ''(D)'' and insert ''(C)''.

On page 104, line 22, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 105, line 13, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 105, lines 20 and 21, strike ''section 1111(b)(2)(B)'' and insert ''sections 1111(b)(2)(B) and (D)''.

On page 106, between lines 13 and 14, insert the following:

''(C) Not later than 30 days after a State educational agency makes an initial determination under subparagraph (A), the State educational agency shall make public a final determination regarding the improvement status of the local educational agency.

On page 106, lines 22 and 23, strike ''meet proficient levels'' and insert ''make continuous and significant progress towards meeting the goal of all students reaching the proficient level''.

On page 109, line 15, strike ''(C)'' and insert ''(E)''.

On page 112, line 16, strike ''(A)''.

On page 112, line 19, strike ''(3)'' and insert ''(6)''.

On page 112, strike line 23 and all that follows through page 113, line 2.

On page 113, line 14, strike ''(D)'' and insert ''(C)''.

On page 115, line 14, strike ''(D)'' and insert ''(C)''.

At the appropriate place insert:

The current section 1501, U.S. Code, is deleted and replaced with the following:

SEC. 1501. NATIONAL ASSESSMENT OF TITLE I

(a) NATIONAL ASSESSMENT.—The Secretary shall conduct a national assessment of the impact of the policies enacted into law under title I of the Better Education for Students and Teachers Act on States, local educational agencies, schools, and students.

(1) Such assessment shall be planned, reviewed, and conducted in consultation with an independent panel of researchers, State practitioners, local practitioners, and other appropriate individuals.

(2) The assessment shall examine, at a minimum, how schools, local educational agencies, and States have—

(A) made progress towards the goal of all students reaching the proficient level in at least reading and math based on a State's content and performance standards and the State assessments required under section 1111 and on the National Assessment of Educational Progress;

(B) implemented scientifically-based reading instruction;

(C) implemented the requirements for the development of assessments for students in grades 3–8 and administered such assessments, including the time and cost required for their development and how well they meet the requirements for assessments described in this title;

(D) defined adequate yearly progress and what has been the impact of applying this standard for adequacy to schools, local educational agencies, and the State in terms of the numbers not meeting the standard and the year to year changes in such identification for individual schools and local educational agencies;

(E) publicized and disseminated the local educational agencies report cards to teachers, school staff, students, and the community;

(F) implemented the school improvement requirements described in section 1116, including—

(i) the number of schools identified for school improvement and how many years schools remain in this status;

(ii) the types of support provided by the State and local educational agencies to schools and local educational agencies identified as in need of improvement and the impact of such support on student achievement;

(iii) the number of parents who take advantage of the public school choice provisions of this title, the costs associated with implementing these provisions, and the impact of attending another school on student achievement;

(iv) the number of parents who choose to take advantage of the supplemental services option, the criteria used by the States to determine the quality of providers, the kinds of services that are available and utilized, the costs associated with implementing this option, and the impact of receiving supplemental services on student achievement; and

(v) the kinds of actions that are taken with regards to schools and local educational agencies identified for reconstitution.

(G) used funds under this title to improve student achievement, including how schools have provided either schoolwide improvement or targeted assistance and provided professional development to school personnel;

(H) used funds made available under this title to provide preschool and family literacy services and the impact of these services on students' school readiness;

(I) afforded parents meaningful opportunities to be involved in the education of their children at school and at home;

(J) distributed resources, including the state reservation of funds for school improvement, to target local educational agencies and schools with the greatest need;

(K) used State and local educational agency funds and resources to support schools and provide technical assistance to turn around failing schools; and,

(L) used State and local educational agency funds and resources to help schools with 50 percent or more students living in families below the poverty line meet the requirement of having all teachers fully qualified in four years.

(b) STUDENT ACHIEVEMENT.—As part of the national assessment, the Secretary shall evaluate the effectiveness of the programs and services carried out under this title, especially Part A, in improving student achievement. Such evaluation shall—

(1) provide information on what types of programs and services are most likely to help students reach the States' performance standards for proficient and advanced;

(2) examine the effectiveness of comprehensive school reform and improvement strategies for raising student achievement;

(3) to the extent possible, have a longitudinal design that tracks a representative sample of students over time; and

(4) to the extent possible, report on the achievement of the groups of students described in section 1111(b)(2)(B)(v)(II).

(c) DEVELOPMENTALLY APPROPRIATE MEASURES.—In conducting the national assessment, the Secretary shall use developmentally appropriate measures to assess student performance.

(d) STUDIES AND DATA COLLECTION.—The Secretary may conduct studies and evaluations and collect such data as is necessary to carry out this section either directly or through grants and contracts to—

(1) assess the implementation and effectiveness of programs under this title;

(2) collect the data necessary to comply with the Government Performance and Results Act of 1993.

(e) REPORTING.—The Secretary shall provide to the relevant committees of the Senate and House—

(1) by December 30, 2004, an interim report on the progress and any interim results of the national assessment of title I; and

(2) by December 30, 2007, a final report of the results of the assessment.

AMENDMENT NO. 590

(Purpose: To amend the uses of funds under the Local Innovative Education Programs)

On page 683, strike lines 12 and 13, and insert the following:

''(H) programs to improve the literacy skills of adults, especially the parents of children served by the local educational agency, including adult education and family literacy programs;

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

On page 684, line 7, strike the period and insert a semicolon.

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

''(O) programs that employ research-based cognitive and perceptual development approaches and rely on a diagnostic-prescriptive model to improve students' learning of academic content at the preschool, elementary, and secondary levels; and

''(P) supplemental educational services as defined in section 1116(f)(6).

AMENDMENT NO. 591

(Purpose: To amend section 1119 of the Elementary and Secondary Education Act of 1965 regarding professional development activities)

On page 130, strike line 2, and insert the following:

quality of professional development; and

''(J) provide assistance to teachers for the purpose of meeting certification, licensing, or other requirements needed to become highly qualified as defined in section 2102(4).'';

On page 130, line 5, strike the period and insert ''; and ''.

On page 130, between lines 5 and 6, insert the following:

(3) by adding at the end the following:

''(j) REQUIREMENT.—Each local educational agency that receives funds under this part and serves a school in which 50 percent or more of the children are from low income families shall use not less than 5 percent of the funds for each of fiscal years 2002 and fiscal year 2003, and not less than 10 percent of the funds for each subsequent fiscal year, for professional development activities to ensure that teachers who are not highly qualified become highly qualified within 4 years.''.

On page 127, line 23, insert ''(1)'' after ''(b)''.

On page 127, line 24, strike ''in paragraph (1),''.

AMENDMENT NO. 592, AS MODIFIED

(Purpose: To provide a manager's package of amendments)

On page 29, between lines 14 and 15, insert the following:

''SEC. 16. PROHIBITION ON DISCRIMINATION.

''Nothing in this Act shall be construed to require, authorize, or permit, the Secretary, or a State, local educational agency, or school to grant to a student, or deny or impose upon a student, any financial or educational benefit or burden, in violation of the fifth or 14th amendments to the Constitution or other law relating to discrimination in the provision of federally funded programs or activities.''.

On page 36, lines 21 and 22, strike ''served under this part''.

On page 36, strike line 24 and all that follows through page 37, line 2, and insert the following:

guage arts, history, and science, except that—

''(i) any State which does not have standards in mathematics or reading or language arts, for public elementary school and secondary school children who are not served under this part, on the date of enactment of the Better Education for Students and Teachers Act shall apply the standards described in subparagraph (A) to such students not later than the beginning of the school year 2002–2003; and

''(ii) no State shall be required to meet the requirements under this part

On page 37, line 18, insert ''and'' after the semicolon.

On page 37, line 23, strike ''; and'' and insert a period.

On page 37, strike line 24 and all that follows through page 38, line 4.

On page 38, line 19, strike ''subparagraph (B)'' and insert ''subparagraphs (B) and (D)''.

On page 41, strike lines 6 through 8 and insert the following:

''(vii) includes school completion or graduation rates for secondary school students and at least 1 other academic indicator, as determined by the State, for elementary school students, except that

On page 41, line 13, strike ''discretionary''.

On page 44, lines 13 and 14, strike ''curriculum''.

On page 45, line 2, strike ''curriculum''.

On page 46, strike line 20 and all that follows through page 47, line 2.

On page 47, line 3, strike ''(E)'' and insert ''(D)''.

On page 47, between lines 6 and 7, insert the following:

''(E)(i) beginning not later than school year 2001–2002, measure the proficiency of

students served under this part in mathematics and reading or language arts and be administered not less than one time during—

''(I) grades 3 through 5;

''(II) grades 6 through 9; and

''(III) grades 10 through 12;

''(ii) beginning not later than school year 2002–2003, measure the proficiency of all students in mathematics and reading or language arts and be administered not less than one time during—

''(I) grades 3 through 5;

''(II) grades 6 through 9; and

''(III) grades 10 through 12;

''(iii) beginning not later than school year 2007–2008, measure the proficiency of all students in science and be administered not less than one time during—

''(I) grades 3 through 5;

''(II) grades 6 through 9; and

''(III) grades 10 through 12;

On page 47, line 8, strike ''annual''.

On page 47, line 10, insert ''annually'' after ''standards''.

On page 47, line 11, insert '', and at least once in grades 10 through 12,'' after ''8''.

On page 47, line 12, insert ''if the tests are aligned with State standards,'' after ''arts,''.

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

''(G) at the discretion of the State, measure the proficiency of students in academic subjects not described in subparagraphs (E) and (F) in which the State has adopted challenging content and student performance standards;

On page 48, line 15, strike ''(G)'' and insert ''(H)''.

On page 49, strike line 7 and all that follows through page 50, line 7, and insert the following:

''(iv) notwithstanding clause (iii), the assessment (using tests written in English) of reading or language arts of any student who has attended school in the United States (excluding the Commonwealth of Puerto Rico) for 3 or more consecutive years, except that if a local educational agency demonstrates to the State educational agency that assessments in another language and form is likely to yield more accurate and reliable information on what such a student knows and can do, then the State educational agency, on a case-by-case basis, may waive the requirement to use tests written in English for those students and permit those students to be assessed in the appropriate language for one or more additional years, but only if the total number of students so assessed does not exceed one-third of the number of students in the State who were not required to be assessed using tests written in English in the previous year because the students were in the third year of the 3-year period described in this clause;

''(I) beginning not later than school year 2002–2003, provide for the annual assessment of the development of English proficiency (appropriate to students' oral language, reading, and writing skills in English) of students with limited English proficiency who are served under this part or under title III and who do not participate in the assessment described in clause (iv) of subparagraph (H);

On page 50, line 8, strike ''(H)'' and insert ''(J)''.

On page 50, line 17, strike ''(I)'' and insert ''(K)''.

On page 50, lines 19 and 20, strike ''scores, or'' and insert ''performance on assessments aligned with State standards, and''.

On page 51, line 1, strike ''(J)'' and insert ''(L)''.

On page 51, line 20, insert '', but such measures shall not be the primary or sole indicator of student progress toward meeting State standards'' after ''measures''.

On page 51, line 21, insert ''Consistent with section 1112(b)(1)(D),'' before ''States''.

On page 52, strike lines 21 and 22 and insert the following:

is applicable to such agency or school;

''(B) the specific steps the State educational agency will take to ensure that both schoolwide programs and targeted assistance schools provide instruction by highly qualified instructional staff as required by sections 1114(b)(1)(C) and 1115(c)(1)(F), including steps that the State educational agency will take to ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out of field teachers, and the measures that the State educational agency will use to evaluate and publicly report the progress of the State educational agency with respect to such steps;

''(C) how the State educational agency will develop or identify high quality effective curriculum models aligned with State standards and how the State educational agency will disseminate such models to each local educational agency and school within the State; and

''(D) such other factors the State deems

On page 53, line 12, strike ''(i)'' and insert ''(j)''.

On page 59, lines 16 and 17, strike ''performance standards,'' and insert ''performance standards, a set of high quality annual student assessments aligned to the standards,''.

On page 59, line 19, insert ''and take such other steps as are needed to assist the State in coming into compliance with this section'' after ''1117''.

On page 68, line 24, strike ''paraprofessionals'' and insert ''a paraprofessional''.

On page 69, line 18, insert '', the setting of State performance standards, the development of measures of adequate yearly progress that are valid and reliable,'' before ''and other''.

AMENDMENT NO. 593

On page 202, delete line 1 through line 4, and insert the following:

''(a) IN GENERAL.—From funds reserved under section 1225, the Secretary shall contract with an independent outside organization for a 5-year, rigorous, scientifically valid, quantitative evaluation of this subpart.

''(b) PROCESS.—Such evaluation shall be conducted by an organization outside of the Department that is capable of designing and carrying out an independent evaluation that identifies the effects of specific activities carried out by States and local educational agencies under this subpart on improving reading instruction. Such evaluation shall use only data relating to students served under this subpart and shall take into account factors influencing student performance that are not controlled by teachers or education administrators.

''(c) ANALYSIS.—Such evaluation shall include the following:

''(1) An analysis of the relationship between each of the essential components of reading instruction and overall reading proficiency.

''(2) An analysis of whether assessment tools used by States and local educational agencies measure the essential components of reading instruction.

''(3) An analysis of how State reading standards correlate with the essential components of reading instruction.

''(4) An analysis of whether the receipt of a discretionary grant under this subpart results in an increase in the number of children who read proficiently.

''(5) A measurement of the extent to which specific instructional materials improve reading proficiency.

''(6) A measurement of the extent to which specific rigorous diagnostic reading and screening assessment tools assist teachers in identifying specific reading deficiencies.

''(7) A measurement of the extent to which professional development programs implemented by States using funds received under this subpart improve reading instruction.

''(8) A measurement of how well students preparing to enter the teaching profession are prepared to teach the essential components of reading instruction.

''(9) An analysis of changes in students' interest in reading and time spent reading outside of school.

''(10) Any other analysis or measurement pertinent to this subpart that is determined to be appropriate by the Secretary.

''(d) PROGRAM IMPROVEMENT.—The findings of the evaluation conducted under this section shall be provided to States and local educational agencies on a periodic basis for use in program improvement.

AMENDMENT NO. 595

At the end of title IX, add the following:

SEC. . MAINTAINING FUNDING FOR THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Section 611 of the Individuals with Disabilities Education Act is amended to add the following new subsection:

''(k) CONTINUATION OF AUTHORIZATION.—For fiscal year 2012 and each fiscal year thereafter, there are authorized to be appropriated such sums as may be necessary for the purpose of carrying out his part, other than section 619.''.

AMENDMENT NO. 512

(Purpose: To authorize programs of national significance)

(The text of the amendment is printed in the RECORD of May 9, 2001, under ''Amendments Submitted.'')

AMENDMENT NO. 435, AS MODIFIED

(Purpose: To support the use of education technology to enhance and facilitate meaningful parental involvement to improve student learning)

On page 369, between lines 6 and 7, insert the following and redesignate the remaining paragraphs accordingly:

''(2) outlines the strategies for increasing parental involvement in schools through the effective use of technology;''.

On page 370, line 24, strike ''and''.

On page 370, line 26, strike the period and insert a semicolon.

On page 371, line 1, insert the following:

''(b) ALLOWABLE USES OF FUNDS.—

''Each local educational agency, may use the funds made available under section 2304(a)(3) for—

''(1) utilizing technology to develop or expand efforts to connect schools and teachers and parents to promote meaningful parental involvement and foster increased communication about curriculum, assignments, and assessments; and

''(2) providing support to help parents understand the technology being applied in their child's education so that parents are able to reinforce their child's learning.''.

On page 371, between lines 23 and 24, insert the following and redesignate the remaining paragraphs accordingly:

''(3) a description of how the local educational agency will ensure the effective use of technology to promote parental involvement and increase communication with parents;

''(4) a description of how parents will be informed of the use of technologies so that the parents are able to reinforce at home the instruction their child receives at school;''.

On page 374, line 24, strike ''and''

On page 378, line 24, strike ''and''.

On page 379, line 1, insert the following and redesignate the remaining subparagraph accordingly:

''(F) increased parental involvement in schools through the use of technology: and''.

AMENDMENT NO. 386

(Purpose: To provide resource officers in our schools)

On page 893, after line 14, add the following:

SEC. ___. SCHOOL RESOURCE OFFICER PROJECTS.

(a) COPS PROGRAM.—Section 1701(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

(1) in paragraph (7) by inserting ''school officials,'' after ''enforcement officers''; and

(2) by striking paragraph (8) and inserting the following:

''(8) establish school-based partnerships between local law enforcement agencies and local school systems, by using school resource officers who operate in and around elementary and secondary schools to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, combat school-related crime and disorder problems, gang membership and criminal activity, firearms and explosives-related incidents, illegal use and possession of alcohol, and the illegal possession, use, and distribution of drugs;''.

(b) SCHOOL RESOURCE OFFICER.—Section 1709(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd–8) is amended—

(1) by striking subparagraph (A) and inserting the following:

''(A) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document crime and disorder problems including gangs and drug activities, firearms and explosives-related incidents, and the illegal use and possession of alcohol affecting or occurring in or around an elementary or secondary school;

(2) by striking subparagraph (E) and inserting the following:

''(E) to train students in conflict resolution, restorative justice, and crime awareness, and to provide assistance to and coordinate with other officers, mental health professionals, and youth counselors who are responsible for the implementation of prevention/intervention programs within the schools;''; and

(3) by adding at the end the following:

''(H) to work with school administrators, members of the local parent teacher associations, community organizers, law enforcement, fire departments, and emergency medical personnel in the creation, review, and implementation of a school violence prevention plan;

''(I) to assist in documenting the full description of all firearms found or taken into custody on school property and to initiate a firearms trace and ballistics examination for each firearm with the local office of the Bureau of Alcohol, Tobacco, and Firearms;

''(J) to document the full description of all explosives or explosive devices found or taken into custody on school property and report to the local office of the Bureau of Alcohol, Tobacco, and Firearms; and

''(K) to assist school administrators with the preparation of the Department of Education, Annual Report on State Implementation of the Gun-Free Schools Act which tracks the number of students expelled per year for bringing a weapon, firearm, or explosive to school.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(11)) is amended by adding at the end the following:

''(C) There are authorized to be appropriated to carry out school resource officer activities under sections 1701(d)(8) and 1709(4), to remain available until expended $180,000,000 for each of fiscal year 2002 through 2007.''.

AMENDMENT NO. 424

(The text of the amendment is printed in the RECORD of May 14, 2001, under ''Amendments Submitted.'')

AMENDMENT NO. 516, AS FURTHER MODIFIED

(Purpose: To provide for the conduct of a study concerning the health and learning impacts of sick and dilapidated public school buildings on children and to establish the Healthy and High Performance Schools Program)

(The text of the amendment is located in today's RECORD under ''Amendments Submitted.'')

AMENDMENT NO. 804

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. GRASSLEY. Mr. President, I rise in support of the Cochran amendment to the Better Education for Students and Teachers Act. Specifically, I would like to speak to two elements of this amendment that are of particular importance to me and my State of Iowa.

I would first like to speak to a portion of this amendment that address an often overlooked segment of our student population, gifted and talented children. There are approximately three million children in the United Sates who are considered gifted and talented. It is important to point out that these gifted and talented children do not simply possess an extraordinary level of intelligence, but they actually have a unique way of thinking and learning. Gifted and talented children look at the world differently and often have a different way of interacting socially. As a result, gifted and talented students have different educational needs from other students.

These remarkable children have enormous potential. Today's gifted and talented child may grow up to become a leader in the field of science or a world-renowned performer. However, this will not happen automatically. Gifted and talented children need to be challenged and their unique skills must be nurtured. Currently, many gifted and talented children do not receive the educational programs and services they need to live up to their potential. In fact, many gifted and talented children lose interest in school; they learn how to expend minimum effort for top grades, have low motivation, and develop poor work habits. Others abandon their education altogether and drop out of school. This is a tragedy not only for the students, but also for our society.

Much of the Federal role in education is focused on helping Stats to meet the needs of disadvantage students and students with special learning needs. Currently, the availability and quality of gifted and talented educational services varies widely from State to State. This situation adversely affects all gifted and talented students, but especially disadvantaged students. In areas without adequate public school services for gifted and talented students, more well-off parents can afford to place their children in a private school that offers gifted and talented programs or pay for private supplemental equational services like tutors and summer camps. Meanwhile, disadvantaged talented and gifted students remain in public school settings that cannot meet their unique educational needs without federal assistance.

My gifted and talented initiative, which is contained in the Cochran amendment, will help to ensure that ALL gifted and talented students have the opportunity to achieve their highest potential by providing grants, based on State's student population, to State education agencies. These grants will be used to identify and provide educational services to gifted and talented students from all economic, ethnic, and racial backgrounds—including students with limited English proficiency and students with disabilities. My proposal outlines four broad spending areas but leaves decisions on how best to serve these students to states and local school districts.

The legislation ensures that the Federal money benefits students by requiring the State education agency to distribute not less than 88 percent of the funds to schools and that the funds must supplement, not supplant, funds currently being spent. Additionally, rather than simply accepting Federal funds, States must make their own commitment to these students by matching 20 percent of the Federal funds. The matching requirements will help ensure that programs and services for gifted education develop a strong foothold in the States.

The Cochran amendment also reauthorizes the Javits Gifted and Talented Students Education Program. The Javits Program is a research program that funds a national research center and provides grants to a wide range of public and private entities in order to build a nationwide capability to meet the special educational needs of gifted and talented students. The research results from the Javits Program provide invaluable tools to help schools and teachers learn how to identify gifted and talented students and improve gifted and talented programs. I would like to emphasize that, because of the nature of this program, a continued Federal commitment is required. It simply wouldn't be practical or prudent to ask each State to conduct its own research into gifted and talented education. And yet, the research fostered by this program remains essential in ensuring that teachers have the best possible information about how to help gifted and talented students reach their full potential.

I am pleased that my own State of Iowa is one of the leaders in gifted education. Indeed, I have learned of many

remarkable young people and dedicated education professionals through the advocacy efforts of the Iowa Talented and Gifted Association. I have come to believe, strongly, that Congress must support initiatives designed to identify and serve the special learning needs of gifted and talented children.

Our Nation's gifted and talented students are among our great untapped resources. However, our help is needed to ensure that States and local school districts are able to address the unique educational needs of gifted and talented students. In the spirit of the President's challenge to leave no child behind, I would urge my colleagues to remember America's gifted and talented children.

I would also like to express my support for another portion of this amendment that addresses an important educational need in our country. The Cochran amendment reauthorizes provisions for the National Writing Project. The National Writing Project is a nationally recognized nonprofit organization that works to improve student writing achievement by improving the teaching and learning of writing in the Nation's schools. Each summer, successful writing teachers at 167 local sites in 49 States, Puerto Rico, and the District of Columbia attend annual summer institutes through the National Writing Project. At these summer institutes, teachers examine their classroom practices, conduct research, and develop their own writing skills. After completion of one of these summer institutes, the participating teachers return home and provide professional development workshops for other teachers in their home schools and communities. These follow-up activities are conducted throughout the entire academic year in order to maintain and encourage continued use of writing skills. As a result, the National Writing Project is able to reach far more teachers than would be possible through directly administered professional development activities and teachers are able to reap the benefits the whole year long.

I proud to say that the National Writing Project has a long and successful history in Iowa. The Iowa Writing Project was initiated in 1978 and was among the first in the Nation. Since its inception, over 8,000 teachers have taken part in the annual summer institutes. And, this group of teachers has served as the means of administering and conducting workshops and in-service training programs for many more thousands of Iowa teachers. In fact, upon returning home from attending one of those summer institutes, Iowa Writing Project participants can in turn impact as many as fifty percent or more of their fellow educators in their community. Thus, the relatively small number of teachers who participate in the Iowa Writing Project summer institutes can provide professional development opportunities in writing for entire communities.

The success of the National Writing Project has resulted in substantial support in the areas where it has been implemented. In fact, for every dollar of Federal funding, writing project sites generate more than six dollars in support from States, host sites, and other public and private sources. Yet, while the National Writing Project has a regional focus and widespread local support, the 167 local sites could not operate without the coordination and support provided by the national organization. At a time when both institutions of higher education and businesses are increasingly discovering that Americans do not have the writing skills they need to be successful, it is essential that we support proven writing programs, like the National Writing Project.

The two portions of this amendment which I have addressed are examples of areas where there are clear educational needs that cannot be met by states alone and where our existing efforts have proven successful. I support the general goals of the B.E.S.T. bill, including consolidating or eliminating programs that are not working or that interfere with decisions that are more properly made at the State or local level. However, where our efforts have been shown to be successful and needed, our support should be maintained. Therefore, I would urge my colleagues to support the Cochran amendment.

Mr. BINGAMAN. Mr. President, I rise today to thank my colleague from Mississippi, Senator COCHRAN, for including my legislation reauthorizing the smaller learning communities program in his amendment related to national activities. I am also grateful to my colleagues for supporting this amendment. My legislation ensures that the currently authorized and funded smaller learning communities program, which I sponsored during the 1994 reauthorization of the Elementary and Secondary Education Act, continues. This program provides funds to school districts to assist in the creation of smaller learning communities or ''schools within schools.'' This is an extremely important program that we know works to improve student achievement and make our schools safer.

In the past 40 years, schools—especially high schools—have been getting bigger and bigger. In today's urban and suburban settings, high school enrollment of 2,000 and 3,000 are commonplace; in some places like New York City school enrollments near 5,000. Research demonstrates that students in schools of this size do not perform as well as students in smaller schools and large schools are less safe.

Research also has shown that small schools and large schools broken down into smaller learning communities are superior to large schools on virtually every measure of educational success. Student achievement is higher in small school environments. Students in these schools tend to have higher grades, test scores, and honor roll membership, even when other variables such as teacher quality or community characteristics are considered. Furthermore, students from small school environments are more likely to finish high school. They also are more likely to be admitted to college, do well once they are there and complete their studies. These results are even more pronounced for minority and low-income students. Because teachers have fewer students in smaller schools they can know their students better, minority and low-income students are less likely to be overlooked. As a result, the creation of smaller learning communities can be an effective way to address the achievement gap between poor students and their more affluent peers.

Smaller learning environments also address non-academic learning because they provide an environment where students can learn how to participate actively in their school community. Student attitudes are overwhelmingly more positive in small schools. Students are far more likely to be involved in extracurricular activities than students in large schools. In order to have a sufficient number of players on the team or members of the club, all students must participate in small schools. In contrast, in large schools many students do not have a chance to participate in these important school experiences unless they display some special talent. Research has demonstrated that participating in extracurricular activities contributes significantly to student learning and makes it less likely that the student will drop out of school or have poor attendance.

Smaller learning communities also result in safer schools. Large school environments tend to promote feelings of isolation and alienation. In contrast, smaller learning communities promote a sense of belonging and community. Since there is an undisputed relationship between students' feelings of alienation and school violence, the creation of smaller learning communities is a very effective strategy for preventing the occurrence of acts of school violence that have become tragically commonplace in schools across the country in recent years. In smaller learning environments, problems in interpersonal relationships or other difficulties can be addressed before they lead to violence. Because teachers can get to know all students on a personal level, smaller learning communities go a long way towards ensuring that all students feel they belong and that they are safe. This makes the creation of smaller learning communities an important method of preventing school violence.

Smaller learning communities also help to decrease teacher attrition and therefore improve the quality of instruction. Teachers working in smaller learning environments often feel that they have more opportunity to teach instead of dealing with paperwork and discipline problems that are more common in larger school environments.

Under such circumstances, teacher morale is improved making good teachers less likely to ''burn out.''

I have been advocating for small schools and the creation of smaller learning communities for a number of years. The smaller learning community program was first authorized in 1994. The program was funded in FY 2000. Last year, a total of 354 schools serving over 400,000 high school students in 39 States were awarded grants to plan, develop and implement strategies that would personalize the learning environment for students.

The legislation allows for local decisionmaking with respect to how to build smaller learning communities. Some of the most common strategies include: (1) creating career academies that offer students academic programs organized around a broad career theme, often building on team teaching methods; (2) implementing mentoring systems in which teachers, counselors, and other school staff advise students on a personal level; and (3) creating schools within schools so that smaller groups of students take all or most of their classes together—often from the same team of teachers and/or administrators and often operating in distinct areas of the school facility. All of these strategies are designed to create a more individualized learning environment.

In my home State of New Mexico, the Albuquerque School District received a substantial grant under this program last year, which will allow them to create smaller learning communities in six of their high schools and hopefully with additional funding through this program they will be able to do so in all of the city's high schools. I was able to visit one of these schools recently and see the good work being done with some of the funding from this program. I visited Cibola High School, where they have created a school-within-a-school for ninth graders with their small schools grant. Taking into account evidence of a high drop out rate at ninth grade, the faculty at Cibola decided to move all of the ninth graders into one corridor and divide them into five teams. Each team of teachers meets together two to three times a week to discuss instructional strategies and any concerns about students on their team. The grant allowed them to hire four more teachers reducing pupil/teacher ratios. They also created two lunch periods within the school so that the ninth graders have their own lunch. Preliminary data indicates that the work at Cibola has been quite successful. The drop out rate declined from 9 percent to a little over 1 percent. Eighty-six percent of the ninth graders earned all of their credits last year and moved on to the tenth grade. Students, teachers and parents continually comment on how the new arrangements has helped students to be successful. The schools reports that students feel safer and less worried about the transition to high school. Teachers comment that they enjoy teaching more since there are fewer discipline problems and they have more opportunity to work with students one-to-one. I have a letter from Linda Sink, the principal at Cibola High School, summarizing the success at the school.

I also note that teachers and administrators in schools in Las Lunas, NM were also delighted to receive a smaller learning communities grant last year. They are confident that the career academy, which will open in August 2001, funded through this grant will do much to improve the educational experience of their students. This academy will offer core academic content within the context of career programs in preengineering, electronics, culinary arts, criminal justice, education and health services.

No doubt small schools in themselves are insufficient to address all of the problems that are facing our nation's educational system. But the strategy of reorganizing our large schools into smaller learning communities is a proven method of reform which attacks many if not most of the challenges facing schools today. Throughout the history of education parents of means have sent their children to small schools because they have known that in smaller schools their children will have the opportunity to connect with adults who care about them and can give consideration to their learning needs. With your support, small schools can continue to be created in order to provide children with learning environments that help all children succeed.

AMENDMENT NO. 386

Mr. BIDEN. I ask unanimous consent that Senators HOLLINGS, BINGAMAN, LANDRIEU, CLELAND, and JOHNSON be added as original cosponsors to my amendment.

This amendment is fairly simple, and I hope all of my colleagues can support it.

It would extend the Justice Department's school resource officer program for 6 years. It authorizes $180 million per year through 2007 for the wildly successful COPS in Schools Program. This is the same amount appropriated for the program in each of the last 2 years, the same amount requested by the administration in its Budget, and it's enough money to hire 1,500 resource officers per year.

This is a great program. Police departments and schools get together and they file their application jointly, based on the community's needs. To date, the Justice Department has funded over 3,800 school resource officers. They are 3 year grants, totaling up to $125,000 per officer. That's about $40,000 per year, usually enough to fund the officer's whole salary.

Why offer this amendment now. Well, the bill before us is designed to improve our schools, but without my amendment it does not include dedicated funds to hire school resource officers. And authority for COPS in Schools, one of the most successful school safety programs out there, expired last year.

My amendment has been endorsed by the National Association of School Resource Officers, by the National School Safety Center, by the Center for the Prevention of School Violence, by the National Education Association, and by the Fraternal Order of Police.

Why do school safety experts, line officers, the resource officers themselves, and the heads of police departments across the country, and educators support this amendment. Because they know COPS in Schools works. They know school resource officers can help quiet troubled schools halls, can quickly stop a violent incident, and can mentor students.

What are school resource officers. These are specially-trained police officers, men and women who work in and around elementary schools, middle schools, and high schools. They work with teachers, parents, and kids to identify and combat school-related crime and disorder problems. They get to know the students. They are their counselors and their role models, and, when necessary, they enforce the law.

D.A.R.E. police officers would be eligible to receive funding under this amendment, just as they are under the current COPS in Schools program.

I recently sat down with all of the school resource officers in Delaware. My State has embraced the concept, today, 16 members of the Delaware State Police serve as school resource officers. So do two members of the Wilmington Police Department, and one Newark police officer.

And about 1 year ago, I held a field hearing on school safety at the William Penn High School in Delaware. One of the witnesses was Delaware State Police Corporal Jeff Giles. Jeff told me low successful he has been as a school resource officer, how the kids feel safer, the school is more secure, and parents and teachers are put at ease.

This program works, COPS in Schools is a success. Let me tell you a story: When a high school in my State, Lake Forest High School, tried to phase out its school resource officer because of a lack of funds, the kids walked out. They walked out of school to protest Corporal Gary Fournier's, dismissal! The kids would not let their school resource officer go, they liked having him around so much. We found some funds that let the school keep Corporal Fournier on, but it should never have come to that.

Now, I was pleased the appropriators saw fit to include $180 million for COPS in Schools last year. And it looks like the Administration wants to continue the program at the same level this year. But year-to-year appropriations are no substitute for a multi-year authorization.

Schools need to have assurances this is a program that's here to stay. City

councils and other local governing bodies need to be able to pass their budgets knowing the Federal Government is there to help. Today, as we debate this education bill, authority for the whole COPS program has expired and with it, the COPS in Schools program's future is unclear.

That just shouldn't be the case. A lot of these school resource officers are heroes, and we shouldn't end the program that helps fund them. Take a look at the tragic shooting this past March in Granite Hills High School in El Cajon, CA. Local officials there have stated that but for the quick response of Rich Agundez, that school's resource officer, lives may have been lost. In the weeks following this shooting, San Diego school officials decided to station resource officers in all of their 180 schools.

We should help communities like San Diego. We should make sure they hear the message, loud and clear, that this Senate agrees with them. Let's give school resource officers to every school that wants one. Let's give parents a little peace of mind that their kids are safe when they get on that school bus and head off to learn. Let's give teachers a hand in maintaining order in their classrooms.

Let's pass my amendment and fund the COPS in Schools program. It works. It works, and I challenge any of my colleagues to tell me otherwise.

AMENDMENT NO. 640 WITHDRAWN

Mr. KENNEDY. I ask consent, further, to withdraw amendment numbered 640.

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

Mr. KENNEDY. Mr. President, I ask consent following final passage, until the close of business today, the two managers be permitted to add a managers' amendment to the bill, provided that the amendment is agreed to by both leaders and both managers.

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

Without objection, the Jeffords substitute amendment No. 358 is agreed to.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

RURAL EDUCATION

Mr. BAUCUS. Mr. President, I rise today to shift the direction of the education debate for a moment. For the past few weeks, we have been debating now best to engage the Federal Government in ways to improve our K–12 schools. There has been a lot of constructive debate on a number of important topics. An amendment that I planned to offer, S.A. 387, would have addressed another important topic relative to our schools: recruitment and retention of teachers in rural areas.

I have spoken with Senator KENNEDY and agreed to withdraw my amendment, but I want to speak for a moment about its importance. My amendment would have increased the scope of current loan forgiveness provisions for teachers, including an expansion of eligibility to those teachers who teach in districts identified within the Rural Education Achievement Program.

I offered this amendment because there is a significant need in our rural schools for assistance in attracting and keeping good teachers. My amendment may have helped that situation.

I understand that the issue of rural teacher recruitment and retention is one that needs further investigation, though, and am pleased that Senator KENNEDY has agreed to address the needs of rural schools in Senate HELP Committee hearings. We need to better understand rural needs and find effective ways to provide our rural schools, home to roughly 17 percent of students throughout the country, with the resources they need to delivery a quality education.

Mr. KENNEDY. Thank you for bringing this important matter before us in the Senate. I agree with you that we should take a closer look at the needs of our rural schools, and I look forward to looking at how different mechanisms, including teacher loan forgiveness programs, can help meet the needs of our rural schools.

Mr. BAUCUS. Thank you, Senator, for giving your attention to this issue of great importance to rural schools in my home State of Montana and throughout the country

AMENDMENT NO. 505

Mr. BINGAMAN. Mr. President, yesterday we passed amendment No. 505 by unanimous consent. The amendment relates to BIA schools. The legislation was considered by the Indian Affairs Committee and the amendment was cosponsored by the distinguished Chair and Ranking Member of that Committee. I would like to note for the record that the Navajo nation has some concerns regarding some of the provisions in that amendment. I understand that Senators INOUYE and CAMPBELL are working with my office and representatives of the Navajo nation to address those concerns. I'd like to ask Senator INOUYE if my understanding is correct?

Mr. INOUYE. We are working to address those concerns and hope to be able to make any necessary changes to the amendment in conference.

Mr. BINGAMAN. I'd like to thank my distinguished colleagues for their efforts. I also ask my Chair, Senator KENNEDY, for his assistance during the conference to make any necessary amendments to the underlying bill.

Mr. KENNEDY. I would be happy to work with Senator BINGAMAN on making any necessary changes related to this amendment during the conference.

Mr. JEFFORDS. Mr. President, with the passage of the Elementary and Secondary Education Act of 1965, there has always been broad support for the Federal Government to provide assistance and leadership to the States and localities, the entities that serve as the primary sources for implementing our education system. Over these past 36 years, we have had thoughtful debates regarding the Federal role in both establishing and overseeing education policy. Through these spirited discussions, we have tried to create initiatives that emphasize excellence for all students.

Over the past 3 years, the Health, Education, Labor, and Pensions Committee has closely examined elementary and secondary education. In the 106th Congress, two dozen hearings were held regarding the ESEA reauthorization. One of the very first hearings the committee held this year featured Secretary Paige and focused on the President's education initiative.

All 20 members of the HELP Committee worked together to draft S. 1 and unanimously voted the bill out of committee. Following committee action, I and several of my colleagues worked with the White House to further refine the committee bill that has now passed the Senate.

S. 1, the Better Education for Students and Teachers Act, begins a new chapter that not only sets goals designed to improve student performance, but provides a road map for achieving those goals. With the leadership of President Bush, and the leadership of many Senators from all parties, we have, before us, legislation that better targets resources and provides greater accountability at both the State and local levels.

Our goal must be to ensure that every child will obtain the knowledge necessary to succeed in our society and in our economy. To ensure progress toward this goal, the legislation before us will establish accountability measures for every school, school district and State in the country, so that the public can see whether or not they are making annual academic progress.

The House and Senate conferees will soon begin their work in putting together a final product that will hopefully not set unrealistic goals and undermine our overall goal of leaving no child behind. If we are not very careful, the result of our efforts might be havoc rather than help for our education system and the students it is designed to serve.

I look forward to continuing to work with all of my colleagues in writing a conference report that will provide the foundation for every child in this Nation to receive a quality education.

I would like to take this opportunity to thank Senator KENNEDY, Senator GREGG, and the other members of the committee. I would like to join the managers in thanking all of the committee staff for their hard work. Particularly, I would like to thank my staff, Sherry Kaiman, Susan Hattan, Scott Giles, Jenny Smulson, Andy Hartman, Justin King, Carolyn Dupree, Leah Booth, Ann Clough, Sallie Rhodes, and Frances Coleman for their efforts. I also want to thank Wayne Riddle and Jim Stedman from the Congressional Research Service and Mark

Koster, Liz King, and Bill Baird from the Office of Legislative Counsel for their tremendous contribution in shaping S. 1.

Mr. BIDEN. Mr. President, education is, and should be, among our top priorities here in the Senate.

Parents know that the quality of a child's education can make or break that child's future. Businesses understand that they cannot compete in this high-tech world without a well trained and well educated workforce.

That is why what we are doing here today, and have done in the past few weeks is so important.

We have had an opportunity to put aside partisan differences to craft a federal education policy that will strengthen schools, increase accountability, empower parents, and give our teachers and administrators the resources they need to give our children the education they deserve.

In many respects, we have been successful. The bill itself takes some positive steps toward improving public education in America. It provides for annual testing of students and a process for identifying and turning around failing schools. It requires that high standards be set for all students. It targets federal education resources towards the students who need the greatest assistance. It includes a new early reading initiative to promote literacy. Ands it contains other important provisions to help increase parental involvement in their children's education.

In addition, we were able to make a number of key improvements to the underlying bill during the Senate debate. The bill now includes language calling for full funding of title I for disadvantaged children and full funding of the federal commitment to educate children with disabilities. We increased funding for bilingual education and after-school programs. We provided additional funding to improve and modernize resources in school libraries. We passed additional changes to make sure that States use high quality tests to gauge the progress of students. And we passed an amendment that I was proud to cosponsor that will help recruit more teachers.

I am also pleased that the Senate accepted my amendment to provide $180 million to put more school resource officers in our schools. These officers are specially trained to prevent school violence and to quickly respond to crimes, while serving as mentors and role models and providing guidance to students.

Despite these important steps that we have taken, I must say that I am truly disappointed by some missed opportunities.

We missed an opportunity to make reducing class sizes a priority when the Senate voted against Senator MURRAY's amendment to increase funding for the 100,000 teacher initiative and ensure that it is not consolidated with other teacher quality programs.

We missed an opportunity to help our States renovate and build new schools when the Senate voted against Senator HARKIN's amendment to reauthorize a bi-partisan school construction plan.

But above all else, we missed an opportunity to resolve the issue of adequate funding for all the education reforms that this bill requires.

The truth is, we can stand here and make eloquent speeches about all these needed changes in our education system, many of which I wholeheartedly support, but without the resources to back up these eloquent words, nothing will change. I am hopeful that even more resources can be directed toward education during the conference committee negotiations and though the annual appropriations process that will begin shortly.

I believe that on the whole this bill takes a dramatic step in the right direction. It improves accountability, empowers parents, and begins to make the types of investments that our teachers and students deserve and need.

Mr. GRASSLEY. Mr. President, I rise in support of the education reform bill. I am encouraged by the renewed emphasis President Bush and many in Congress have placed on education and I welcome this opportunity to share my views on this important subject.

Improving elementary and secondary education has long been a goal of those of us in Congress. However, for too long, the debate at the Federal level has focused on the same old ideas that boil down to more spending without ensuring results and more Federal control of local schools. That is why I am pleased that President Bush has put forward a plan for education that takes us in a new direction. S. 1, the Better Education for Students and Teachers Act, encompasses the President's main goals and puts the Federal role in education on the right track.

Since 1965, when Congress embarked on its first elementary and secondary education initiative, the Federal Government has continued to expand its role in the area of education. Yet, while the Federal role in education has increased, accountability has not. The Federal Government continues to spend more and more on education while creating complicated and overlapping programs that may or may not address the needs of local schools. In fact, research has shown that, while Federal funding for education has increased substantially over the last 30 years, students' test scores have not shown improvement.

The BEST Act seeks to change this situation by taking steps to ensure accountability for the use of Federal education dollars. Under this bill, States will be required to develop their own strategy to measure improvement and hold schools and school districts accountable through the use of State-run assessments. In this way, schools and school districts that fail to help students achieve can be identified so that assistance can be provided and necessary corrective action taken.

Going hand in hand with the need for greater accountability is the necessity for increased flexibility for States and local school districts. Part of the problem of stagnant student achievement despite increased Federal funding is that Federal funding comes with a disproportionate degree of Federal control. Federal micro-managing of classrooms ties the hands of teachers and can actually prevent them from meeting the individual needs of students.

We in Washington must face the fact that we cannot possibly know what's best for every school in America. My home State of Iowa contains a wide variation of school districts from rural to urban. Students in Des Moines are likely to have different needs from those of students in Lineville. What works in Davenport may not work in Sioux Center. How then can we in Washington direct Federal funding to meet the needs of all the students of Iowa, much less vastly different regions of our country, without providing for a substantial degree of local control? If States are to meet tough new goals for student achievement, they must be given the freedom to do so without having their hands tied by unnecessary Federal regulations. This bill does just that by consolidating related programs into more flexible block grants and allowing schools to waive certain Federal regulations in return for results.

It is also essential that parents have the opportunity for greater involvement in their child's education. Under the BEST Act, school report cards will be issued so that parents will have information on the quality of their child's school, and support will be given to local educational agencies and nonprofit organizations to implement parental involvement programs that are designed to improve student performance. In addition, parents of disadvantaged students in failing schools will be given the choice to move their children to a better school.

In closing, while this bill does provide for a substantially increased investment in elementary and secondary education, it does so in a framework of real reform that provides greater flexibility to states and local school districts in return for demonstrated results. This bill represents a shift from the old Washington-knows-best view of education to one which empowers states, local communities, and parents to improve student achievement. President Bush has called on us to ensure that no child in America is left behind. The Better Education for Students and Teachers bill will put us on course to meet that challenge.

Mr. LEAHY. Mr. President, I rise today to express my support for the innovative and far-reaching legislation before us, the Better Education for Students and Teachers, BEST, Act. The Senate for several weeks has been considering this reauthorization of the Elementary and Secondary Education Act, ESEA, which was first enacted in

1965 as part of President Johnson's war on poverty. While the anchor of this law has always been title I—a program to provide support to low-income and disadvantaged students—ESEA has evolved over the past 35 years to also include important professional development, technology and after-school programs. The bill before us today makes significant changes to education policy, reflecting our commitment to make the Federal Government an effective partner in reforming the nation's public schools. We all hope these reforms will be the right ones for our children. While I do have some concerns about the commitment of the President and my colleagues on the other side of the aisle to adequately fund the programs in the BEST Act, I am willing to take them at their word, to leave no child behind.

During the Senate's consideration of the BEST Act, a variety of amendments offered by Senators on both sides of the aisle have been considered. I would like to take a moment to highlight just a few of these.

First, I want to express my thanks and appreciation to the managers of this bill, Senators KENNEDY and GREGG, for accepting an amendment offered by Senator HATCH and myself to re-authorize Department of Justice grants for new Boys and Girls Clubs in each of the 50 States. In 1997, I was proud to join with Senator HATCH and others to pass bipartisan legislation to authorize grants by the Department of Justice to fund 2,500 Boys and Girls Clubs across the Nation. This bipartisan amendment authorizes $60 million in Department of Justice grants for each of the next five years to establish 1,200 additional Boys and Girls Clubs across the Nation. These grants will bring the total number of Boys and Girls Clubs to 4,000 to serve 6,000,000 young people by January 1, 2007.

In my home State of Vermont, this long-term Federal commitment has enabled Vermonters to established six Boys and Girls Clubs, in Brattleboro, Burlington, Montpelier, Randolph, Rutland, and Vergennes. Indeed, Vermont's Boys and Girls Clubs received more than $1 million in Department of Justice grants since 1998. I am hopeful this amendment will ensure future funding for these successful youth programs.

Some of the most publicized and often-discussed provisions of the BEST Act are the expanded requirements for student assessment, specifically the annual testing of schoolchildren in Grades 3 through 8. The legislation will require states to establish comprehensive assessment systems in order to evaluate the achievement of their schools and students. Accountability in education is important. Parents, students, teachers, and taxpayers should know how their schools are performing. However, it is important that testing be used as a diagnostic tool in an overall assessment system and not become a reform in its own right. Tests should measure school progress based on standards that are part of a high-quality curriculum. My home State of Vermont has a fine tradition of high expectations in education and currently has in place a comprehensive framework for school standards and accountability. I am hopeful that the new role of the Federal Government outlined in the legislation before us will reinforce, not undermine, state and local efforts to improve student performance.

For small States—like Vermont—the costs associated with implementing a large-scale assessment system can be prohibitively expensive. During consideration of the BEST Act, the Senate approved two key amendments that will help lessen the burden on the States. First, the Senate overwhelmingly passed an amendment to require that the Federal Government provide at least 50 percent of the costs of developing and administering the testing requirements in the underlying bill. If the Federal Government does not provide these funds, the States will not be required to administer the tests.

Second, the Senate adopted an amendment to have the General Accounting Office conduct a study to evaluate the true costs to the States for the testing provisions. This report will be completed prior to the implementation of the Best Act's assessment requirements. If the GAO finds the costs to be higher than anticipated, the Senate should return to the issue. We must not require reform from our States—especially small States without providing the necessary resources to support those reforms. We must not set our schools and students up for failure.

In addition to these important testing-related improvements, the Senate also approved an amendment to fully fund the Federal Government's portion of the Individuals with Disabilities Education Act, IDEA. This is a crucial issue and one that education officials back in our home States have been pushing for—for the Federal Government to fulfill its responsibility. The Senate also agreed to authorize full-funding for the title I program, a strong reflection of our commitment to providing resources to schools that educate low-income and disadvantaged students.

While several other amendments were approved that will strengthen the BEST Act, I was pleased that the Senate rejected some proposals that would have weakened our commitment to public school education. In particular, I was pleased that the Senate rejected an amendment that would have directed public dollars to private schools. I have long had concerns about using Federal tax dollars to support private schools through vouchers. Although I support the options private schools provide for some of our Nation's youth, our primary responsibility must be to ensure that our public schools are the best they can possibly be in order to give our children the education they deserve. Rather than send precious public funds to private or religious schools, we must ensure that all public schools in the United States have the resources to provide a high quality education for all of our Nation's children.

By approving the legislation before us today, we will be taking the first step toward enacting quality education reform in our Nation's schools. The second step will come later in the year when Congress and President Bush determine the funding level for these Federal programs. In recent days many of my colleagues have spoken about the need for adequate funding for these reform efforts. I want to add my voice to that debate. Unless we commit ourselves to providing the resources necessary for States to carry out the reforms outlined in this bill, we will be doing serious harm to our children.

I will vote in support of this bill today with the belief that it will improve the educational and learning opportunities of the school children in Vermont and across the Nation. I urge my colleagues to continue our commitment to education and to provide the resources necessary to ensure that this far-reaching legislation achieves its goals.

Mr. WARNER. Mr. President, I rise today in strong support of S. 1, the Better Education for Students and Teachers Act (the ''BEST'' Act), which will reauthorize the Elementary and Secondary Education Act. (''ESEA'').

President Bush has appropriately indicated that education reform is his number one priority. The BEST bill, which is based on the President's blueprint, is premised on the President's goal: ''No Child Left Behind.'' I share the President's goal. Our educational system must leave no child behind.

Education is the key to a better quality of life for all Americans. From early childhood through adult life, educational resources must be provided and supported through partnerships with individuals, parents, communities, and local government. The federal government has a limited, but important role in assisting states and local authorities with the ever-increasing burdens of education.

Originally passed in 1965, the ESEA provides authority for most federal programs for elementary and secondary education. ESEA programs currently receive about $18 billion in federal funding, which amounts to an estimated 7 cents out of every dollar that is spent on education.

Nearly half of ESEA funds are used on behalf of children from low-income families, under Title I. Since 1965, the federal government has spent more than $120 billion on Title I.

Despite the conscientious efforts of federal, state, and local entities over many years, our education system continues to lag behind other comparable nations. Nearly 70% of inner city fourth graders are unable to read at a

basic level on national reading tests. Fourth grade math students in high poverty schools remain two grade levels behind their peers in other schools. Our high school seniors score lower than students in most industrialized nations on international math tests. And, approximately one-third of college freshman must take a remedial course before they are able to even begin college level courses.

The underlying issue is—do we just pour more taxpayer dollars to perpetuate these mediocre results or do we take some bold new initiatives?

Increased federal education funding, increased state and local flexibility in their use of federal funds, and increased accountability are all components of this bill that are steps in the right direction.

First, in regard to funding, Republicans, Democrats, and Independents will continue to support increased education funding. Last year, nearly $44.5 billion was appropriated to the Department of Education. This was a $6.6 billion increase from Fiscal Year 2000 levels. Without a doubt, education will receive another significant increase this year when Congress passes the appropriations bill that funds the Department of Education.

Next, in regard to flexibility, the BEST bill significantly increases state and local flexibility in the use of their federal education dollars.

In the current fiscal year, the ESEA funds over 60 programs. Most of these programs have a specified purpose and a target population.

Our schools do not need a targeted one size fits all Washington, D.C. approach to education. While schools in Boston, Massachusetts may need to use federal education dollars to hire additional teachers to reduce classroom size, schools in other parts of the country may wish to use federal dollars for a more pressing need, like new text books. Federally targeted programs for a specified purpose do not recognize that different states and localities have different needs.

Who is in a better position to recognize these local needs, Senators and Representatives in Washington, D.C. or Governors, localities, and parents? Those Virginians serving in state and local government and serving on local school boards throughout the Commonwealth are certainly in a better position than members of Congress from other states to determine how best to spend education dollars in the Commonwealth of Virginia.

The BEST Act increases flexibility and local control. The Straight A's provisions of this bill and the Teacher Empowerment provisions serve as two good examples.

The Straight A's provisions of this bill creates a 7 state and 25 district demonstration program. Under the program, 7 states and 25 districts that choose to participate gain the flexibility to consolidate a number of federal formula grant programs and integrate these federal dollars with state and local monies that serve children.

In addition, S. 1, in its Teacher Empowerment provisions, consolidates the targeted and inflexible class size reduction programs and the targeted Eisenhower Professional development program. The money in these programs is consolidated so states and localities can use these funds for a variety of options, including hiring additional teachers, retaining high quality teachers, developing professional development programs, or to hire mentors, to name a few of the numerous options.

Straight A's and the Teacher Empowerment provisions are key components of the increased flexibility provided in the BEST bill.

Finally, accountability, in certain areas, is needed. Our education policy is locking out many students and not providing them the key to a better life. It's time to move forward in education to ensure that all of our children are given the opportunity to receive a higher quality of education.

Let's seize this challenge.

President Bush's proposal to test students annually in grades 3–8 in reading and math, which is part of the BEST bill, is a strong proposal that promotes accountability.

These tests will result in parents and teachers receiving the information they need to know to determine how well their children and students are doing in school and how well the school is educating. Testing also provides educators the information they need to help them better learn what works, improve their skills, and increase teacher effectiveness.

While some have expressed concern that President Bush's proposal calls for too much testing, I have a different view. A yearly standard test in reading and math will allow our educators to catch any problems in reading and math at the earliest possible moment. Tests are becoming a vital part of life, no matter how onerous. If America is to survive in the rapidly emerging global economy, tests are a key part.

I note that Virginia has already recognized the importance of testing, having installed an accountability system called the Standards of Learning (SOLs). In Virginia, we already test our students in math and science in grades 3, 5, and 8. The accountability provisions in the BEST bill will augment the Commonwealth of Virginia's Standards of Learning.

Mr. President, in summary, the evidence demonstrates that the $120 billion spent on elementary and secondary education since 1965 has produced mediocre results, at best. This bipartisan legislation is a step in the right direction, and I look forward to President Bush ultimately signing education reform legislation into law.

Mr. LEVIN. Mr. President, for nearly 2 months the Senate has been debating reform measures that would establish new goals for our teachers, our schools, our students and their parents. These substantial and creative measures passed the Senate today as part of the reauthorization of the Elementary and Secondary Education Act.

The legislation focuses on improving student achievement, student performance, and school success through expanding accountability provisions, increasing resources, improving technical assistance, and providing mechanisms intended to help turn around schools which are falling short. The bill seeks to ensure that local education agencies and States have the resources over the next four years to put a highly qualified teacher in every classroom. This provision also includes an amendment that I offered which provides that the professional development training authorized for these teachers also include training in the use of computer technology to improve student learning in core academic subjects.

The bill also provides for over 125,000 new teachers to be paired with mentors and to have the opportunity for yearlong internships. The Reading First provisions of the legislation authorize an important new initiative that provides nearly $1 billion for States and local school districts to improve reading education, and help teachers get ready to ensure that all children become proficient readers by the end of the third grade. I am pleased that an amendment I offered, to permit funds under this program to be used for family literacy programs, was adopted.

The bill also authorizes partnership grants, a new initiative designed to boost achievement in the areas of math and science through strengthening and training and recruitment of highly qualified teachers; and continues the ''Preparing Tomorrow's Teachers to Use Technology'' program, which trains teachers in the use of technology in the classroom.

Mr. President, this legislation contains extremely complicated testing requirements. I have reservations about the utility of such a federal mandate, given the tests that are already administered in my State of Michigan. However, because I support the essential reforms also included in this legislation, I have decided, on balance, to support the bill.

Mr. FEINGOLD. Mr. President, the Senate is about to vote on one of the most important pieces of legislation that we will debate this year. The Elementary and Secondary Education Act has provided the framework for the Federal role in education for more than 35 years. The bill currently before us, the Better Education for Students and Teachers Act, will chart the course for the Federal role in education for the next seven years and beyond.

I strongly support maintaining local control over decisions affecting our children's day-to-day classroom experiences. The Federal Government has an important role to play in supporting our States and school districts as they carry out one of their most important

responsibilities the education of our children.

Every child in this country has the right to a free public education. Every child. That is an awesome responsibility, and one that should not have to be shouldered by local communities alone. The States and the Federal Government are partners in this worthy goal, and ESEA is the document that outlines the Federal Government's responsibilities to our Nation's children, to those who educate them, and to our States and local school districts.

It is with this bill that we must find the right balance between local control and Federal targeting and accountability guidelines for the Federal dollars that are so crucial to local school districts throughout the United States.

Ninety percent of American children attend public schools. More than 879,000 young people in my home state of Wisconsin are enrolled in public schools, from pre-school through grade twelve. I am a graduate of the Wisconsin public schools, and I am proud to say that all four of my children have attended them as well.

The legislation before us has generated vigorous debate in Wisconsin. I have heard from parents, teachers, school board members, school administrators, school counselors and social workers, state officials, and other interested observers. And their comments are clear: they say that the Congress must not undermine the targeted measures aimed at improving education for disadvantaged students. They say that we must live up to our commitment to fully fund the Federal share of elementary and secondary education programs.

If we are, as President Bush has said, to ''leave no child behind,'' we should ensure that the programs created to help the most vulnerable children are fully funded.

We should fully fund title I, we should fully fund the Federal share of the Individuals with Disabilities Education Act (IDEA), we should fully fund Head Start, we should fully fund Impact Aid, and we should fully fund these programs in a fiscally responsible manner.

For too long, the Federal Government has failed to live up to its promise to fund these and other important education programs. During this debate, some of our colleagues have argued that money is not the only answer, and they are partially correct. In Wisconsin, however, where the State imposes limits on the amount of money that school districts can raise and spend annually, Federal funding is absolutely critical. I have heard time and again from frustrated school board members who have to make the tough decisions about which programs to fund and which programs to cut. In this time of economic prosperity, we should not pit groups of students against each other for scarce education dollars.

In that regard, I am pleased that the Senate has passed amendments to this legislation that authorize the full funding of title I and of IDEA.

Nevertheless, I cannot support a bill that includes a new, largely unfunded Federal mandate for annual testing in grades 3–8. As I noted earlier in this debate, the response to this proposal from the people of my state is almost universally negative. My constituents oppose this proposal for many reasons, including the cost of developing and implementing additional tests, the loss of teaching time every year to prepare for and take the tests, the linking of success on these tests to ESEA administrative funds, and the pressure that these additional tests will place on students, teachers, schools, and school districts.

I am pleased that the Senate adopted amendments to help to ensure that these tests are of a high quality, to award bonuses to States for developing high quality tests rather than for the speed with which the testing program is implemented, and to require a study by the General Accounting Office on the true costs of these tests to the States. I am also pleased that the Senate adopted an amendment to increase the funding provided for these tests by the Federal Government, but I remain concerned that this bill still falls far short of authorizing enough funding for this new Federal mandate.

I am concerned that this bill does not do enough to ensure that local school districts will have the resources to help students be successful on these tests. I am disappointed that the Senate failed to adopt an amendment offered by the Senator from Minnesota, Mr. WELLSTONE, of which I was an original cosponsor, which would have modified the annual testing provisions to clarify that States would not have been required to implement the annual tests unless title I is funded at $24.7 billion by July 1, 2005, funding levels consistent with the Dodd-Collins amendment adopted by the Senate.

I was also pleased to cosponsor an amendment offered by the Senator from South Carolina, Mr. HOLLINGS, which would have allowed a State to opt out of the new federal testing requirements if the State already has comparable accountability measures in place. Many States and local school districts around the country, including Wisconsin, have such programs. We should leave the means and frequency of assessment up to the States and local school districts who bear the responsibility for educating our children. Every State and every school district is different. A uniform testing policy may not be the best approach.

I have also heard from a number of my constituents that this Congress should do nothing that would undermine the good that the Federal Government's support has done to help states and local school districts over the last several years. They told me that we should not undermine the progress that we have made in smaller class sizes, in technology education, in standards-based reform, and in accountability for results.

I regret that this bill does not authorize class size reduction as an independent program. And I particularly regret that the amendment to reinstate this program that was offered by the Senator from Washington, Mrs. MURRAY, was defeated. I am baffled by the argument put forth by some of our colleagues that smaller classes mean less to students than the presence of a good teacher in the classroom. I would argue that both are important. Of course, a good teacher makes a huge difference. But even the best teacher in the country will have far better results with 18 students instead of 50.

My home state of Wisconsin is a leader in the effort to reduce class size in kindergarten through third grade. The Student Achievement Guarantee in Education, SAGE, program is a statewide effort to reduce class size to 15 students in kindergarten through third grade.

The SAGE program began during the 1996–1997 school year with 30 participating schools. Now in the program's fifth year, there are nearly 600 participating schools.

According to the recently-released program evaluation for the 1999–2000 school year, conducted by the SAGE Evaluation Team at the University of Wisconsin Milwaukee:

''When adjusted for pre-existing differences in academic achievement, attendance, socioeconomic status and race, SAGE students showed significant improvement over their Comparison school counterparts from the beginning of first grade to the end of third grade across all academic areas.''

The study also found that ''teaching in reduced size classrooms is characterized by more individualization, time spent on teaching rather than disciplining, class discussion, hands on activities, content coverage, and teacher enthusiasm.''

The results speak for themselves. Smaller classes translate to better instruction and better achievement.

The education community in my State is also deeply concerned and I share this concern about proposals that would shift scarce Federal tax dollars away from the public schools they are intended to support.

I commend the work of the Senator from Massachusetts, Mr. KENNEDY, and the Senator from Vermont, Mr. JEFFORDS, and others who have worked so diligently these past weeks to negotiate compromise language with the Administration on many of the issues that remained outstanding following the HELP Committee's mark-up of this legislation. I regret that I am unable to support this compromise for a number of reasons.

I am troubled by language in this compromise that would require school districts to use up to 15 percent of their Title I money to pay for supplementary services or transportation for public school choice for students in schools

that have failed to make adequate yearly progress for three years. This provision would mean that a school that is already in trouble would have as little as 85 percent of its Title I money available for school programs. If Congress agrees to divert badly-needed Title I money for supplemental services, it is all the more urgent that we fully fund the Title I program.

I am also concerned about the so-called ''Straight A's'' performance agreement pilot program that is included in the bill. This provision would allow seven States and 25 districts in effect to block grant most of their ESEA funding. I am pleased that this provision stipulates that this funding cannot be used for private school vouchers and that it can only be used for specified activities. I am also pleased that individual school districts within the seven States that participate in this program may apply to opt out of the State's performance agreement.

Supporters of this provision use terms like ''consolidation of Federal funds'' and ''flexibility,'' but let's be honest. This is a block grant. This new version of the Straight A's proposal is an improvement over earlier versions, but I remain concerned about the impact this consolidation of funds will have on proven programs such as class size reduction, 21st Century Community Learning Centers, and Safe and Drug Free Schools; and on professional development for teachers and other school professionals.

I regret that the Senate did not adopt an amendment offered by the Senator from Connecticut, Mr. DODD, to remove the 21st Century Community Learning Centers from this block grant, an amendment which I supported and which was supported by many of my constituents.

Another reason I will oppose this bill is the inclusion of an amendment offered by the Senator from Alabama, Mr. SESSIONS, pertaining to discipline procedures for special education students. This amendment is a huge step backward in the fight to protect the civil rights of disabled students, and I hope that the conferees on this bill will work to improve this language to ensure that those rights continue to be protected.

In closing, this debate gave us the opportunity to strengthen public education in America. Unfortunately, many of the provisions contained in this bill may, in fact, undermine public education by blurring the lines between public and private, between church and State, and between local control and Federal mandates. I must therefore oppose the bill, and I urge my colleagues to do the same.

IN SUPPORT OF OUR NATION'S TEACHERS

Mr. WARNER. Mr. President, I rise once again today in support of the over 3,000,000 teachers in this country.

In the early days of the debate on this education bill, I, along with Senator COLLINS, offered a Sense of the Senate amendment on May 8, 2001. This amendment, which passed by a vote of 95–3, stated:

the Senate should pass legislation providing elementary and secondary level educators with additional tax relief in recognition of the many out of pocket, unreimbursed expenses educators incur to improve the education of our Nation's students.

Later, on May 23, 2001, on the tax reconciliation bill of 2001, the Senate passed a Collins-Warner amendment to provide teachers with such tax relief. The amendment passed the Senate by a vote of 98–2.

I worked with Senator COLLINS on this amendment because I recognize that individuals do not pursue a career in the teaching profession for the salary. People go into the teaching profession for different personal commitments—to educate the next generation, to strengthen America.

While many people spend their lives building careers, our teachers spend their careers building lives.

Simply put, to teach is to touch a life forever.

How true that is. I venture to say that every one of us can remember at least one teacher and the special influence he or she had on our lives.

Even though we are all well aware of the important role our teachers play, it goes without saying that our teachers are underpaid, overworked, and all too often, underappreciated.

In addition to these factors, our teachers also expend significant money out of their own pocket to better the education of our children. Most typically, our teachers are spending money out of their own pocket on: one, education expenses brought into the classroom—such as books, supplies, pens, paper, and computer equipment; and, two, professional development expenses—such as tuition, fees, books, and supplies associated with courses that help our teachers become even better instructors.

These out-of-pocket costs place lasting financial burdens on our teachers. This is one reason our teachers are leaving the profession. Little wonder that our country is in the midst of a teacher shortage.

Estimates are that 2.4 million new teachers will be needed by 2009 because of teacher attrition, teacher retirement and increased student enrollment.

While the primary responsibility rests with the states, I believe the Federal Government can and should play a role in helping to alleviate the nation's teaching shortage.

Here is an example of such help. On a Federal level, we can encourage individuals to enter the teaching profession and remain in the teaching profession by reimbursing them for the costs that teachers voluntarily incur as part of the profession. This incentive will help financially strapped urban and rural school systems as they recruit new teachers and struggle to keep those teachers that are currently in the system.

With these premises in mind, Senator COLLINS and I offered the Collins-Warner amendment to the Tax Reconciliation Act of 2001.

This amendment which, again, passed the Senate in a vote of 98–2, had two components. First, the legislation would have provided a $250 tax credit to teachers for classroom supplies. This credit recognizes that our teachers dip into their own pocket in significant amounts to bring supplies into the classroom to better the education of our children.

Second, this legislation would have provided a $500 above the line deduction for professional development costs that teachers incur. This deduction would particularly help low-income school districts that typically do not have the finances to pay for professional development costs for their teachers.

Unfortunately, this important Collins-Warner amendment was not included in the tax legislation that emerged from conference. Thus, the tax relief measure signed into law by President Bush did not contain the Collins-Warner amendment.

The education legislation that will pass the Senate today, the Better Education for Students and Teachers Act, the BEST Act, is based on a principle put forth by President Bush entitled, ''No Child Left Behind.''

As we move towards final passage of legislation that will implement reforms to achieve the goal of ''Leaving No Child Behind,'' we must keep in mind the other component in our education system—the teachers. If we fail to accord equal recognition to our teachers, our children will be left behind.

Therefore, let me be clear: Senator COLLINS and I will not forget our teachers.

Senator COLLINS and I will continue to work hard to ensure that our teachers receive recognition in the tax code for the many personal and financial sacrifices they make to better the education of America's youth.

Mr. DOMENICI. Mr. President, I rise today to discuss the ''Better Education for Students and Teachers Act.''

Education no longer simply involves students learning the fundamentals of reading, writing, and arithmetic. Rather, students must possess the resources to compete and succeed as we proceed into the new, highly technical millennium.

The computer and the Internet have become integrated into every aspect of our lives, and are becoming essential teaching tools in our schools and a basic component of any classroom. To meet this challenge, we must strive for innovative ideas and to determine exactly how we can maximize the Federal government's resources because: Even on its best day the Federal Government can never be a replacement for local administrators, educators, and parents.

Simply put, New Mexicans are in a far better position to know exactly

what our schools and students need than government officials here in Washington.

Most Washingtonians probably do not know the Corona School District has 82 students, the Deming School District has 5,300 students, and the Albuquerque School District has 85,000 students. Additionally, the Gallup School District encompasses nearly 5,000 square miles, an area greater than Rhode Island and Delaware combined.

My point is simple, a one-size fits all approach cannot work in New Mexico and will not work in many areas of our country. Consequently, we must have solutions that are flexible and meet the diverse needs of our States, school districts, and schools. I would like to take a couple of minutes and provide my perspective on how we arrived at the point we are today with the BEST Bill.

Not too long ago during the mid 1990's a number of us came to the conclusion that the current K–12 education status quo could no longer be maintained. I think this realization may have been spurred by Senator FRIST's excellent work as the chair of the Senate Budget Committee Task Force on Education.

The Task Force produced: Prospects for Reform: The State of American Education and the Federal Role. The report asked the simple question of ''how well are our children doing?''

The answer was mediocre at best because student achievement had stagnated over the past two decades even though America had established a record of near universal access and completion of high school. Thus, the report concluded that we must address the issue of a quality educational system. In other words the need for academic competence and rigor.

Building upon the excellent work of the Task Force, Senator FRIST soon introduced the ''Education Flexibility Partnership Act of 1999'' commonly referred to as ''Ed-Flex.''

The Bill simply said: one-size does not fit all and thus, States should be allowed to waive-out of the regulations pertaining to certain Federal K–12 Education programs. ''Ed-Flex already existed as part of a demonstration program and Senator FRIST's Bill merely sought to provide all fifty states with that same flexibility.

The Senate passed the Bill overwhelmingly by a vote of 98–1 and within a month the President had signed the measure into law. Unfortunately, after the passage of ''Ed-Flex'' for a variety of reasons there was not any further fundamental changes made to our K–12 system.

Instead, since the last reauthorization of the ESEA in 1994 there is one approach that we learned is a complete failure: merely providing more funding.

In 1996 the Federal Government spent about $23 billion on education and within a few short years the number ballooned to over $42 billion in FY 2001. The logical conclusion is that a near doubling of educational funding would result in dramatic improvements in student achievement.

Sadly, for all of our funding we simply do not have the matching results.

For instance, in 1996 the average reading score for a 4th grader was 212 and the Federal Government spent about $11 billion on the ESEA. Five years later, Federal spending on the ESEA had nearly doubled to $20 billion, while the average reading score of a 4th grader remained at 212.

In New Mexico, the number of 4th graders testing at or above proficient in reading actually fell from 23 percent in 1992 to 22 percent in 1998. I would submit that we are not receiving a very good return on our investment, a near doubling of funding with no corresponding improvement.

Imagine saving a greater and greater portion of your paycheck each week and after five years actually having less money. I think it is fair to say that very few individuals would stand for these results, if instead of students we were talking about our retirement savings.

Thus, we are now debating the BEST Bill because many of us believe we simply must have a new approach to measuring academic success.

The Bill fundamentally alters the practice of Washington deciding the best educational practices and then distributing increasingly greater and greater sums of money without any accountability. Make no mistake, we have not abandoned our commitment to providing the necessary resources to our States and school districts.

In fiscal year 2001 ESEA spending totaled $18.4 billion. President Bush's FY 2002 Budget proposal requested a $19.1 billion authorization for ESEA for FY 2002, a nine percent increase.

Building upon the President's proposal, the FY 2002 Budget Resolution includes the President's nine percent increase in federal education spending for reading education, the Individuals with Disabilities Education Act, IDEA, and teacher training. I think it is also important to note that on May 3 when the Senate began debate, the BEST Bill already authorized $27.7 billion for ESEA in FY 2002, a 57-percent increase over 2001 and nearly $190 billion over the authorization period of FY 2002–2008.

If one does not believe that is enough then you will be interested to hear how much spending we have added since May 3: $11 billion in ESEA and other education spending for a total of $38.8 billion in FY 2002, an increase of 120 percent over FY 2001; $211 billion in ESEA and other education spending for a total of $416 billion over the seven year authorization period of the Bill; and of that total, $112 billion is mandatory spending under the Individuals with Disabilities Education Act, IDEA.

With the preceding as a backdrop, I believe the BEST Bill follows the President's promise to ''Leave No Child Behind'' by ensuring academic success through a fresh approach to education.

Our schools will be held accountable for their progress in educating our children through high standards, testing, and consequences for failure. Every child in grades 3–8 will be tested in reading and math proficiency annually.

In New Mexico alone about 151,000 students will be tested. Also, the State will receive an additional $4.5 million next year and more than $33 million over the next seven years to offset any new costs.

Instead of simply continuing to receive increased Federal funding in the face of failure, schools will now face consequences for persistent failure. Schools failing to demonstrate improvement will face corrective action, parents will be given the option of public school choice and supplemental services for their children, and ultimately a school's persistent failure could lead to reconstitution.

Consolidation of duplicative education programs will provide maximum local flexibility to focus on improving student achievement. For instance, Title II of the BEST Bill creates a new State Teacher Development grant program with a substantially larger pot of money by combining all of the current teacher funding.

States will have the option to use the funding for professional development; teacher mentoring; merit pay; teacher testing; as well as recruiting and training high quality teachers. For example, New Mexico maintains a commendable student-teacher ratio of 15.2 and under the Bill will no longer be required to use a portion of these funds for class size reduction.

Instead, New Mexico will have the option to use that money for teacher recruitment and retention programs or maybe additional training.

The new accountability provisions will ensure that historic increases in Federal education funding will be based upon school performance.

The Bill includes the President's ''Reading First'' initiative to ensure all children in kindergarten through third grade become proficient readers by the end of third grade. The Bill also includes programs to create Math and Science Partnerships, Strengthen After-School Care, and provide for Early Childhood Reading Instruction.

Parents and the public will be given detailed school-by-school Report Cards on the performance of their schools. Parents will have the option to transfer their child from a failing public school to an effective public school with transportation provided or to redirect their child's share of Federal funds toward tutoring or after-school academic services.

Parents will be given the option to transfer their child out of a persistently unsafe public school to another public school of their choice. As Congress proceeds, one of its primary missions will be to determine what is working, what is not working, and what can be improved to give our children a better chance of succeeding in the future.

Before I conclude, I would like to briefly talk about several provisions that are of personal importance to me.

First, Senator DODD and a bipartisan group of Senators joined me earlier this year to introduce the ''Strong Character for Strong Schools Act.''

I think it is important to note that reform does not only apply math, science, and reading; instead we must also reform the culture of our schools. Our Bill will be part of an amendment offered by Senator COCHRAN and seeks to encourage the creation of character education programs at the State and local level by providing grants to eligible entities.

I believe our Bill builds upon the highly successful demonstration program to increase character education that was contained in the last ESEA Bill. Since 1994, the Department of Education has made $25 million in ''seed money'' grants available to 28 states to develop character education programs.

Currently, there are 36 States that have either received Federal funding, or have enacted their own laws mandating or encouraging character education. Thus, the time is now to ensure that there is a permanent and dedicated funding source available for character education programs.

I also believe schools must not only have the resources for core missions like teaching reading, writing, math, and the sciences, but the additional resources to face emerging challenges. Thus, I am extremely pleased the Senate has accepted an amendment authored by Senator KENNEDY and I to increase student access to mental health services by developing links between school districts and the local mental health system.

School districts would partner with mental health agencies, juvenile justice authorities, and any other relevant entities to better coordinate mental health services by: improving preventive, diagnostic, and treatment services available to students; providing crisis intervention services and appropriate referrals for students in need of mental health services and continuing mental health services; and educating teachers, principals, administrators, and other school personnel about the services.

Finally, we must provide our school districts and schools with the resources to both recruit and retain the best available teachers for our children.

Earlier this year I introduced the ''Teacher Recruitment, Development, and Retention Act of 2001.''

I am very pleased to see elements of that Bill included in the pending legislation. I am also grateful the Senate has accepted my amendment that will allow States the option of using Teacher Quality funds for the creation of Teacher Recruitment Centers.

Teacher Recruitment Centers will serve as statewide clearinghouses for the recruitment and placement of K–12 teachers. The Centers would also be responsible for creating programs to further teacher recruitment and retention within the state.

Thank you and I look forward to the working with my colleagues on this important issue and final passage of this Bill.

Mrs. FEINSTEIN. Mr. President, the bipartisan bill that the Senate has developed over the last 2 months makes major reforms in education policy by focusing on student achievement and by making schools accountable for results. California's public schools should be strengthened by this bill.

This bill includes several important reforms.

The bill extends the current requirement that states must have academic standards for reading and math and also requires states to establish standards for science and history.

Students must reach a proficient level within ten years by making continuous and substantial academic improvement.

To ensure that students are learning, states are required to test every student in grades 3–8 annually in reading and math based on state standards.

To ensure accountability, schools that fail for two consecutive years to make adequate yearly progress must be identified for improvement and also must identify specific steps to improve student performance.

Local school districts must correct failing schools and states must correct failing districts either through new curriculum, restructuring the school, or reconstituting the school staff.

In order to improve teacher quality, this bill authorizes grants to states for teacher certification, recruitment, and retention services.

The bill enhances programs for limited English proficient children by providing teacher training and funds for programs to improve the English proficiency of these students.

The bill authorizes $1.5 billion for afterschool programs to help struggling students get tutoring and other help.

There are many other important provisions.

It is my hope that this bill will offer opportunities for progress to many California students, school officials, parents and the public.

California students perform very poorly compared to students in many other states. Our schools are struggling on virtually every front. California has some of the largest classes in the nation; California has overcrowded and substandard facilities; California has 30,000 uncredentialed teachers and a projected enrollment rate triple that of the national rate.

Here are some examples of how California's schools fall short:

Thirty-four percent of California's schools that participate in Title I are identified for improvement compared to the national average of 19 percent, according to the U.S. Department of Education.

Only 20 percent of California's fourth grade students are proficient in reading, ranking thirty-six out of thirty-nine states. California ranks thirty-two out of thirty-six states for proficient eight graders in reading, at twenty-two percent, according to Education Weekly Quarterly Report, January 2001.

California is ranked seventh in the Nation for the highest number of Level I Literacy citizens, the worst level possible, according to the National Institute for Literacy.

California spent $5,462 per student in 1999, approximately $1,500 less than the U.S. average, ranking 42nd out of 50 states, according to Rankings and Estimates; NEA Research, October 1999.

Now let's compare U.S. students to students in other countries. Students in the United States also perform poorly compared to their international counterparts.

In literacy, 58 percent of United States high school graduates rank below an international literacy standard, dead last among the twenty-nine countries that participated, according to Education Week, April 4, 2001.

U.S. eighth graders scored significantly lower in mathematics and science than their peers in fourteen of the thirty-eight participating countries, according to 1999 TIMMS Benchmarking Study.

The percentage of teachers in the United States that feel they are ''very well prepared'' to teach science in the classroom is 27 percent. The international average is twice that, peaking at 56 percent, according to 1999 TIMMS Benchmarking Study.

U.S. students' knowledge of civic activities ranked third out of the 28 countries that participated. However, those same students have been slipping in scores relating to math and science. Source: Civic Know-How: U.S. Students Rise to Test, International Association for the Evaluation of Educational Achievement.

I am very pleased that the Senate approved several amendments that I suggested.

One, title I funding: The bill revises the funding formula for title I, Education of Disadvantaged Children, to better reflect the growth in poor students for States with growing student populations, giving California an increase of $98 million over fiscal year 2001, at the President's fiscal year 2002 budget request level.

Two, title I use of funds: In an effort to better focus title I funds on academic instruction, the bill prohibits school districts from using funds for the purchase or lease of privately-owned facilities, facilities maintenance, gardening, landscaping, janitorial services, payment of utility costs, construction of facilities, acquisition of real property, payment of travel and attendance costs at conferences or other meetings, other than travel and attendance for professional

development. This is similar to the bill I introduced, S. 309.

Three, title I audit: The bill requires the Inspector General to conduct of audit to determine how title I funds are used and the degree to which they are used for academic instruction.

Four, master teachers: The bill includes my amendment to allow use of the teacher training funds in the bill for school districts to create master teacher positions so school districts can increase teacher salaries for excellent teachers to mentor and supervise other teachers, in an effort to keep new teachers in teaching. This is an outgrowth of a bill I introduced on January 22, S. 120.

Five, small schools: The bill allows the use of Innovative Education funds, title V, for States and districts to build smaller schools. The upper limits on the number of students would be for elementary schools, 500 students; middle schools, 750 students; and high schools, 1,000. This parallels my bill, S. 308.

Six, HeadStart teachers: The bill allows forgiveness of up to $5,000 of federal student loans for college graduates who agree to teach in Head Start programs, in an effort to put more trained teachers in pre-school programs, similar to S. 123, which I introduced on January 22.

Seven, gun-free schools clarification: The bill includes several clarifications of the current Gun-Free Schools Act, the law which requires a one-year expulsion for students who ''bring'' a gun to school. This bill (1) includes students who ''possess'' a gun at school; and (2) clarifies that the term ''school'' means the entire school campus, any setting under the control and supervision of the local school district; and (3) requires that all modifications of expulsions be put in writing.

It is a good bill. American education should benefit immensely from this bill. Now the task is to provide sufficient funding and other resources to our schools to implement the reforms we are passing.

I look forward to working for the bill's final enactment.

Mr. MCCONNELL. Mr. President, I rise today in support of S. 1, the Better Education for Students and Teachers, or BEST Act. Debate on this bill has provided the Senate with an important opportunity to assess the Federal Government's role in educating our children. It has given us the chance to strengthen the programs which are working and to reform those that are not. Most importantly the Senate has taken this opportunity to empower parents, teachers and local administrators with new flexibility and resources, so that we can achieve the fundamental goal of our schools: helping every student learn.

America's continued prosperity demands a well-educated workforce. In their lifetimes, our children and grandchildren will witness scientific and technological advances which are unimaginable today. Yet, their ability to take advantage of these marvels will be dependent upon a strong foundation in the fundamentals of learning—reading, writing, math, and science. After all, a computer is nothing but a useless plastic and metal box, if a student doesn't know how to use it. Likewise, the Internet, with all its possibilities, is meaningless if a child can't read the words on the screen.

Over the course of this debate, the American people have had the opportunity to view two contrasting visions for our Nation's schools. For far too long, the vision of too many has been based on the Washington-knows-best philosophy of the last 35 years. Under this mind set, for every possible problem in our schools, the Federal Government should design a new Government program with new government regulations and a new government bureaucracy. For instance, the Federal Government provides only seven percent of total spending on education yet demands 50 percent of all school paperwork. This requires 25,000 education professionals struggling to fill out forms in order to comply with Washington's onerous regulations rather than teaching students. What folly and what a colossal waste of time, talent, and resources.

Under this flawed approach, a program is accountable if its triplicate forms' are turned in on time and all the ''I's'' are dotted and their ''T's'' are crossed. Whether the program actually helps students learn has too often been an afterthought. Simply put, school districts are told to make their problems fit the federal government's so-called ''solutions'' rather than allowing schools the flexibility to design their own appropriate solutions.

This leads one to the question ''Has this approach worked?'' Not surprisingly, it hasn't.

Unfortunately, too many American children are falling behind. A recent study found that U.S. fourth graders are ranked third in the world in science and compete favorably against their international counterparts in math. This same study shows that by the time these kids reach middle school, they finish near the middle of the pack in math and science. Worse still by high school, U.S. students rank 19th among 21 industrial nations in Mathematics and 16th in Applied Sciences, Third International Mathematics and Sciences Study. These results are unacceptable. How can we tolerate a system in which the longer American students spend in school, the further they fall behind? We should not fool ourselves into thinking that America's international competitors will sit idly by as we struggle to catch up. We must improve our schools now in order to ensure that America's students are prepared to compete and succeed at the highest levels.

Another failing of this Washington-knows-best vision is the belief that more money will magically solve all that ails our nation's schools. Let there be no doubt, resources are important and I am committed to providing substantial increases in education funding. In each of the past 2 years, Republicans in the Senate not only met President Clinton's education funding requests, but exceeded them by billions of dollars. However, money is only part of the answer. The title I program was enacted in 1965, in an attempt to close the achievement gap between poor students and their wealthier counterparts. Thirty-five years and $165 billion later, poor students still lag far behind their wealthier peers by an average of 20 points on national achievement tests. Worse yet, a recent appraisal by the National Assessment of Education Progress found that the achievement gap among fourth grade students is growing even wider—NAEP, 4/6/2001.

I am proud to say that President Bush, through his ''no child left behind'' blueprint, has offered us a better vision. This legislation expresses the obvious truth that parents, teachers, principals, and administrators have a better understanding of the needs of their students than the Washington bureaucrats who will never meet these children, never learn their names, and never come to understand their hopes and aspirations. This legislation provides States and local schools unprecedented flexibility to design and implement programs tailored to their needs with one requirement: results.

For the first time in history, we will establish a blueprint for holding schools accountable for producing results. States will be required to set high standards and demonstrate progress as measured by annual assessments. Now I recognize that annual testing is not the cure for poor performing schools, much the same way that an x-ray cannot heal a broken bone. But the x-ray will allow us to better understand the problems and more importantly, better develop the solutions. Testing will help parents and teachers evaluate their students and schools, determine which are struggling and why, and then ensure they receive the help they need to meet high academic standards.

In a perfect world, these assessments would show that all of our children are learning and that all of our schools are preparing them for the future. Unfortunately, experience tells us otherwise. Therefore, we must be prepared to provide both the resources to help those schools which are committed to change and consequences for those which refuse. For those schools that spurn reform and chronically underperform, I believe we must allow parents choices—whether that be public school choice, supplementary tutoring services, or a private institution. I believe this point was best expressed by the editorial board of one of my home state newspapers, The Paducah Sun, when it encouraged the President and Congress to ''change the formula for reform by putting power in the hands of parents—not education bureaucrats who have a

vested interest in protecting the status quo.'' I am pleased this bill takes some positive, first steps in that direction by providing low-income children with expanded access to charter schools, other public schools, and private tutors. I am deeply disappointed, however, the Senate rejected Senator GREGG's very modest proposal to provide these same children in chronically poor performing schools with the option of attending a private school.

While the President's accountability and assessment provisions are clearly the hallmark of the BEST Act, one should not overlook several of the other key provisions included the bill. The President has stated that every child should read by the third grade and the BEST Act incorporates his ambitious ''Reading First'' initiative to meet that goal.

It also includes a new teacher empowerment initiative which allows school districts increased flexibility in solving their unique professional development problems: whether that is through hiring new teachers, retraining current ones, instituting professional development programs, recruiting other mid-career professionals, or reducing class size.

I am also pleased that the BEST Act includes the Straight A's Demonstration championed by my colleagues, Senator GREGG and Senator FRIST. Straight A's is the embodiment of local control. This demonstration project would allow seven States, and up to 25 local school districts, to receive most of their Federal funds in the form of a single federal grant. In exchange for this unprecedented flexibility, the participating school systems would be required to meet even higher standards of academic achievement than already required in the BEST Act. Jefferson County Public Schools, the largest school district in Kentucky, has expressed an interest in securing one of these Straight A's waivers and I hope this fine school system is given full consideration.

Over the past several weeks, the Senate has engaged in an earnest and lively debate. I am particularly proud of an amendment I authored which the Senate adopted ''The Paul D. Coverdell Teacher Protection Act.'' This legislation builds upon the work of our colleague, Senator Coverdell, by extending liability protections to teachers, principals, administrators who act in a reasonable manner to maintain order in the classroom. I am honored that the Senate adopted this amendment in an overwhelming 98–1 vote, and I look forward to working with the BEST Act's conferees to ensure that it is included in the final conference report.

This is not a perfect bill. At times during this debate, the Senate has succumbed to the easy temptation to create more of the narrowly targeted Government programs designed to satisfy needs of one interest group or another. I believe the Senate could have better served America's local schools by simply providing them the necessary resources and allowing them the flexibility to design solutions which will meet their particular needs.

However, while I may not agree with every amendment the Senate has adopted, I believe that on balance this legislation will empower parents, teachers, and local administrators with new flexibility and resources, so that we can achieve the fundamental goal of our schools: helping every child learn.

DIAGNOSIS AND PARTNERSHIP

Mr. GRAHAM. Mr. President, two of the concepts that I am pleased to have included in this legislation are the principles of ''diagnosis'' and ''partnership.''

I would like to thank Senators KENNEDY and GREGG for their assistance in including this amendment in this legislation.

I am also very happy to be joined by my colleague GEORGE ALLEN of Virginia as the lead Republican sponsor of this amendment.

I can put a human face on this.

I have done several workdays in schools facing this situation in throughout Florida.

These workday experiences taught me that when students struggle to meet performance standards, there is not one uniform cause of failure.

Because of that, there cannot be one uniform remedy to turn a school around.

School ''A'' may need a revised curriculum, or better qualified teachers.

While school ''B'', whose students are scoring at the exact same level as school ''A'' may need English-language tutors and eyesight screening for poor children who may not have had a vision test in their lives.

Perhaps the single most important action a school or a school district, can take at the first sign that students are struggling is a thorough analysis of circumstances and conditions that are impacting student achievement.

It's my belief that this analysis should not only encompass factors that are within the school walls, but outside the school walls, in the community, as well.

Before we start applying remedies to a struggling school from a menu of options—let's take the first step and understand what the specific challenges this particular school faces are.

It's common sense.

I use an analogy of a physician: she must first diagnose the specific ailment, then she can prescribe the proper treatment.

It's important that this same ''diagnosis'' step be included in each and every State education plan in America.

This leads to part two: Encouraging partnerships.

In the course of identifying the particular challenges facing a struggling public school, what happens if one or more of the factors impacting student performance are outside the school?

What if one of the reasons that third graders are struggling to read is a very high percentage of adult illiteracy in the school district?

What if one of the reasons 8th graders are failing at math turns out to be a high absenteeism rate because of safety concerns on the walk to school?

Such a finding needs be made public—and the school, county, State and Federal Government, along with community-based groups, should be encouraged to creatively build appropriate partnerships.

These partnerships can then get to work and try to mitigate outside-the-school concerns.

My wife Adele brought to my attention a school in North Florida, Andrew Robinson Elementary in Jacksonville.

Principal Erdine Johnson, of Andrew Robinson Elementary school, realized that many of her students could not do their best in the classroom because of a wide range of health concerns.

Instead of just declaring that ''this was a 'health' not an 'education' issue'' the North Florida community sprung into action, and we have a success story today.

In 1995, the University of Florida worked with Andrew Robinson to open a pediatric health center on-site.

This pediatric center at Andrew Robinson offers services to the elementary school students, and provides health outreach to the community.

The staff members at the Center are a vital link between a child's home environment and their ability to learn in the classroom.

The Center works with parents on nutrition and wellness issues, and provides preventative screenings for the children.

Children living in healthy environments are more ready to learn, and that has meant better test scores, and better lives.

This is an example of what our amendment encourages—if a problem outside the schools is identified—we encourage creative community partnerships to help solve it.

Several organizations have joined Senator ALLEN and me in support of our amendment.

I would like to include for the RECORD a letter of support from Daniel Merenda, the President and CEO of the National Association of Partners in Education.

He says, ''Many of the problems facing our students are not because of the schools. These problems are created by circumstances and conditions found beyond the school.''

Once the information is made public about specific concerns outside the school walls, Mr. Merenda predicts the creation of new partnerships and the strengthening of existing partnerships.

I agree with his assessment.

I also have a letter of support from the education organization Communities in Schools, headquartered in Senator ALLEN's state of Virginia.

And the Points Of Light Foundation also endorses this amendment in a letter I would like to submit for the RECORD.

I want to again thank Senator ALLEN for working with me on this issue, and offer thanks to my colleagues for accepting this amendment by voice vote.

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

PARTNERS IN EDUCATION,
Alexandria, VA, April 26, 2001.

Hon. BOB GRAHAM,
Hart Senate Building,
Washington, DC.

DEAR SENATOR GRAHAM, I write to support your suggested ''Diagnosis'' language for the ESEA Reauthorization. As you know the National Association of Partners in Education represents thousands of schools, communities and businesses throughout America who form effective partnerships to support student success in and out of school. Our national network of 7,500 members coordinates the work of millions of volunteers in schools.

We recently completed Partnership 2000: A Decade of Growth and Change, a national survey of school districts in the United States. The study examines school partnerships in a decade during which education topped America's national agenda. This survey of school partnerships provides a ''next chapter'' to the baseline data we collected in 1990. The survey shows that schools in 69% of districts nationwide are now engaged in partnership activities compared to 51% in 1990. Over 35 million students benefit from school partnerships today, 5.3 million more than in 1990. Nearly 3.4 million volunteers serve in America's school partnerships, roughly one for every 14 children in our schools. Volunteers log approximately 109 million hours of work in and out of schools, roughly equivalent to 52,000 full-time staff.

In light of these data, your suggested ''diagnosis'' language makes sense. If community and business partners were aware of the specific problems facing a school and causing students to struggle, they could direct their energy and attention to ''fixing'' the problem in and around the schools. Schools can not do it alone.

Many of the problems facing our students are not because of schools. These problems are created by circumstances and conditions found beyond the school. Partnerships are an ideal mechanism to address and resolve these problems. Your suggested language for the reauthorization of ESEA will require that schools or school districts take appropriate steps to partner with community groups to mitigate the problem.

Senator Graham, the data we have collected indicates community partners are contributing time equivalent to 52,000 full time staff to our schools . . . at no additional cost. Can you imagine what this force could do if schools facing problems were to ask for help? Your suggested language added to the reauthorization of the ESEA could make a significant and real contribution to the thousands of students who are in failing schools.

Let me know how we can help. We need the reauthorization of the Elementary and Secondary Education Act to truly help America's school children. Your amendment does exactly that.

Sincerely,

DANIEL W. MERENDA,
President and CEO.

COMMUNITIES IN SCHOOLS,
Alexandria, VA, May 3, 2001.

Hon. BOB GRAHAM,
Hart Senate Building,
Washington, DC.

DEAR SENATOR GRAHAM: I am writing to support your suggested ''diagnosis'' language for the Elementary and Secondary Education Act reauthorization. I have served for 25 years as president of Communities In Schools, the nation's leading community-based organization helping young people stay in school and prepare for life. Our network has grown to serve more than 2,300 schools, providing access to community resources for over 1.3 million students. Based on our experience, I am completely convinced that school/community partnerships are the most effective way to support student success when non-academic factors must be addressed.

If schools and students do not perform well, the community stands ready to help. A careful diagnosis of the reasons behind poor performance, followed by a strong partnership-building effort with community stakeholders, will turn around an ailing school. I have seen it happen time and again.

Please let me know if I can be of help to you. Your amendment to the ESEA is critically important to our nation's children.

Most sincerely,

WILLIAM E. MILLIKEN,
President.

———

POINTS OF LIGHT,
May 4, 2001.

Hon. BOB GRAHAM,
U.S. Senate, Hart Senate Building,
Washington, DC.

DEAR SENATOR GRAHAM, I would like to take this opportunity to lend our support to your ''Diagnosis'' language for the Reauthorization of the Elementary and Secondary Education Act (ESEA). The Points of Light Foundation was founded in 1990 with the mission to engage more people, more effectively in volunteer service to help serious social problems.

The Foundation works in conjunction with over 470 Volunteer Centers cross the nation in building a grassroots service infrastructure in order to address each community's most pressing social dilemmas. As you know, all to often, youth are disproportionately affected by negative societal forces. We have found that the building of diverse, multi-sector community coalitions, in addressing youth issues, is one of the most effective protective factors. Your amendment directly facilitates the creation and implementation of such coalitions.

In closing I would like to commend you on your proactive approach to ESEA Reauthorization and wish you the very best success in mitigating those negative forces impacting our nation's youth.

Sincerely,

ROBERT K. GOODWIN,
President and CEO.

Mr. REED. Mr. President, as we come to the end of the debate on the Elementary and Secondary Education Act, ESEA, reauthorization bill, I would like to share my thoughts on the bill. I plan to support S. 1, the Better Education for Students and Teachers, BEST, Act, but not without serious reservations.

We have been working on this legislation for 3 years now, and we certainly have made some needed improvements over current law. The bill contains tougher accountability, more along the lines of what Senator BINGAMAN and I pressed for back in 1994. For the first time, States, districts, and schools will be held accountable for improving the academic performance of all students. Moreover, the bill requires the timely identification of failing schools so additional resources and support can be supplied to help those schools turn around, coupled with real consequences if that failure continues. We will have to be vigilant, however, to ensure that the accountability system is workable, and not weakened, during Conference.

Over the past few weeks of debate, key amendments have passed, adding further value to the legislation. One such amendment was offered by Senators HARKIN and HAGEL to increase funding for IDEA by annual increments of $2.5 billion until the full 40 percent share of funding is reached in fiscal year 2007. This amendment also frees up at least $28.9 billion, and up to $52.5 billion, in education funds by shifting IDEA funding from discretionary to mandatory funding. This amendment serves two worthy and important goals: meeting our commitment to fully fund IDEA and by doing so, freeing up some of the needed resources for title I and other elementary and secondary education programs.

I was pleased to support this extremely important amendment, as well as two amendments by Senator WELLSTONE to improve the testing regime in the bill. The first amendment ensures that the assessments meet relevant national testing standards and are of adequate technical quality for each purpose for which they are used. The Wellstone amendment also provides grants to States to enter into partnerships to research and develop the highest quality assessments possible so they can most accurately and fairly measure student achievement. The second amendment makes the quality of the test, rather than speed in developing the test, the factor for determining bonuses for states.

As my colleagues know, I have made improving our Nation's school libraries a top priority in the Senate and during my time in the other chamber. Our school libraries have wasted away since dedicated Federal funding was eliminated in 1981, and, as a result, too many students lack access to up-to-date, enriching books and other reading material. Given the direct correlation between well-stocked, well-staffed school libraries and literacy and overall student achievement, my amendment, which passed on an overwhelming 69 to 30 vote, authorizes $500 million for up-to-date books and technology and other needed improvements for our Nation's school libraries. Moreover, it rightfully makes school libraries a key component of our effort to increase literacy, as embodied by the President's Reading First initiative included in the bill.

I have also worked to bolster current law's parental involvement provisions based on the simple fact that parental

involvement is a major factor in determining a child's academic success. Parental involvement contributes to better grades and test scores, higher homework completion rates, better attendance, and greater discipline. The bill already contained provisions I had pressed for, including ensuring title I families can access information on their children's progress in terms they can understand; involving parents in school support teams that help turn around failing schools; requiring technical assistance for title I schools and districts that are having problems implementing parental involvement programs; having States collect and disseminate information about effective parental involvement practices to ensure schools have information on how to encourage and expand parental involvement; ensuring parents are involved in violence and drug prevention programs so parents can reinforce the safe and drug-free message at home; requiring States and districts to annually review parental involvement and professional development activities of districts and schools to ensure the activities are effective; and requiring each local educational agency to make available to parents an annual report card which explains how a school is performing.

In addition, this week, several amendments I offered to further strengthen parental involvement were adopted. Key provisions were added to ensure that teachers will receive training on how to work with and involve parents in their child's education and to allow the use of technology to promote parental involvement. Most importantly, a grant fund of $100 million will be established to help districts implement effective parental involvement policies and practices. All of these changes go a long way to ensuring a coordinated focus on bringing schools and parents together in the effort to increase student achievement, something that is particularly needed in light of the bill's annual testing requirement and other accountability mechanisms.

Also, I am pleased that this bill contains important provisions from my Child Opportunity Zone Family Center legislation to foster the coordination and integration of key services to improve student learning.

In addition, I am pleased that the Senate handily rejected vouchers, which would have been the wrong approach to helping our public schools.

In the midst of all of these improvements, however, there are some troubling aspects to this legislation—the lack of guaranteed resources, the testing regime, and the Performance Agreement block grant.

While every Senator recognizes that historically, constitutionally and culturally, educational policy is the province of State and local governments, the Federal Government does play a role. And, we have played this role quite robustly since 1965. The role may be described as encouraging innovation and overcoming inertia at the local level so that every student in America, particularly students from disadvantaged backgrounds, has the opportunity to seize all the opportunities of this great country.

We have an obligation to continue to work with the States and localities, in a sense as their junior partner, but as an important partner, to ensure that every child in this country will have the ability to achieve and obtain a quality public education.

President Bush and our Republican colleagues claim that this bill will leave no child behind, but simply adding testing and flexibility to our elementary and secondary schools without providing adequate resources will not do the job.

I have had many opportunities to talk with the Secretary of Education and other leaders in this administration with respect to their education goals. They talk a good game. They talk about accountability; they talk about standards. But then when you ask them: Where are the resources? They say: Well, we really don't need resources.

That is just not the case. Every American understands that education is worthwhile and that we must invest in education, not just with words but with dollars, to make a high quality education a reality in the life of every child.

Access to increased resources and funding plays a crucial role in improving student achievement and turning around failing schools. For example, recent changes in the Texas public school financing system that preceded President Bush's terms as Governor of Texas have led to substantially equalized access to revenue for low and high income school districts. Accordingly, reports indicate that test scores in Texas have risen markedly in those poorest districts that received additional money under the new financing plan. This has been the case especially in Houston, the home of Secretary Paige.

Now, for the first time, these local school systems are getting the needed funding to repair and modernize their schools, reduce class size, improve professional development, and increase parental involvement—conduct the kinds of programs that really help children succeed. A school district cannot pay for these programs with accountability; real resources are necessary. In addition to the lack of a real commitment of resources beyond Senator HARKIN's IDEA amendment, I am also particularly disappointed that both Senator HARKIN's school construction amendment and Senator MURRAY's class size reduction amendment failed.

Another troubling aspect of this bill is structure of the mandate that States test each student from grades 3 to 8 in order to receive Federal education funding. We all recognize that testing is an essential part of education, but this mandate puts a lot of practical pressure on the States to harmonize their standards with their evaluations. Some States have found out it is not practical to give a test to every child every year because the tests have to be very individualized to capture all the nuances of those standards.

My sense is, and I have talked to educational experts in the States, the sheer requirement to test every child every year for grades 3 through 8 will inexorably lead the States to adopt standardized testing which may or may not capture the standards in that particular State. So this testing regime could unwittingly move away from one of the central elements we all agree on, carefully thought out standards and evaluations that measure those standards. And that is why I supported Senator HOLLINGS amendment to give States flexibility to waive the mandate of annual testing if circumstances warrant. I am disappointed the amendment failed.

I hope we all recognize that testing alone is not sufficient to improve our schools. Identifying children who are falling behind and schools that are failing is just the first step. But, the hardest step is fixing the problem.

As we proceed to Conference, we need to ask ourselves: What are we really doing to our kids? I believe we are imposing very strict testing regimes upon our children. Yet if we don't provide adequate resources to support improvement, such as smaller class sizes and quality teachers, we will just be setting them up for failure. We will be turning our backs on the children of this country, and I am sure that is no one's intention. That is why I will continue to fight for adequate resources to make sure that every child truly has the opportunity to achieve.

Another aspect of this bill that is of great concern to me is the Performance Agreements demonstration program.

Otherwise known as Straight A's, this block grant has the potential to undermine the continued viability of important Federal standards, such as targeting funds to schools and children with the greatest needs, improving teacher quality, strengthening parental involvement, and providing children with safe and drug free schools.

We have a longstanding commitment to the children of this country to address the needs that the states and localities cannot. By placing Federal dollars into state and local block grants, without targeting the Federal dollars on programs identified to be of great national concern or ensuring compliance with Federal requirements and basic commonsense guidelines, we may be abandoning the neediest children of this country, denigrating parents' rights, and abrogating our commitment to ensure that every child has the opportunity to obtain a quality education.

In fact, the States' track record in ensuring that low-income students get their fair share of education funds is less than commendable. A March 2001

Education Trust study of education finance equity found that in 42 of 49 states there are substantial funding gaps between high and low-poverty school districts. The average gap for the Nation was $1,139 per year per student. That translates into a total of $455,600 for a typical elementary school of 400 students.

The Performance Agreement pilot is also not a benign, limited demonstration project by any stretch of the imagination. Indeed, if the Secretary selects the 7 most populous States and the 25 largest school districts, the number of students subject to Straight A's would be as high as 51 percent of the Nation's student population.

For example, if the Secretary selects California, Texas, New York, Florida, Illinois, Pennsylvania, and Ohio to participate in Straight A's, then, based on 1998 figures, approximately 23 million children would be subject to Straight A's. If the Secretary then chooses the 25 largest school districts in states other than those 7 states, then over 26 million children between the ages of 5 and 17 would be subject to Straight A's.

Earlier this week I discussed this issue and my amendment, No. 537, which sought to limit this unproven, Straight A's experiment to States and districts that serve a combined student population of 10 percent of the total national student population.

I believe we must have ample opportunity to review and analyze data regarding this program's effect and its impact on student achievement before we consider subjecting more than half of our Nation's children to this new and unproven initiative, and I will continue to pursue this issue of the scope and consequences of this ''demonstration project'' as we move forward into Conference.

Another problem with this program is its impact on key existing and new parental involvement protections.

During negotiations on the Performance Agreements, protections were added to ensure that some of the parental involvement requirements of title I would have to be followed. Unfortunately, those protections don't go far enough. Left unchanged, the bill would void large parts of the title I parent involvement requirements and other key parental involvement provisions that I, along with the National PTA, Chairman KENNEDY, and others worked to include in this bill.

The last thing we should do is adopt an education bill that reduces parent involvement and family rights. We should not put families in a position where they find themselves with fewer rights by virtue of the fact that the State or district in which they live has chosen to participate in this program.

Every other initiative to provide flexibility to States and districts, including Ed-Flex, has put parent involvement provisions off limits, and this bill should too, and I will continue efforts to address this issue to ensure that we protect, rather than weaken, parental involvement as S. 1 moves to Conference. Our Nation's parents deserve nothing less.

Today, we live in a challenging, international economic order, and students from Rhode Island are not just competing with students from Mississippi and California; they are all competing against the very best and brightest around the globe. That requires investment. It requires raising our standards and giving every child a chance to reach those standards to ensure that we have the best-educated workforce that is competitive in a global economy.

If the education of our young people is truly the No. 1 domestic priority in the United States, as the President claims, then we must put our money where our mouth is. Unfortunately, we have not seen the administration come forward and pledge the kind of resources necessary to achieve any real reform. Instead, we are in danger of having a risky testing scheme and no accountability without the resources to make it all work.

While I support this bill and the significant reforms we have passed, I will continue to work vigorously to ensure that we provide every child with the opportunity to achieve a world-class education.

Mr. NELSON of Nebraska. Mr. President, I would like to express my support for the Elementary and Secondary Education Act. Although my support is not without reservation, I believe that the bill before us today contains much that will ultimately benefit America's schools and the children who attend them. The legislation's intent—increasing student achievement, narrowing the achievement gap among minority and disadvantaged students, strengthening accountability, and increasing local flexibility—are important goals. Commitments in this bill to improve school safety, to improve bilingual education, and to fully fund title I and IDEA were critical factors in my decision to cast an affirmative vote. Were it not for the inclusion of such key components, I would be less inclined to support this bill today.

The issue of education itself is noncontroversial; the way in which we educate our children, however, is. Because we are trying to define the way in which we can improve education and the way that can best be accomplished, this bill deserves serious debate.

Personally, I have always believed that the Federal Government has a role as a junior partner in crafting education policy. The U.S. government in that role, though, should not usurp the State and local governments' power to make education decisions that are more appropriately handled at the State and local level. The line between the Federal Government's role in education and the State's role is a delicate one, and it should be respected.

One area where I believe this bill treads dangerously close to crossing that line is with respect to the issue of unfunded mandates. Specifically, as a former governor, I am concerned by the inclusion of language in this bill that requires States to conduct assessments and meet Federal standards of progress under threat of financial penalty, yet refuses to provide the resources local communities need to meet the often expensive requirements. This bill mandates 316 new tests nationwide, but it does not provide the funding to the States to implement them. Such mandates are irresponsible and burdensome for State and local governments, and will force them to short change other priorities or raise local taxes. In my State of Nebraska, rigorous standards and assessments are in place; the additional tests mandated by this legislation are not critical to improving our schools.

This issue aside, I am encouraged by the programs and the commitment to education quality improvement included in this legislation. The adoption and inclusion of the Mentoring for Success Act in ESEA is a victory for children throughout the country who need the benefit of a stable and caring role model. Programs like this one, which seek to narrow the gap between the have's and the have-nots, are vital. If no child is truly going to be left behind by our education system, it is imperative that we fund initiatives like this mentoring program, as well as other programs like the President's literary initiative, Reading First. This bill contains these initiatives, and they are one of the reasons why I will support it.

Overall, this legislation makes great strides toward improving our educational system. It will help ensure that all children, especially the neediest, will have access to the quality education they deserve. Measures like loan forgiveness for Head Start teachers and efforts to improve teacher quality, will assist in making certain that all children have access not to just any education, but access to a quality education. As I previously indicated, this bill is headed in the right direction, but it is not without flaws. I am hopeful that in the conference report critical funding issues will be addressed. While the initiatives the Senate has approved are well intentioned, they will not be worth the paper they are printed on if we cannot fully fund them. If education is truly a priority for this Administration and for this Congress, the reality of funding levels in this bill must be carefully considered. It is with confidence that I will support this bill, however, in anticipation that the conferees will work together diligently to author a conference report that is sensible, balanced, and fiscally responsible. Our children deserve nothing less; it is Congress' duty to make good on our promises to leave no child behind.

IMPROVING MATH, SCIENCE, AND ENGINEERING EDUCATION

Mr. WARNER. Mr. President, in our efforts to ensure that the United

States remains an economic and military superpower in the 21st century, we must strive to improve the quality of math and science education in this country.

Unfortunately, our schools today need more support in preparing students—in sufficient numbers—to meet the needs of our country. The statistics are alarming, as reported by the National Commission on Mathematics and Science Teaching for the 21st Century, The Glenn Commission, and by the National Assessment of Education Progress, NAEP.

Less than one-third of all U.S. students in grades 4, 8, and 12 perform at or above the ''proficient'' achievement level in mathematics and science on national tests.

More than one-third of such students score below the basic level in these subjects.

And, among 20 nations assessed in advanced mathematics and physics, none scored significantly lower than U.S. students in advanced math, and only one scored lower in physics. Our students can and must do better.

In an effort to improve math and science education, I have joined with Senators ROBERTS, FRIST, COLLINS, and others in supporting much needed legislation to help improve math and science education in elementary and secondary schools. This legislation is now part of S. 1, the Better Education for Students and Teachers Act, the BEST Act.

Not only will the math and science provisions in the BEST Act help improve math and science curriculum in our elementary and secondary schools, they will help our schools recruit even better math and science educators, and make available additional professional development to these educators.

While I wholeheartedly support these provisions, I believe we must go one step further. Not only should we improve math and science education at the K–12 level, we must do something to encourage more individuals to enter vocational schools and colleges and universities in pursuit of programs of study in math, science, and engineering.

It is estimated that the technology driven economy of the 21st century will add approximately 2 million science and engineering jobs to the American economy between today and 2008.

For example, in one sector of America today, in Northern Virginia, there are over 20,000 high-tech jobs going unfilled month to month.

The Senate Judiciary Committee has issued a report that clearly demonstrates America's crisis in meeting the demand in our economy for persons trained in the high-tech field. The report quotes Cato Institute economist Daniel Griswold stating that, ''Americans are not earning specialized degrees fast enough to fill the 1.3 million high-tech jobs the Labor Department estimates will be created during the next decade.''

In addition, the Judiciary Committee report refers to a Hudson Institute estimate that states that the unaddressed shortage of skilled workers throughout the U.S. economy could result in a 5 percent drop in the growth of the GDP. That translates into approximately $200 billion in lost output, nearly $1,000 for every American.

In both the 105th Congress and the 106th Congress, we addressed the high-tech labor shortage by passing legislation to increase the ceiling on the number of H–1B visas—a visa for highly trained foreign workers coming to the United States to work in a high-tech position.

America was forced to do this because our educational institutions are simply not producing the number of personnel needed in the high-tech sector.

In an effort to provide incentives for Americans to pursue a high-tech education, the H–1B visa legislation contained very important provisions that impose a $500 fee per H–1B visa petition that will be used to fund scholarships for Americans who choose to pursue education in these important fields. It is estimated that this fee will raise roughly $450 million over 3 years to create 40,000 scholarships for U.S. workers and U.S. students.

Once again, I whole heartedly support the H–1B scholarship fund. Nevertheless, I believe that we in Congress must do more.

For the past several weeks, we have been discussing education reform in the Senate. However, during this debate we have failed to address the question of whether our educational system is meeting our Nation's vital economic and national security needs.

Our national security is becoming more and more dependent on minds trained in math, science, computer science, and engineering to survive. To ensure our country's prominent role in the future, we must look within our borders to meet these needs.

Unfortunately, today, a look inside our borders shows that this country is facing a dire shortage of math, science, and engineering students. According to the National Science Foundation, NSF, the engineering, mathematics, and science fields show declining numbers of degrees in the late 1980s and the 1990s:

From 1985 to 1998 there has been a 20 percent decrease in the number of people receiving bachelor's degrees in engineering, from 77,572 to 60,914.

In the last 10 years, the number of students graduating with bachelor's in physics has dropped by nearly 20 percent, from 4,347 in 1989 to 3,455 in 1998.

From 1986 to 1998 the number of students receiving bachelor's degrees in mathematics has decreased greater than 25 percent, 16,531 to 12,094.

From 1986 to 1998 the number of students receiving Bachelors in Computer Science dropped more than 30 percent, from 42,195 to 27,674.

While the U.S. produces fewer and fewer mathematicians, scientists, and engineers, the rest of the world is making up the difference. America is importing them.

In several large countries—Japan, Russia, China, and Brazil—more than 60 percent of students earn their first university degrees in the science and engineering fields. In contrast, in the U.S., students earn about one-third of their bachelor-level degrees in science and engineering fields, and this includes social sciences.

Engineering represents 46 percent of the earned bachelor's degrees in China, about 30 percent in Sweden and Russia, and about 20 percent in Japan and South Korea. In contrast, engineering students in the United States earn about 5 percent of all bachelor-level degrees earned in this country.

The demand for science and engineering degrees will only increase. According to the National Science Foundation, during the 1998–2008 period, employment in science and engineering occupations is expected to increase at almost four times the rate for all occupations. Though the economy as a whole is anticipated to provide approximately 14 percent more jobs over this decade, employment opportunities for science and engineering jobs are expected to increase by about 51 percent, or about 2 million jobs.

America must now take steps to encourage, at all levels of our educational process, young people to undertake the training necessary to meet our Nation's demands.

We in the Congress must help in every way to redirect these students from other pursuits into curricula which will train them. This is an absolute necessity if America is to remain secure economically in this one world market and militarily with our national security commitments.

Accordingly, I offered an amendment to this education bill to encourage individuals to pursue programs of study in math, science, and engineering. This amendment is cosponsored by Senators GORDON SMITH, ALLARD, and ALLEN.

The Pell Grant program is one of the most successful and respected educational initiatives taken by the Congress. The concept behind the Pell Grant properly recognizes the needs of young people coming from economic backgrounds which make it difficult for them to acquire higher education.

I have in the past, and always will be in the future, a strong supporter of the Pell Grant program.

Nevertheless, we in the Congress have an obligation when expending taxpayer money, to do so in a manner that meets our Nation's needs. Our Nation desperately needs more trained students in math, science, and engineering. That is an indisputable objective.

The Pell Grant program, in my judgment, offers Congress the opportunity to provide incentives for student recipients to pursue curricula in math, science, and engineering.

My amendment provides a 50 percent greater award to Pell Grant recipients

who pursue a program of study in math, science, and engineering.

The amendment is as simple as that.

My Pell Grant amendment is one idea, but I am certain it is not the only idea. As a member of the Senate's Education Committee, I hope that my chairman, Chairman KENNEDY, will schedule hearings to look into our system of higher education and whether this country is on track to produce graduates who meet the current and projected needs of this country.

At this time, I withdraw my amendment in order to give the Education Committee a sufficient opportunity to address this issue.

At some time in this Congress, I fully intend to reintroduce an amendment along these lines after the committee has reviewed the issues, after I get the views of the administration, and after the wide range of people who on a daily basis review the Pell Grant program have an opportunity to share their views as well.

AMENDMENT NO. 443

Mr. LIEBERMAN. Mr. President, I rise today to clarify why I voted against the Voinvich amendment No. 443 to the ESEA reauthorization bill dealing with loan forgiveness for Head Start teachers. It amends the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers. I thoroughly agree with the ideas expressed in this amendment and have supported incentives for teachers in the past. However, I could not support the amendment because it was not germane to the ESEA reauthorization. I would have supported such an amendment in the context of the Higher Education Act. The amendment provided a tax credit for those individuals who agree to be employed as a Head Start teacher for 5 consecutive years and have demonstrated knowledge and teaching skills in reading, writing, and early childhood development. I strongly believe that it is essential that we have qualified individuals employed in our Head Start programs and working with our youngest children. However, I voted against the amendment, because it was not germane to the ESEA legislation. I did so because together with other leaders on the bipartisan negotiated education compromise bill, I have agreed to vote against non germane amendments so that we will have a better chance to complete and pass this all-important ESEA reauthorization. The amendment passed 76–24 and I am happy with the results.

EDUCATION PROGRAMS OF NATIONAL SIGNIFICANCE ACT

Mr. COCHRAN. Mr. President, my amendment, the Education Programs of National Significance Act, would reauthorize several elementary and secondary education programs that have been effective in improving the education opportunities of students throughout the country.

One example is the National Writing Project which as first authorized 10 years ago and for the current fiscal year is funded at $10 million.

The National Writing Project has 169 sites in 49 States, the District of Columbia, and Puerto Rico. It provides training for 1 out of every 34 teachers across the country. In addition, the National Writing Project raises $6 in local funding for every $1 in Federal funding it receives, and has become a model program for improving teaching in other academic fields such as math, science, and reading.

Last fall, the Academy for Educational Development completed a study which shows the improvement of student writing achievement as a result of their teachers' involvement in the National Writing Project. The study evaluated the writing skills of 583 third- and fourth-grade students. The executive summary of the study states:

Overall, these findings show that students in classrooms taught by NWP teachers made significant progress over the course of the school year.

Last month, I held a Senate hearing in Bay St. Louis, MS which examined the effectiveness of the National Writing Project in my State. I heard from teachers and school administrators who gave compelling testimony about the positive results in their classrooms and the improvement of their teaching skills attributed to participation in National Writing Project training.

The amendment authorizes the continuation, subject to annual appropriations, of the National Writing Project.

The amendment also reauthorizes research based educational material delivered by public broadcasting television stations under the Ready To Learn Television Act of 1992. The objective was to utilize the time children spend watching television to prepare them for the first year of school. Today we know this program has resulted in improved learning skills for the children.

Recent research from the University of Alabama and the University of Kansas tells us that Ready to Learn is having a positive impact on children and their parents. The University of Alabama study found that Ready to Learn families read books together more often and for longer periods than nonparticipants. And, this is a fact that surprises many, Ready to Learn children watch 40 percent less television and are more likely to choose educational programs when they do watch.

Using the best research tested information available, Ready To Learn supports the development of educational, commercial-free television shows for young children. Between the Lions, is the first television series to offer educationally valid reading instruction which has been endorsed by the professional organizations that represent librarians, teachers and school principals. Its partners also include: The Center for the Book at the Library of Congress; the National Center for Family Literacy; the National Coalition for Literacy and the Home Instruction Program for Preschool Youngsters. This broad-based support is unprecedented for a children's television show. It is well deserved affirmation of the Ready to Learn mission.

A recent study from the University of Kansas showed that children who watched Between the Lions a few hours per week, increased their knowledge of letter-sound correspondence by 64 percent compared to a 25 percent increase by those who did not watch it. The parents and other care givers of more than six million children have participated in the local workshops and other services provided by 133 public broadcasting stations.

I am encouraged by the success of Ready to Learn and look forward to a new generation of children whose families will have access to the information needed to develop a learning environment before they are enrolled in school.

These are two of the Educational Programs of National Significance that I have been personally involved in starting. The others that are included in this amendment are also proven examples of federally funded education programs that will help us have a better educated student population throughout the Nation.

I urge Senators to support the amendment.

Mr. SHELBY. Mr. President, throughout this debate, we have wrestled with how we best improve education for all of our children; whether it is more money, more flexibility, more accountability, higher standards, less bureaucracy, more choice. All of these considerations and goals are worthy and certainly play an important role in ensuring that our children receive the best education possible.

But, there is one ingredient—one factor—that without fail, is the most essential to a child's education and that is a parent. I submit that there is no school building, no computer, no TV, no textbook that can replace the role of a parent when it comes to educating a child. And accordingly, no government official or school official shares the same interest as a parent in protecting and raising their child. I say this because the amendment Senator DODD and I are offering today is about ensuring the rights and responsibilities of parents in raising and educating their children.

As parents, we entrust schools with our children in the hope and belief that they will receive a strong education that will prepare them for the future—that they will be taught and learn the basic foundations for success—reading and writing, math and science. Parents expect this.

What they don't expect and what many of them aren't even aware of is that their children will be used as captive focus groups for marketers during the school day. That is not part of the bargain and, I submit, it shouldn't be.

Last year a GAO study found that marketers and advertisers are increasingly targeting our children in the school setting. This is not some freak occurrence. It is a calculated marketing strategy that is intended to get around parents and reach kids directly in a way they could not normally. In a recent column raising concerns about this phenomenon, George Will notes how marketers now study ''marketing practices that drive loyalty in the preschool market'' and ''the desires of toddler-age consumers.'' In addition, marketers advise that ''School is. . .the ideal time to influence attitudes.''

There is no question that there is a lot of money to be made in marketing to children. According to a report by the Motherhood Project at the Institute for American Values, in 1998 alone, children ages 4 to 12 spent nearly $27 billion of their own money and influenced nearly $500 billion in purchases by their parents. As parents, many of us have probably felt like it was a lot more than $500 billion at times.

I am all for free enterprise. But, there are boundaries. And, marketers are crossing those boundaries when they seek to go into public schools and collect marketing information on children without parental consent. A recent editorial in the Christian Science Monitor echoes this sentiment.

Schools are for learning, not market research . . . Businesses do have a role in education. They can lend financial and other kinds of support, and be recognized for such. But educators and businesses also need to recognize boundaries—and stay within them.

Congress has acted in the past to provide some boundaries to schools and protect parental rights and children's privacy. The Family Education Rights Protection Act, the Protection of Pupil's Rights Act and the Children's Online Privacy Protection Act all provide parents with some ability to protect how information is collected and shared on their children. None of these laws, however, protect parents' rights when third party marketers seek to collect similar information from their children in the classroom.

Our amendment seeks to address this gap in the law and reenforce these boundaries by ensuring that when third parties want to come in to the classroom and conduct market research and collect information on our children for strictly commercial purposes, they have to ask the parent.

We are not breaking new ground here other than filling in gaps in existing law. In addition, parental consent is already required for many other activities that occur in the schools, including extracurricular activities, field trips, and internet access. Indeed, parental consent is required before students may participate in the Everybody Wins Program that many Members and staff of this body participate in.

I know there have been concerns and questions raised about our amendment and active lobbying against our efforts.

However, in working with the White House, I believe we have addressed most of the these concerns as reflected in our modified amendment. We have sought to minimize concerns over ''burden'' by requiring parental consent for only those commercial/marketing activities that seek to collect information on children.

In addition, we have attempted to provide local flexibility —while ensuring parental involvement—by allowing local school boards to provide additional exceptions to the consent requirements so long as the information they seek to collect is not personally identifiable and the school notifies the parents of their policy on these data collection activities.

Despite our good-faith efforts to address legitimate concerns, I understand that some financial interests may oppose parental consent no matter what. They are willing to argue that requiring parental consent imposes a burden on local schools.

I fundamentally disagree and submit that if we have come to the point where we consider parents a burden and parental consent a mandate—then we have a bigger problem in this country. Parents a burden? I say we need more such local burdens in our schools, not less. You simply can't get more ''local'' than a parent.

And as a corollary to this, I would suggest that these interests have it backwards. It is rather the local schools that are interfering in the rights of parents. Schools exceed their authority when they allow third parties to come in to the classroom and collect information on children for strictly commercial purposes.

We have tried to focus this amendment on those non-educational activities that parents traditionally maintain authority over. Parents have a tough enough time trying to raise and instill certain values in their children. Schools should not be a parent-free zone where marketers get unfettered access to children that they would not otherwise be able to achieve anywhere else.

There is nothing intended in this amendment to disadvantage public-private partnerships in our schools. And, in fact, most public-private partnerships have nothing to do with collecting personal information on children. Indeed, I continue to believe that many of these relationships can be very positive for schools and students. We want to encourage, not discourage many of these relationships.

But, I submit that these public-private partnerships should be able to withstand the scrutiny of parents when they seek to collect information on their children. If it is in their child's interest—you can be sure a parent will give their permission. I don't know of any reputable company whose business model would be based on intentionally skirting parental rights and targeting children directly in the schools. And, I doubt, that any business that relied on such a tactic would be around very long.

I do, however, believe that the amount of interest and extensive lobbying that has been shown on our little amendment is a strong indication of how much money is being made on targeting kids in the schools and how important it is to some marketers to get around parents and get access to our children directly.

Our modified amendment was crafted in consultation with the Administration, and is supported by the National Parent Teacher Association, Commercial Alert, the Eagle Forum, the American Conservative Union, Focus on the Family, and the Motherhood Project at the Institute for American Values, among other groups.

I am pleased with the acceptance of this amendment by the Senate and thank the managers for their work on this bill and on our amendment.

I look forward to working with my colleagues as the bill is considered in conference.

Mr. KENNEDY. I ask unanimous consent the Senate now proceed to the consideration of House companion H.R. 1; that all after the enacting clause be stricken, and the text of S. 1, as amended, be substituted in lieu thereof, and the Senate proceed to vote on final passage of the bill; that the Senate insist on its amendment, request a conference with the House—

Mr. LOTT. Reserving the right to object, I believe there has been a modification.

Mr. KENNEDY. If I could restate it: I ask consent that the Senate proceed to consideration of the House companion, H.R. 1; that all after the enacting clause be stricken, and the Text of S. 1, as amended, be substituted in lieu thereof, the bill be read a third time, and that the Senate proceed to vote on final passage of the bill.

I further ask consent S. 1 be returned to the calendar.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. I ask unanimous consent that the quorum call be rescinded.

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

The foregoing request is agreed to.

Mr. GREGG. We are about to go to final passage. I wanted to thank staff on both sides. This bill has been on the floor for 7 weeks. Their tireless efforts, literally hours, days, nights, and weekends, on behalf of moving this bill along have been extraordinary.

On my staff, of course, Denzel McGuire led the effort and did an exceptional job. Jamie Burnett, Rebecca Liston and other folks, so many it is hard to mention, as well as John Mashburn, Andrea Becker, Holly Kuzmich, and Raissa Geary on our side have all worked extraordinary hours to make this work.

We also thank the professional staff of Senator KENNEDY, led by Danica and other members of their staff.

Mr. KENNEDY. I express my thanks now, and I will do so at the conclusion and hope they understand we appreciate this.

I ask for the yeas and nays.

Mr. GREGG. If the Senator will suspend, on behalf of Senator WARNER, I ask unanimous consent to withdraw his previously submitted amendment No. 792.

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

Mr. DASCHLE. Mr. President, this will be the last vote of the week. There will be no session tomorrow. We begin again on Monday. There will be no votes on Monday. For the information of all Senators, the first vote will occur sometime on Tuesday, but we will be in session on Monday.

I yield the floor.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered. The PRESIDING OFFICER. Under the previous order, the bill will be read the third time.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUYE), is absent.

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

The result was announced—yeas 91, nays 8, as follows:

[Rollcall Vote No. 192 Leg.]

YEAS—91

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

NAYS—8

Bennett	Hollings	Nickles
Feingold	Inhofe	Voinovich
Helms	Kyl	

NOT VOTING—1

Inouye

The bill (H.R. 1), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. KENNEDY. I move to reconsider the vote.

Mr. REID. 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 Nevada.

Mr. REID. Madam President, I ask unanimous consent that it be in order for the clerk to make technical and conforming changes to any previously agreed to amendments with respect to the ESEA bill.

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

AMENDMENT NO. 441, AS FURTHER MODIFIED

Mr. REID. Madam President, I ask unanimous consent that the Lugar amendment No. 441 be further modified with the technical change that I now send to the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The modification is as follows:

On page 265, line 25 strike ''identified'' and all that follows through ''Secretary'' on line 1 of page 266, and insert ''nationally available''.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, before we turn to morning business, there is one thing I would like to say. I have been on the floor during the entire 8 weeks of this debate on the education bill. A great deal of that time—about 6 of the weeks—I spent with Senator JEFFORDS as a manager of this bill. I just want to make sure everyone understands his contribution to this piece of legislation.

He was chairman of this committee. His substitute is what we accepted. In the kind of glow of having finished this legislation—we are all happy to finish a major piece of legislation; the President should be happy—I just want to make sure everyone understands the great contribution to this piece of legislation made by the junior Senator from the State of Vermont.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I join my friend and colleague, Senator REID, in paying tribute to JIM JEFFORDS at the time of the completion of this legislation. As the Senator rightfully pointed out, Senator JEFFORDS was really the architect of the development of the core aspects of this legislation and presided over a very extensive markup. He was able to bring the committee to a unanimous vote of support for that legislation even though there were a good many differences that were expressed. It does not surprise any of us who are on that committee because he has been a leader in the area of education over his entire career in the Senate as well as in the House of Representatives.

There are many features in this legislation that have been included of which he was really the architect many years ago. So I think all of us who are mindful of the progress that has been made join in paying tribute to Senator JEFFORDS for his remarkable leadership. I think this body will continue to benefit from his continued involvement. We certainly depend upon it, and I know America's children depend upon it as well.

I thank Senator JEFFORDS for all of his good work.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

THE PRESIDENT'S TRIP TO EUROPE

Mr. COCHRAN. Madam President, I am pleased to address the Senate to applaud the leadership being shown by President Bush during his visit with leaders in Europe. I like the straightforward and forceful way he is expressing his views on international security issues, especially on the subject of missile defenses.

In March, the President dispatched senior administration officials around the world to discuss with leaders of other nations the plans he was considering to deploy defenses against ballistic missiles. The Secretary of State, the Secretary of Defense, and high-level administration teams have worked hard to ensure that our friends and allies understand why the United States intends to deploy these new defensive systems.

This week European leaders are hearing directly from the President his personal views on this issue. At his first stop in Madrid, President Bush said that the task of explaining missile defense ''starts with explaining to Russia and our European friends and allies that Russia is not the enemy of the United States, that the attitude of mutually assured destruction is a relic of the Cold War, and that we must address the new threats of the 21st century if we're to have a peaceful continent and a peaceful world.''

The Prime Minister of Spain, Mr. Aznar, responded to President Bush's remarks by saying:

[I]t is very important for President Bush to have decided to share that initiative with

its allies, to discuss it with them, to establish a framework of cooperation with his allies with regard to this initiative and, as he announced, to also establish a framework for discussions, cooperation, and a new relationship with Russia.

The Prime Minister also said:

What I am surprised by is the fact that there are people who, from the start, disqualified his initiative and, in that way, they are also disqualifying the deterrence that has existed so far and probably they would also disqualify any other kind of initiative. But what we're dealing with here is an attempt to provide greater security for everyone. And from that point of view, that initiative to share and discuss and dialog and reach common ground with the President of the United States is something that I greatly appreciate.

Today the news reports indicate that many other European leaders agree with the sentiments expressed by the Prime Minister of Spain. The most conspicuous exceptions have been France and Germany.

I commend President Bush for his effort to modernize our defenses against terrorism and ballistic missiles. Internationally, we remain vulnerable to these threats. We can no longer intentionally choose to accept that on behalf of our citizens. Nor can peace-loving people anywhere in the world tolerate the continued intentional vulnerability that this policy ensures.

President Bush realizes this and is doing what is necessary to remedy the situation. He is making it clear that he will unilaterally reduce our stockpile of nuclear weapons to the lowest level, compatible with the need to keep the peace. And he is consulting with our allies and others in an effort to explore new agreements that will further protect our common security interests.

He acknowledges that everyone, not even our closest allies, will agree with us on everything, but President Bush holds out hope for new understandings. He said at one news conference:

I don't think we are going to have to move unilaterally, but people know I am intent on moving forward.

The President is doing the right thing and setting the right tone in providing this kind of leadership at this particular time. It is a very important step in achieving a higher level of security for all the world, not just for the United States.

I ask unanimous consent that a list of quotations from those supporting U.S. missile defense plans be printed in the RECORD.

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

QUOTES SUPPORTIVE OF U.S. MISSILE DEFENSE PLANS

Australia—Foreign Minister Downer (June 1, 2001): ''We've said to the Americans that we are understanding of their concerns about the proliferation of missile systems . . . if a rogue state were to fire a missile at the United States, would an appropriate response be for the United States to destroy all of the people in that country? And I think, understandably, the Americans are saying that may be a slight over-reaction. And if that is all that their current deterrence arrangements provide for, then I think it's understandable that they should want to look for more sophisticated and more effective, and at the end of the day, more humane ways of dealing with these problems.''

Czech Republic—President Havel (June 13, 2001): ''. . . the new world we are entering cannot be based on mutually assured destruction. An increasingly important role should be played by defense systems. We are a defensive alliance.''

Hungary—Prime Minister Orban (May 29, 2001): ''The logic of the Cold War, mutual deterrence, would not give a reply to the problems of the future. It is important that North America and Europe should work jointly on solutions demanded by the new realities.''

Italy—Prime Minister Berlusconi (June 13, 2001): ''We agree that it is necessary for a new, innovative approach in our policies towards these new threats.''

Defense Minister Martino (June 11, 2001): ''[Missile defense] would not be directed against the Russian Federation today; the aim is to protect us from unpredictable moves by other countries. It is in the interests of peace, of all of us.''

Japan—Prime Minister Koizumi (June 7, 2001): ''This is very significant research because it might render totally meaningless the possession of nuclear weapons and ballistic missiles.''

Poland—President Kwasniewski (June 13, 2001): ''[The U.S. missile defense plan is a] ''visionary, courageous, and logical idea.''

Defense Minister Komorwski (May 27, 2001): ''Poland has looked upon U.S. declarations on the necessity of establishing a missile defense system with understanding from the very start. We . . . see the modification of the project to provide for a 'protective shield' for European allies as a step in the right direction. This can only enhance defense capabilities but also strengthen the unity of NATO. The territory of Poland and the Polish defense system may become a key element of an allied missile defense structure.''

Secretary of the National Security Council Siwiec (May 18, 2001): ''The ABM Treaty . . . stands in the way of building a new security system. The debate on the missile shield is not unlike protests of steam engine users against the inventors of rocket engines . . .''

Romania—Defense Minister Pascu (June 12, 2001): Romania understands the U.S. desire for protection from missile attack and would have ''no objection at all' even if the U.S. proceeded unilaterally. Regarding those in Europe that dismiss the threat of missile attack, Pascu said ''It is a real danger. To some, it is not because they don't want it [missile defense] done.''

Slovakia—Prime Minister Mikulas (June 8, 2001): ''We have always perceived the United States as the protector of democratic principles in the world and we understand the alliance (NATO) as a defense community. So we consider the missile defense project to be a new means of collective defense . . ., a security umbrella for this democratic society and therefore in general we support this project.''

Spain—Defense Minister Trillo (May 23, 2001): ''The [U.S.] missile initiative . . . is neither an aggressive initiative—it is a defensive one—nor a nuclear escalation, but rather, on the contrary, a means of deterrence of the buildup of nuclear weaponry.''

The PRESIDING OFFICER. The Senator from Utah.

VOTE ON ESEA AUTHORIZATION

Mr. BENNETT. Madam President, the vote we just had recorded only eight votes in the ''nay'' column, and one of those eight was mine. I don't usually find myself that isolated. I thought on this occasion that it would be appropriate for me to explain why I voted against this bill.

I am not sure what I would have done had my vote been decisive, because I recognize that we need to pass an elementary and secondary education bill. We need to move forward on an issue that President Bush has correctly identified as our No. 1 domestic priority. Nonetheless, I was troubled enough by the bill that I voted against it and wanted to make my reasons clear in the hope they might influence the conferees.

I have three reasons for voting against this bill. The first one is money. The cost of this bill is twice what it was when the bill hit the floor to begin with. We added money here; we added money there. We had a drunken sailor's attitude toward this situation: Education is wonderful; let's throw money at it.

I am troubled by that kind of view with respect to how we should legislate around here. It struck me as being a bit out of control.

Secondly, as I heard more and more from the people in Utah who will have to live under this bill, they kept saying to me, This feels an awful lot like a Federal straitjacket. This feels an awful lot like Federal control. This feels an awful lot like we are losing the power to run our own schools. I find that troubling as well. As some of my colleagues have said, I didn't run for the federal school board; I ran for the U.S. Senate.

Many of the decisions that were made with respect to this bill were decisions that were made on the assumption that Washington knows better than the local school boards, and that assumption troubles me.

It is because of the third reason, as I looked at the bill as a whole, that I decided to vote against it. I am passionate enough in my commitment to education that I could swallow the idea of more money. Frankly, if we were getting the right results, I could look the other way and say, Well, since we are getting the right results, I can tolerate increased Federal control.

But this bill is not a step forward in education. This bill is overwhelmingly timid. It has almost no significant new initiatives in it. It is simply funding the status quo to the maximum. The more I look at education, the more I think we need to break out of the status quo. We need to try new things. But any time a suggestion was made that we try something new, even on a pilot basis in a very limited sense in just a few places, it was swatted down.

People talk about Government as if inertia at rest is the problem, that nothing ever gets done. It is my experience that it is inertia of motion that is the problem with Government. It is not just the law of physics. A body in motion tends to stay in motion and in the

same direction, whether it is a body moving through space in the physical world or whether it is a Government agency moving through regulations that always does things the same way. It keeps things going. It takes yesterday's answers and tries to force them on today's problems.

As I look at this bill overall, I do not see the boldness, the freshness, the challenge to do something different and try to break out of the old patterns that, frankly, were there when President Bush first submitted his education plan. We, in this body, have added so much baggage to that exciting first motion that it is hard to recognize the President's initiatives in this bill. They are buried under piles of money and piles of directions that are rooted in the status quo and in the past.

So I decided that the bill is going to pass, regardless of what I try to do. But if I can draw a little bit of attention to the fact that the bill is not, in fact, as bold, as innovative, and as hopeful as it started out to be by casting a negative vote, then that would justify casting a negative vote.

I don't expect very many people will listen to what I have to say, and I don't expect very many people will pay attention to the vote I have cast. But I remember when I first came here as a young Senator, someone said to me, Cast your vote with this in mind—how will you feel as you drive home thinking about it after the debate is over?

I decided that as I drove home thinking about this one that I would drive home feeling better having cast the protest vote than I would if I had gone along with the large majority of my colleagues.

I don't mean to suggest that anyone who voted for this bill was not voting out of complete, sincere dedication to the idea that this is something good. I don't mean to question the motives of anybody else. I simply want to explain my own. This bill has grown too expensive. This bill has grown into too much Federal control. And the end result, in terms of timidity and support for the status quo, is simply not worth those first two. That is why I opposed the bill.

I hope the product that comes back to us from conference will be better and that I will then be in a position to support it.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

226TH BIRTHDAY OF THE ARMY

Mr. HAGEL. Madam President, I rise today to wish the United States Army happy birthday. It was 226 years ago today, in 1775, that the Continental Army of the United States was formed. The United States Army has had a monumental impact on our country.

Millions of men and women over the past 226 years have served in the senior branch of our military forces. The Army is interwoven into the culture of America. Those who have had the great privilege of serving our country in the U.S. Army understand that.

Last week, I was in Crawford, Nebraska. I am helping with the renovation of the historic barracks at the old Ft. Robinson in western Nebraska.

Ft. Robinson was home to the U.S. Army's ''Buffalo Soldiers''—the heroic black soldiers who fought as part of the U.S. Army after the Civil War into the early 20th Century.

The 9th Cavalry Buffalo Soldiers called Ft. Robinson home from 1885 to 1898. And the 10th Cavalry Buffalo Soldiers were stationed at Ft. Robinson from 1902 to 1907.

It is also interesting to note that Nebraska was home to the 25th Cavalry Buffalo Soldiers who were stationed at Ft. Niobrara, in the north central part of Nebraska, from 1902 to 1907.

The Buffalo Soldiers made up about twelve percent of the U.S. Army at the turn of the Century and they served our country valiantly and with great distinction.

Eighteen Buffalo Soldiers earned the Medal of Honor, our Nation's highest award, fighting on the Western frontier. Five more earned the Medal of Honor for service during the Spanish American War.

''Duty, honor, country'' is the motto of the U.S. Army. It is America. Every generation of Americans who have served in the U.S. Army—from the Continental Army to the Buffalo Soldiers to today's fighting men and women—have been shaped by this motto.

It has molded lives in ways that are hard to explain, just as the Army has touched our national life and history and made the world more secure, prosperous, and a better place for all mankind.

On this 226th birthday of the U.S. Army, as a proud U.S. Army veteran, I say happy birthday to the Army veterans of our country. We recognize and thank those who served and whose examples inspired those of us who have had the opportunity to serve in the U.S. Army.

It is the Army that has laid the foundation for all of this nation's distinguished branches of service and helped build a greater, stronger America.

Mr. President, on this, the 226th birthday of the Army, I say Happy Birthday and, in the great rich tradition of the U.S. Army, I proudly proclaim my annual Senate floor ''HOOAH!''

The PRESIDING OFFICER. The Senator from Connecticut.

THE 226th ANNIVERSARY OF THE U.S. ARMY

Mr. DODD. I commend my dear friend from Nebraska for his remarks celebrating the 226th anniversary of the Army. I am glad I was present on the floor to hear the annual ''Hooah'' from a wonderful former sergeant who served with great distinction during the Vietnam conflict. He is a wonderful Member of this body and a great friend to the veterans of America.

I served in the Army. I was a weekend warrior. I defended the shores of Connecticut from outside aggression over the years. But, I am deeply proud to have worn the uniform of the Army while rising to the rank of E4. I am even more proud of my friend for his wonderful service and for what he has done in public life after his service. I join him in wishing happy birthday to our friends in the U.S. Army.

Mr. HAGEL. Madam President, if I may respond to my friend from Connecticut, it is common knowledge that E4s run the Army, so I salute him with a big ''Hooah.''

THE ELEMENTARY AND SECONDARY EDUCATION ACT

Mr. DODD. Madam President, I want to spend some time talking about the reauthorization of the Elementary and Secondary Education Act of 1965, which we passed just a few minutes ago.

First, I commend my friend and colleague from Massachusetts, the chairman of the committee, for his continuing leadership in the area of education. Senator KENNEDY has been a tireless champion of children and families and is now into his fifth decade here in the Senate. He has no equal when it comes to his passion for serving those in need, and demonstrated that passion once again during his management of this bill over the past 6 or 7 weeks.

I also want to join with those who have commended our colleague, Senator JEFFORDS of Vermont. Senator JEFFORDS is the former chairman of this committee. We were elected to Congress together more than a quarter century ago. He has been a wonderful friend and fellow New Englander and in large part is responsible for the outlines of the bill just adopted by a substantial vote. In his quiet way, JIM JEFFORDS made a very profound and strong imprint on this legislation.

Although much attention has been focused on political events over the last few weeks associated with our colleague from Vermont, that should not overshadow his substantive commitment to the quality of education in this country, and this reauthorization of the Elementary and Secondary Education Act is one of the finest examples of his efforts over the years. So I commend him for his work.

I thank my friend from New Hampshire, Senator GREGG, who is a tremendously bright and articulate Member of this body. We have our differences, but there is no more engaging Member, no one with whom I more enjoy debating a subject. He is knowledgeable and deeply committed to these issues. He has very strong views, but is a very fair individual, and he did a very fine job here on the floor. Other members, also have been very involved in this legislation, such as Senator FRIST of Tennessee, who cares deeply about these issues;

JOE LIEBERMAN, EVAN BAYH, and MARY LANDRIEU; and especially other members of the committee on which I served—TOM HARKIN, JACK REED, PATTY MURRAY, BARBARA MIKULSKI, JEFF BINGAMAN, and our new colleagues, Senator CLINTON from New York, and Senator EDWARDS. Also, SUSAN COLLINS, and TIM HUTCHINSON from Arkansas. PAUL WELLSTONE has offered many amendments in committee as well as on the floor, expressing his strong appetite for improving the quality of public education in America. Certainly, TOM DASCHLE, the distinguished majority leader, has been deeply involved in this debate and discussion over the last number of weeks and deserves a great deal of credit, along with HARRY REID, for keeping the battle moving forward and the debate moving forward over these last days of the debate.

I thank TRENT LOTT, former majority leader, now minority leader, for his work as well.

I am sure that I left some people out here, including the Presiding Officer, the distinguished Senator from Michigan, Ms. STABENOW, who has also been deeply involved in education matters for many years—long before she arrived as a new Member of this body, in her work in the other Chamber, and in her home State of Michigan on behalf of children and families. I thank her for her work as well. And, Senator BIDEN, with whom I offered my comparability amendment, along also with Senator REED.

Madam President, this is not a bill I would have written. Nor is it one that I expect our Republican friends would have written, were we allowed to write our own version of a framework for elementary and secondary education. This is a compromise bill. There are parts of it about which I am very excited and others about which I am disappointed. This is not an uncommon reaction when a final vote on major legislation is called for.

But we are not through the process. This is step 1 for us. The other body has adopted its version of the Elementary and Secondary Education Act, and now we will meet in conference, to work out the differences between these two bills.

I believe our collective work over the past couple of months has greatly improved the bill, and that is why I voted for it. Nevertheless, I hope that it will come back from conference a stronger bill.

This bill will target resources to the neediest students in our country. It will make sure that classrooms are run by well-qualified teachers, and it will provide options to parents. Those are wonderful improvements over the status quo. I heard my friend from Utah say this bill was nothing more than the status quo. That is not the case.

There also were many important amendments adopted, in many cases with broad bipartisan support.

Senator HARKIN and Senator HAGEL put together what may be the most important amendment adopted in this bill, mandating full funding of the Individuals with Disabilities Education Act. After 26 years of waiting, communities, parents, teachers, and students finally will receive full funding of special education. This is a major achievement.

I am very proud of the fact Senator COLLINS and I were able to get 79 votes for full funding of title I over the next 10 years. I hope that we can fully fund it more rapidly than that, but I believe, and my colleague from Massachusetts who has a wonderful historical memory of this law over the years may know, this is the first time we ever voted to fully fund title I, I am proud of this action.

Senator KENNEDY's amendment will increase the number of qualified teachers in our classrooms. That is a major achievement.

Senator WELLSTONE's amendment ensures that the tests States develop to comply with this bill will be of high quality.

Senator BLANCHE LINCOLN of Arkansas won strong bipartisan support to increase support for bilingual education.

Our colleague from California, Senator BOXER, won support, I joined with her, to increase resources to provide children with productive afterschool programs.

Senator REED of Rhode Island deserves great credit for providing school libraries with desperately needed resources.

The amendment of our colleague from Illinois, Senator DURBIN, will strengthen math and science partnerships. That improves the bill tremendously as well.

I was also pleased the Senate rejected efforts to include private school vouchers in this bill by a significant vote. Not out of any negative feelings about private education, but because with 50 million children in public schools and 5 million in private schools, resources are hard to come by, and we must do our best to improve the quality of public education.

I am pleased as well the Senate accepted an amendment I offered, along with the support of the chairman of the committee and others, for the professional development of early childhood educators.

Also, the amendment I offered with Senator SHELBY of Alabama to protect student privacy was accepted by voice vote.

For children to be ready for school and to learn to read, their early childhood educators must have the training to help them develop intellectually and socially, and this amendment contributes to that goal.

The amendment I offered with Senator SHELBY of Alabama to protect student privacy also was accepted by voice vote.

This amendment will ensure parents have the right to decide whether their children will be asked personal questions by marketeers for commercial purposes during school time.

This is a growing phenomenon, one that is a growing concern of mine, that classrooms are becoming market testing grounds. It is hard enough to educate a child. I do not think parents expect their children to become the subject of marketing surveys in school. Parents wouldn't tolerate this happening in their homes without their permission and they should not have to tolerate it in their children's schools without permission.

Businesses can be great partners in the educational system. They have a vested interest in a well-educated workforce. But the extent to which and how they are involved is something about which we all ought to be conscious.

But, I do have significant concerns about this bill. I am disappointed that it does not include funds dedicated to reducing class size and repairing crumbling schools. We know that these things improve student achievement and we will continue to fight for them.

I also am disappointed we adopted the Helms amendment, which purported to be about ensuring the Boy Scouts access to public school facilities, a right already guaranteed them by the United States Supreme Court.

The Boy Scouts have a long tradition of doing wonderful things for America's young men, but unfortunately the Helms amendment, in my view, effectively puts the Senate on record as approving the exclusionary policies of the Boy Scouts and other organizations, and that is a sad commentary as we enter the 21st century.

Most of all, I am concerned that while this bill demands accountability for low-income schools and school districts, and establishes the goal of funding title I, we still have not received a commitment from the President or our Republican colleagues to provide the resources for Title I, special education, and other parts of this bill.

I would have hoped that by now the President would have said there will be full funding of these programs during his administration. He has, for whatever reasons, decided not to make that commitment. I am still hopeful he will. That will go a long way in alleviating my concerns about whether or not these reforms are going to give these children an opportunity to compete on a level playing field with other children who have the tools that will allow them to succeed. It does not guarantee success, but it is an opportunity to succeed.

We have an obligation at every level, Federal, State, and local, to see to it that all kids have a chance to succeed. It is important, if this bill is going to reach its potential, to have the resources we will need to give kids that chance.

That has not yet happened, and I am very uneasy as we go into the conference about whether or not those commitments will be forthcoming. If

we end up with nothing but tests and standards and leave needy children in this country in rural and urban areas without the resources to benefit from real reforms, then we will end up with a self-fulfilling prophecy of children who fail tests, which will be taken as a further indictment of public education.

I know I am not alone in this concern. The chairman of the committee has expressed this feeling over and over, and I am hopeful that as this debate proceeds over the coming weeks, the commitments we have asked for with regard to resources will be forthcoming.

And, finally, I am disappointed the Senate did not adopt an amendment which I offered along with Senator BIDEN and Senator REID, with strong support of almost half of the Senate, calling for comparable educational opportunity services for all children within a State. We have done that for 36 years within school districts. Some districts have more students than 27 States in this country. For 36 years, they have been able to provide a comparable educational opportunity. I think States ought to meet that same criteria. This bill demands greater accountability from students, parents, teachers, school boards, and the Federal Government—the only entity we exclude from that is the States. I am disappointed that amendment was not adopted.

But, again, to conclude these remarks, my hat is off to the chairman of the committee, to JIM JEFFORDS, as I mentioned earlier, for his work, to the members of our committee, going right on down the line to the most junior member, Senator CLINTON of New York. Also, our Republican colleagues, including JUDD GREGG, BILL FRIST, SUSAN COLLINS, TIM HUTCHINSON and the others, who worked hard to make this a better bill. While we disagreed and I had strong arguments with them on many points, my respect for them is in no way diminished. In fact, if anything, it is enhanced by their commitment.

We are all trying to do our best for the children of this country and I hope that in the weeks ahead, we will be able to improve this bill further. Again, I thank the chairman of the committee and his staff and all of our staffs.

I will include all the names of people here. They worked so hard. From Senator KENNEDY's staff, Michael Myers, Danica Petroshius, Jane Oates, Roberto Rodriguez, Michael Dannenberg, Dana Fiordaliso, and Ben Cope. From my staff, Lloyd Horwich, Shawn Maher, Jeanne Ireland, Grace Reef, Sheryl Cohen, and John Carwell.

Bev Schroeder and Katie Corrigan of Senator HARKIN's staff, Bethany Little of Senator MURRAY's staff, Elyse Wasch and Michael Yudin with Senator REED, Jill Morningstar and Jay Barth with Senator WELLSTONE, and Ann O'Leary with Senator CLINTON.

Also, Carmel Martin and Dan Alpert with Senator BINGAMAN, Kimberly Ross with Senator MIKULSKI, and Crystal Bennett, with Senator EDWARDS.

Mark Powden, Sherry Kaiman, and Andy Hartman with Senator JEFFORDS. Michele Stockwell with Senator LIEBERMAN, Elizabeth Fay with Senator BAYH, and Kathleen Strottman with Senator LANDRIEU.

I also want thank the staff on the other side, especially Denzel McGuire and Stephanie Monroe, with Senator GREGG, Holly Kuzmich with Senator HUTCHINSON, Maureen Marshall with Senator COLLINS, and Andrea Becker with Senator FRIST.

And, I want to thank Joan Huffer with Senator DASCHLE and David Crane and John Mashburn with Senator LOTT, and Sandy Kress and Townsend McNitt, of the White House staff, for all of their help.

I remember Senator KENNEDY and I were up one Saturday morning weeks. We were in the building, walking around, and happened to see a door open. We walked in and there were the staffs, trying to work out differences and work out language in the bill. We offer the amendments, we get the attention, we appear before the cameras, but it is the staffs of our offices who do tremendous work and develop great understanding of these issues.

I thank Senator KENNEDY's staff, my own staff, the staff of the others, both majority and minority for the tremendous effort and time they put in to make this a better bill.

With that, Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I want to, first, express appreciation to many of our colleagues and friends and then say a very brief word about what I think this bill is really about.

I want to start off by thanking the extraordinary staffs, mine and those of the members of our committee, Democrats and Republicans alike. We are enormously blessed to have men and women who are committed and dedicated to trying to strengthen the educational system of this country. To a great extent I hope they feel some satisfaction this evening with the completion of this legislation.

As has been pointed out by my friend Senator DODD, we had areas of differences but there was no real difference in our desire to send a very clear message, which tonight we are sending to families all across this country, that help is on the way.

The legislation that was passed a short while ago was not a Democratic bill or a Republican bill; it was an education bill. Stated very clearly with this extraordinary vote—91 votes in favor of this legislation—this Senate is committed to the future of this country. That is what this is about. It is about the hopes and dreams of children, their desire to excel in athletics and sports, but also in the classrooms. When they have exciting and innovative and creative teachers, when they have interesting curricula and it is all well taught and supported by parents—all of that is really about the future of America.

This vote this evening is a clear manifestation of what has been happening over the past days on the floor of the Senate. Democrats and Republicans were coming together on this central issue, the core issue, the first issue for American families. All parents understand the importance of children's dreams. We realize, really, the greatest limitation on those children's dreams is the failure to provide the opportunity for those children's minds to be as expansive as they possibly can be, to be interested and informed, benefitting from educational opportunities which, hopefully, we have strengthened in this legislation.

First, I thank Denzel McGuire and Stephanie Monroe of Senator GREGG's office; Holly Kuzmich of Senator HUTCHINSON's staff; Maureen Marshall of Senator COLLINS' staff; David Crane and John Mashburn of Senator LOTT's staff; Mark Powden and Sherry Kaiman of Senator JEFFORDS' staff; Lloyd Horwich of Senator DODD's staff; Carmel Martin and Dan Alpert of Senator BINGAMAN's staff; and Elizabeth Fay of Senator BAYH's staff; Michelle Stockwell of Senator LIEBERMAN's staff.

I also thank Sandy Kress, who has been enormously helpful to all of us in the Senate, Democrats and Republicans alike, representing the President. She is a person who understands the President's views very completely. She is a forceful fighter for the position of the President. But as I said on many occasions, she doesn't always say no. She understands the importance of attempting to fight for the position of the President. I thank as well Townsend McNitt of the White House staff as well, who was enormously valuable and helpful to us.

I thank Secretary Paige for his work. Secretary Paige really set the tone for this legislation. At the time of his swearing in, I asked if he would be good enough to come up and meet with all the Democrats. He came up for a meeting. We had very good attendance. I think almost our whole Democratic caucus was in attendance. He stayed there until the last question was asked. It was a very impressive presentation. Since that time, he has been available and accessible to all of us on matters with which we were concerned.

I could not possibly have made much difference in this effort without, really, the tireless work of my own staff: Jane Oates, Michael Dannenberg, and Roberto Rodriguez, for their indispensable roles—all of our staff, of whom I am so proud. They are superb professionals who take great pride in their work, as they should, and as I do in them.

My thanks go to Jim Manley for his able assistance; Danica Petroshius, Dana Fiordaliso, and Ben Cope for the amazing support over the weeks—most of all to Danica Petroshius, whose leadership, energy, and vision has made all

the difference. I thank Danica so much. Her friendship I value greatly.

I am very fortunate for in our staff we have not only great professionals, but they are also great friends. We have a good opportunity to work together. I am not always sure they felt that way for every moment over these past 8 weeks, but I want them to know that is the way I felt about them.

Let me thank also our colleagues who were really indispensable. One of the things that makes it so satisfying to work on our committee, as well as being productive, is there is a great coming together by Democrats and Republicans.

I think the markups were enormously spirited with very good debate and discussion of different viewpoints. But there is a great deal of respect for the opinions of each other. In our committee we have tried to work out some special responsibilities. All members have had great commitment in the area of education.

Of course, when we think of Senator DODD, we think of the children's caucus and all the good work he has done in those areas, particularly in the afterschool programs.

TOM HARKIN: We think of his efforts to make sure we are going to have modern classrooms for our children.

Senator MIKULSKI has been singular in her work in trying to focus on the digital divide to make sure we are not going to have the disparities in the digital divisions what we have had in educational divisions. She has been lightyears ahead of the rest of us in understanding this and in helping us to try to minimize it.

JEFF BINGAMAN knows more about accountability than any other Member and has been such a leader in this area.

Senator WELLSTONE has been so passionate on so many different issues. I can think of his contributions, particularly on this legislation, to try to make sure we address the quality of our testing and to make sure that children are going to be treated fairly and equitably. I know he has serious reservations about many of these provisions. Our committee is so much the better for having Senator WELLSTONE, as is the Senate.

JACK REED comes from a long tradition of interest in education, not only since he has been in the Senate but also as a House Member. He follows in the Senate Claiborne Pell, who was chairman of our Education Committee. Senator REED understands the importance of quality education and the importance of parental involvement, and also the recognition of libraries as a special priority to children. I still think we missed some important opportunities in being able to adopt some of the Reed amendments because we are enhancing dramatically the reading programs which the President has stood behind. We need good, effective libraries over the long range. JACK REED understands this.

Senator MURRAY—I can still hear her eloquent pleas for us to go to smaller class size—as a former schoolteacher, brings dimension to our education issues which are unique. Senator EDWARDS, who is so much involved in the development of the education policy in North Carolina, which has really been singular in its achievement, shared with us these extraordinary lessons and made valuable contributions.

Senator CLINTON probably has spent more time in schools in New York and as much as any Member of the Senate has spent time in schools, learning and speaking. Of course, we were advantaged by the fact that when she arrived on our committee, she already had a lifetime of involvement in children's issues and educational issues. Since she arrived on that committee, from the first day we benefited from her experience.

I also thank Connie Garner of my staff for her tireless dedication. She has worked on issues involving the disabilities questions. She left a sickbed. She was there 3 weeks ago in a very important medical condition, from which she has recovered. But she was quick to put aside the attention to her own health in order to be in here and be with us on these debates on matters dealing with disability. She is the proud mother of eight, at last count. Connie is the proud mother of a disabled child, and she has made an extraordinary mark on disability policy.

I want to finally thank the one who pulled all of this together for our committee, Michael Myers, with whom I have had the good opportunity to work on many different policy issues for years, starting with refugees years and years ago, longer than he may want to remember. He has the extraordinary ability to make a lot of different issues, policy questions, and problems a great deal easier. He is a problem solver with rare qualities. In an undertaking such as we had, he was absolutely, extraordinarily valuable.

I thanked earlier Senator JEFFORDS and spoke about his very special contributions.

I also thank Senator GREGG, who has spent a good deal of time here on the floor. I always enjoy working with him—more often when we agree than when we disagree. But it is always a pleasure.

Senator FRIST—who has worked on education—and I have worked closely together on health care.

I thank Senator HUTCHISON, Senator COLLINS, and other members of our committee.

We had the benefit also of Senator LIEBERMAN and Senator BAYH. Senator BAYH took special interest in education as a Governor. After being Governor, he brought those interests here to the Senate. He is not a member of our committee but is as thoughtful about issues on education as one can possibly imagine. Senator LIEBERMAN has made education one of his great areas of specialization and has been both an enormously helpful and valuable ally as we have pursued this issue.

I thank all of the outside groups who have worked with us. We tried to communicate as much as we possibly could as we were working through this process. We tried to do as good a job as we could. I thought we did a decent job. I am sure there are people to whom we owe an apology. I extend that apology. If we weren't able to get to you, or answer your questions on some of these matters, we will take the opportunity now and invite those who are concerned about this to examine this bill and to give us their ideas as we go to the conference. We are very grateful for all of the outside help and assistance we had.

I commend all the students, parents, and teachers who left an indelible mark on this legislation, and thank them for their commitment and willingness to put aside the divisions of the past and find constructive compromise to improve education for all students and all public schools across the country. It is a good bill. It has strong support.

I thank the floor staff, who are always available to us and who are invaluable in working through complex and difficult situations on the floor. They have been absolutely superb, wonderful professionals.

Finally, I thank Senator HARRY REID who was absolutely instrumental. He is not on our committee, but I think at the end of these 8 weeks he knows more about education than perhaps he intended to at the start of this legislation. He is learning more about every bill because there isn't an ally—having been here as long as I have been and having had the good fortune to be a floor manager of legislation—there is no one who has greater value as a floor manager than the Senator from Nevada. He has extraordinary skills, and he uses them in amazing ways. He was able to get things achieved and move this process along. People might ask, Well, how much of a difference does it make? It makes the difference between success and failure. Make no mistake about it, it makes the difference between success and failure. And we would not be here with that success in terms of the strong support of the Members of this body tonight had it not been for my friend and colleague, Senator REID. I am enormously grateful to him for all of his good work. I thank him for all he has done. We look forward to seeing him in harness next week on the Patients' Bill Of Rights. And hopefully he will be able to dispose of those 300 amendments, as he was able to dispose of the 300 amendments that were offered to this bill and get us to final passage.

Finally, I thank the clerks and also all the pages for their help and assistance during this time.

Mr. REID. Will the Senator yield?

Mr. KENNEDY. I will be glad to yield.

Mr. REID. I was not coming to hear the laudatory remarks of the Senator, but I appreciate having heard them. It

is not often in the Senate we have the opportunity to say good things about each other; We are busy trying to get an amendment adopted or give a speech we need to give, and all the things we need to do.

But I cannot help but reflect on the time I have had to spend with the Senator from Massachusetts on this bill because my mind goes back to when I was just a boy, a student at Utah State University. I say to the Senator, your brother was running for President, and I was enthused about helping him. I was in Republican territory, Utah State University in Logan, UT. So I formed at that university a young Democratic club: Young Democrats. And one of the prize possessions I have in the world is a letter written by John Kennedy after that successful election. I have it hanging on the wall in my office in the Hart Building, where he acknowledged we formed this club and perhaps helped him a little bit.

I told the Senator the first day I came to the Senate what an honor it was for me to serve with TED KENNEDY, a person who is one of the well-known people of the world, who has been such an example for how you deal with your family for all of us.

For me, on a personal basis, I say to the Senator, to be able to legislate with you has been a dream of a lifetime. And then to have the senior Senator from Massachusetts say some nice things about me is even something that I never dreamed would happen. So there is mutual admiration. I appreciate the Senator's nice remarks.

Mr. KENNEDY. I thank the Senator and yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, I did not have the opportunity to hear all of the remarks made by our distinguished colleagues, but I also come to the floor to congratulate our colleague, Senator KENNEDY, for the remarkable job he has done in getting us to this point. I think it is fair to say—I hope the country understands this—this bill would not be where it is today, we would not have passed it 91–8, if it were not for his persistence, his incredible leadership, and the ability he has to once again bring both sides together.

I have had the good fortune now to work with our colleague from Massachusetts on so many things, and I am awed, I am inspired, and I am, indeed, grateful for his friendship and for the extraordinary leadership he provides. So I thank him and congratulate him in particular.

Let me also congratulate our colleague, Senator JEFFORDS. He has gone through a very difficult period. He began by providing us with leadership on the Republican side as we took up this piece of legislation—now as an Independent, caucusing with us. He has voted and supported this legislation all the way through. His leadership, his commitment, his work also deserve special recognition.

He is not in the Chamber at this time, but I just want to say, on behalf of the entire Senate, we thank him for what he has done and the manner in which he has done it.

Of course, there are many others who have been very active. I cite especially Senator LIEBERMAN and Senator BAYH for their efforts in working with Senator KENNEDY. They have been extraordinary in their efforts to find common ground.

We started in our caucus in some ways divided. We ended this whole debate more unified on education than we have been in a long time, and it is in part because of the work they have done.

Senator DODD, with his passion, his commitment, deserves special recognition as well. I salute him for the efforts he made to find ways to address the concerns he has with the bill. I thank him for his participation.

Let me finally say, as Senator KENNEDY has, and others have already noted, the one person who is not on the HELP Committee who probably had as much to do with getting this job done as anybody has—or ever will on a piece of legislation—is our assistant Democratic leader. You can only love HARRY REID if you know him. And I don't know of anybody who does not love him and have the affection for him that I do. He once again demonstrated his value not only to our caucus but to the Senate and to the country with the manner and the tremendous ability he demonstrates in working with us each and every day. He is the single best person any manager could ever hope to have as they work to try to resolve outstanding differences, scheduling conflicts, and the array of challenges we face in trying to work through any bill.

So I acknowledge and congratulate our dear friend, Senator HARRY REID, our assistant Democratic leader, for the work he has done in getting us to this point.

I will have a number of matters to raise as we prepare to close, Madam President, but at this point I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, before the Senator from South Dakota, the majority leader, leaves the Chamber, on behalf of Senator KENNEDY and myself, I would like to acknowledge, Mr. Leader, that it is nice you said good things about us—and we really appreciate it—but everyone should know, especially the people in South Dakota, that when things got rough out here, we always had to turn to you.

We were able to do a lot of things. We had a good time working together. We enjoyed our partnership. But when it came time to make the really tough decisions, we had to turn to you.

I would like to say this is the first real week of your leadership as majority leader. I hope this is a message of things to come because we were able, on a bipartisan basis—this was not the Democratic leadership pushing things through. We had to turn to you, and when it really got tough, we were able to work this out. There was no better example of that than today. It is a small miracle we finished today.

We had to go back to the office, bring you out here, and as a result of that, it was above our pay grade—Senator KENNEDY and I—but it certainly is not above your pay grade. As I have said so many times—and I appreciate your kind remarks about me —neither one of us could have made this bill happen but for you.

Mr. KENNEDY. Will the Senator yield?

Mr. REID. Yes.

Mr. KENNEDY. I don't think we called on him more than 25 times a day, asking him to come out here to help us out.

But in a serious way, I just underline what Senator REID has said: The ultimate credit for this achievement is with the leader of the Senate; that is, our new leader and our friend, Senator DASCHLE. I think all of us understand that is what leadership is really about. We were able to get this done and done in a bipartisan way.

Senator DASCHLE announced when he assumed the leadership the way he wanted this institution to be run, and that is the way it was run. Members all through this debate were able to have their views either voted on or considered, unfettered by parliamentary gimmicks. The abuse of parliamentary technique was not in play. There was full, open, frank debate and discussion and accountability. It is a breath of fresh air in terms of the functioning of this body. It is really what I think most of us believe this body is really all about.

It is a real honor and pleasure to know TOM DASCHLE is leading this institution. I thank him for his words.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I also express my appreciation for all who have been involved in this bill.

I say to Senator KENNEDY, a number of people on this side of the aisle have expressed their appreciation for your leadership. You are a great advocate, but also you manage a bill very well.

Mr. KENNEDY. I thank the Senator.

Mr. SESSIONS. The process that we utilized worked well. Everybody got their votes and got their say. Matters went along fine.

President Bush, as a Governor, committed to doing something about education in his State. He was hands on in that effort. As a result, he knew something about education when he ran for President. He determined that it would not be business as usual. He was convinced that children were being left behind, that they were finding themselves in seventh, eighth, and ninth grades unable to do basic education work, and tragedies were in store for them. He got to know some outstanding individuals in education in

Texas. One was Dr. Rod Paige, the superintendent of the Houston school system, 207,000 students, one of the largest in America.

Secretary Paige had made some real progress there. When he took over in 1995 in that school system, he found only 37 percent of the students were passing the basic Texas test. He had been the dean of a school of higher education. He determined that they could do better, and he insisted that they do better. In 5 years, he doubled that number—1 percentage point from doubling —to 73 percent passing.

President Bush saw that. He appreciated that achievement. He was determined to try to bring that kind of progress throughout America. That is why he selected Dr. Rod Paige as his Secretary of Education.

Dr. Paige eliminated social promotion. He improved testing. He cracked down on schools that did not work, and he cracked down on discipline problems. It was a real achievement of an extraordinary degree that should give us all hope that we can make much better progress with education than we think.

My wife taught. I have been in 20 schools this year. There are teachers around this country teaching their hearts out every day, giving their level best to education. If we can create a system that nurtures them and allows their talents to flourish and not be clamped down by rules and regulations and such, I believe we have the potential for extraordinary progress in education.

Finally, I note that testing is critical because if you love children and you care about them and you do not want them to fall behind, you will find out how they are doing. The parents need to know. The teachers need to know. The principals need to know. Everybody needs to know whether learning is occurring.

When a child is falling behind in basic reading and math—and they will have to be tested in this program—then you can deal with it. If we let them get to junior high, high school, ninth grade, typically, and they can't do basic math and can't read effectively, they drop out. That is a great tragedy. They will be left behind. We should not allow that.

This bill will move us forward. The President will support unprecedented increases in education this year, but he wants that kind of reform. It is part of the bill. I am confident it will come out of the conference committee in a way that he can support.

I thank Senator DASCHLE for his leadership and his time in the late evening.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, I compliment the distinguished Senator from Alabama for his comments. I agree with much of what I heard. I think he is absolutely right. This is a real accomplishment. And for people who care about education on both sides of the aisle, we made real progress today. I am proud to be a part of it. I appreciate his comments.

Madam President, I want to acknowledge the leadership of Senator LOTT, our Republican leader. He was majority leader when we started. We had a number of discussions as we considered how to take up this bill. It was Senator LOTT who said: We are going to take it up, and we are going to let amendments roll. We are going to let amendments be offered. We are not going to use extralegal parliamentary devices. We are going to stay with the agreement we had under the power sharing. He did it, and he did it with real style.

The day should not end without a recognition of Senator LOTT's commitment in that regard and the leadership he provided to allow us to complete the bill today.

Senator JUDD GREGG from New Hampshire also deserves special recognition. He stepped in at the end, completed the bill, as the Republican manager. I acknowledge his leadership as well.

COMMEMORATION OF FLAG DAY

Mr. THURMOND. Mr. President, two hundred and twenty-four years ago today, the United States was engaged in its War for Independence. I note that the American Continental Army, now the United States Army, was established by the Continental Congress, just two years earlier on June 14, 1775. I express my congratulations to the United States Army on its 226th birthday.

At the start of that War, American colonists fought under a variety of local flags. The Continental Colors, or Grand Union Flag, was the unofficial national flag from 1775–1777. This flag had thirteen alternating red and white stripes, with the English flag in the upper left corner.

Following the publication of the Declaration of Independence, it was no longer appropriate to fly a banner containing the British flag. Accordingly, on June 14, 1777, the Continental Congress passed a resolution that ''the Flag of the United States be 13 stripes alternate red and white, and the Union be 13 stars white and a blue field representing a new constellation.''

No record exists as to why the Continental Congress adopted the now-familiar red, white and blue. A later action by the Congress, convened under the Articles of Confederation, may provide an appropriate interpretation on the use of these colors. Five years after adopting the flag resolution, in 1782, a resolution regarding the Great Seal of the United States contained a statement on the meanings of the colors: red—for hardiness and courage; white—for purity and innocence; and blue for vigilance, perseverance, and justice.

The stripes, symbolic of the thirteen original colonies, were similar to the five red and four white stripes on the flag of the Sons of Liberty, an early colonial flag. The stars of the first national flag after 1777 were arranged in a variety of patterns. The most popular design placed the stars in alternating rows of three or two stars. Another flag placed twelve stars in a circle with the thirteenth star in the center. A now popular image of a flag of that day, although it was rarely used at the time, placed the thirteen stars in a circle.

As our country has grown, the Stars and Stripes have undergone necessary modifications. Alterations include the addition, then deletion, of stripes; and the addition and rearrangement of the field of stars.

While our Star-Spangled Banner has seen changes, the message it represents is constant. That message is one of patriotism and respect, wherever the flag is found flying. Henry Ward Beecher, a prominent 19th century clergyman and lecturer stated, ''A thoughtful mind, when it sees a Nation's flag, sees not the flag only, but the Nation itself; and whatever may be its symbols, its insignia, he reads chiefly in the flag the Government, the principles, the truths, and the history which belong to the nation that sets it forth.''

Old Glory represents the land, the people, the government and the ideals of the United States, no matter when or where it is displayed throughout the world—in land battle, the first such occurrence being August 16, 1777 at the Battle of Bennington; on a U.S. Navy ship, such as the *Ranger*, under the command of John Paul Jones in November 1777; or in Antarctica, in 1840, on the pilot boat *Flying Fish* of the Charles Wilkes expedition.

The flag has proudly represented our Republic beyond the Earth and into the heavens. The stirring images of Neil Armstrong and Edwin Aldrin saluting the flag on the moon, on July 20, 1969 moved the Nation to new heights of patriotism and national pride.

Today we pause to commemorate our Nation's most clear symbol—our flag. An early account of a day of celebration of the flag was reported by the Hartford Courant suggesting an observance was held throughout the State of Connecticut, in 1861. The origin of our modern Flag Day is often traced to the work of Bernard Cigrand, who in 1885 held his own observance of the flag's birthday in his one-room schoolhouse in Waubeka, Wisconsin. This began his decades-long campaign for a day of national recognition of the Flag. His advocacy for this cause was reflected in numerous newspaper articles, books, magazines and lectures of the day. His celebrated pamphlet on ''Laws and Customs Regulating the Use of the Flag of the United States'' received wide distribution.

His petition to President Woodrow Wilson for a national observance was rewarded with a Presidential Proclamation designating June 14, 1916 as Flag Day. On a prior occasion President Wilson noted, ''Things that the flag stands for were created by the experiences of a great people. Everything

that it stands for was written by their lives. The flag is the embodiment, not of sentiment, but of history. It represents the experiences made by men and women, the experiences of those who do and live under the flag.''

Flag Day was officially designated a National observance by a Joint Resolution approved by Congress and the President in 1949, and first celebrated the following year. This year, then, marks the 51st anniversary of a Congressionally designated Flag Day.

It is appropriate that we pause today, on this Flag Day, to render our respect and honor to the symbol of our Nation, and to review our commitment to the underlying principles it represents. Today, let us reflect on the deeds and sacrifices of those who have gone before and the legacy they left to us. Let us ponder our own endeavors and the inheritance we will leave to future generations.

Finally, as we commemorate the heritage our flag represents, may we as a Nation pledge not only our allegiance, but also our efforts to furthering the standards represented by its colors—courage, virtue, perseverance, and justice. Through these universal concepts, We the People can ensure better lives for ourselves and our children, for these are the characteristics of greatness. In doing so, we can move closer to the goal so well stated by Daniel Webster at the laying of the cornerstone of the Bunker Hill Monument on June 17, 1825. On that occasion he said, ''Let our object be our country, our whole country, and nothing but our country. And, by the blessing of God, may that country itself become a vast and splendid monument, not of oppression and terror, but of Wisdom, of Peace, and of Liberty, upon which the world may gaze with admiration forever.''

I have long supported legislation which imposes penalties on anyone who knowingly mutilates, defaces, burns, tramples upon, or physically defiles any U.S. flag. I have also supported a constitutional amendment to grant Congress and the States the power to prohibit the physical desecration of the U.S. flag. I regret that the Senate has yet to adopt a Resolution for a flag protection Constitutional amendment.

I am pleased that the Senate adopted a Resolution to provide for a designated Senator to lead the Senate in reciting the Pledge of Allegiance to the Flag of the United States. This has added greatly to the opening of the Senate each day.

Today I encourage my colleagues and all Americans to take note of the history and meaning of this 14th day of June. We celebrate our Flag, observing its 224th birthday, and the 226-year-old Army which has so proudly and valiantly defended it and our great Nation.

MICHIGAN'S GUN LAWS

Mr. LEVIN. Mr. President, on New Years Day 2001, the Governor of Michigan signed into law a bill to take discretion away from local gun boards to issue concealed gun licenses and require authorities to issue concealed weapons licenses to any one 21 years or older without a criminal record, with limited exceptions. Under the law, the number of concealed handgun licenses in our State would grow by 200,000 to 300,000 a ten-fold increase. Needless to say, the law has the potential to increase gun violence in Michigan and endanger the lives of thousands of people. Istrongly believe that this law is better suited to the old West than the new millennium.

I am pleased to report that hundreds of thousands of my fellow Michiganders agree with me. While the law was scheduled to take effect on July 1st of this year, a coalition of law enforcement and community groups from across our State called the People Who Care About Kids collected 232,582 signatures on a petition to suspend the law and put it before the voters in 2002. One of those signatures was mine.

Now the issue is before the courts. Just last month, a State Appeals Court ruled unanimously that the referendum process should proceed. And this Wednesday the Michigan Supreme Court heard arguments on whether the Appeals Court ruling should stand. For the good of my State and for the safety of its citizens, I hope that the Supreme Court upholds the lower court ruling and lets the voters decide the issue. If voters are given the opportunity, I am confident that this wrongheaded effort to roll back Michigan's gun laws will be defeated.

BUDGET PROCESS

Mr. HOLLINGS. Mr. President, in this morning's Washington Post we finally hear the truth. President pro tempore ROBERT C. BYRD tells it like it is. Republican and Democrat, White House and Congress, and the people generally take heed.

I ask consent that an article from the Washington Post be printed in the RECORD.

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

[From the Washington Post, June 14, 2001]

INHERITED MESS

(By Robert C. Byrd)

The president's budget director, Mitchell Daniels, has made an impassioned plea [opted, June 5] for Congress to achieve an ''orderly and responsible budget and appropriations process'' this year despite the sudden turn-about in the Senate from Republican to Democratic control

While lauding the president's continuing efforts to civilize the tone of business in Washington, Daniels blamed Congress for routinely circumventing budget resolution ceilings to fund runaway appropriations. This year, he predicted, would have been different had the Republicans maintained control of the Senate, and he exhorted Democrats to withstand the siren song of ''games and gimmicks'' in the appropriations process so as to avoid upsetting the budget apple cart.

Unfortunately, the deck is stacked against the appropriators. The dice are loaded. The wheel is rigged. Regardless of whether a Democrat or a Republican chairs the Appropriations Committee, the unrealistically low budget targets and tax-cut combo will again perpetuate a yearly hoax on the American people.

Despite all the brave talk of fiscal restraint, the Appropriations committees will quietly be asked to spend more money than the budget allows. We know the president will ask us to spend billions more on defense. We know we will be asked to spend billions more on education. We know we have billions of dollars in both unmet and unanticipated needs that we will have a responsibility to fund.

We know this. The president knows this. The president's budget director well knows this. The American people should know this. The American people are entitled to truth in budgeting. These programs are not just the priorities of a Democratic Senate. These are the priorities of the president. They are the priorities of the nation. They have to be addressed.

Here is the true state of affairs. The budget pays lip service to sizable funding increases for national security, but it doesn't back up its promises with the necessary resources. For non-defense programs, the budget falls $5.5 billion below the level necessary just to keep pace with inflation. What this means is that the nation is fiscally frozen in time, unable to reduce massive backlogs in critical programs that have been piling up for years, and equally unable to anticipate emerging needs.

Simply put, the budget resolution and the tax cut combined deny the resources that Congress—regardless of which party is in power—needs to meet a growing nation's requirements. The scarce dollars that are needed for education, Social Security, Medicare, prescription drug benefits and the many other important priorities of the American people will have to come from somewhere.

Democrats do not want to resort to gimmicks or game. We were outraged when the Republicans resorted to them—when they hijacked the budget from the Budget Committee over the objections of the Democrats, and then added insult to injury by shutting Democrats out of the conference process. But when a budget resolution allows for a massive tax-cut proposal yet fails to allow for the increased funding for national defense and for education that we all know the president will request, the ''evasions and gimmickry'' have begun.

Appropriators welcome cooperation. We encourage flexibility. We seek good-faith dealings with the White House and with both sides of the aisle. We ask only that the administration reciprocate in kind. A good place to start would be to avoid preemptive finger pointing in the media.

To attempt to back the Senate Appropriations Committee into a corner by suggesting that Democrats are suddenly in a position to derail ''the first orderly, responsible budget and appropriations process in many years'' is to belie the facts. The budget process was anything but ''orderly and responsible'' this year. In fact, the budget process has been convenient political cover for ''games and gimmickry'' for several years. And we all know it.

This is the scenario that the Democratic Senate has inherited, and this is the reality that Congress and the administration face in the coming months as we work our way through the appropriations process.

The Senate Appropriations Committee will review the details of the president's budget and we will, on a bipartisan basis, do our best to produce 13 responsible and disciplined

appropriations bills. It is my hope that we can address this daunting challenge in a spirit of cooperation, and work together to replace partisan rhetoric with responsible solutions.

And if OMB Director Daniels really wants to help his president change the climate in Washington, he can work to stop the blame game in its very tired tracks.

ACADEMIC ACHIEVEMENT IN PORTLAND PUBLIC SCHOOLS

Mr. SMITH of Oregon. Mr. President, I rise today to commend the exceptional achievement of 8 schools in Portland, OR: Humboldt, Marysville, Chief Joseph, Woodmere, Clark, Grout, Kenton and Vestal Elementary Schools.

We have spent 8 weeks in this Chamber talking about education. We have debated the best ways to educate America's children, to raise academic achievement of disadvantaged students, and change failing schools into successes. While we have been busy talking, schools in my home State have been working hard to educate our children.

I want to make special mention of eight schools in the Portland Public School District. Over the past 3 years, these remarkable schools—where more than half of the students come from low income families—made greater strides in raising student test scores than all others in the school district. Due to the hard work of students, parents, teachers, and principals, reading and math scores have significantly improved, the achievement gap between poor and minority students and white students narrowed, and parents, including those new to our country, became part of the fabric of the school community.

Today, I commend the principals and teachers of these great schools. These educators represent an ideal. They are dedicated; they are creative; and they transform children into scholars. They will do anything for their students, even work extra jobs to earn money to buy books for their students. Their hard work has helped their students achieve record academic improvement today and it has set the stage for these children's success for years to come. I thank them for their efforts.

I also thank the parents of these children. They have made a real difference in their children's education by volunteering at school, reading with their children, and encouraging their students to devote their best efforts to their studies.

Above all, I salute the students of these outstanding schools. The countless hours they have spent inside and outside the classroom practicing their reading and writing, working math problems, and conducting science experiments have not been in vain. They have paid off in a remarkable way. Many of these students don't speak English as their first language; many come from low income families; and all are from areas of the city which had never expected to see such success. Yet these very students have realized this extraordinary accomplishment.

The improvements in the test scores of these children are incredible. The Oregonian newspaper reports the following: At Humboldt [Elementary], 71 percent of fifth graders in 2000 met or exceeded math benchmarks. Only 31 percent of those students met math standards as third graders in 1998. At Marysville Elementary in Southeast Portland, 78 percent of fifth-graders met math benchmarks in 2000. Thirty-two percent of those students passed the State math test as third graders.

But even more important than these significant gains in test scores, these dedicated students have cultivated a love of learning that will last the rest of their lives. This thirst for knowledge guarantees that this is just the first of many successes to come.

A study by the Portland Public Schools Foundation attributed the advances of these schools to the same principles we have been discussing here: strong principals, high parent involvement, and professional development opportunities for teachers.

I share the achievement of these students with my colleagues because it reminds every member of the U.S. Senate that better education is becoming a reality across America. Our work here is important, but the true source of academic achievement is the dedication, the dreams, and the hard work of students, teachers, and principals like these in Portland. The best we can do is to give them the tools they need to succeed.

In closing, allow me to commend, once again, the students, parents, and educators in these schools for this great accomplishment, for the hope they give us, and for the high standard they set for all of us.

REMEMBERING THE MIA'S OF SULTAN YAQUB

Mr. SCHUMER. Mr. President, I rise today to ask my colleagues to join me in remembering the Israeli soldiers captured by the Syrians during the 1982 Israeli war in Lebanon.

On June 11, 1982, an Israeli unit battled with a Syrian armored unit in the Bekaa Valley in northeastern Lebanon. Sergeant Zachary Baumel, First Sergeant Zvi Feldman, and Corporal Yehudah Katz were captured by the Syrians that day. They were identified as an Israeli tank crew, and reported missing in Damascus. The Israeli tank, flying the Syrian and Palestinian flag, was greeted with cheers from bystanders

Since that terrible day in 1982, the governments of Israel and the United States have been doing their utmost by working with the office of the International Committee of the Red Cross, the United Nations, and other international bodies to obtain any possible information about the fate of the missing soldiers. According to the Geneva Convention, Syria is responsible for the fates of the Israeli soldiers because the area in Lebanon where the solders disappeared was continually controlled by Syria. To this day, despite promises made by the government of Syria and by the Palestinians, very little information has been released about the condition of Zachary Baumel, Zvi Feldman, and Yehudah Katz.

Monday marked the anniversary of the day that these solders were reported missing in action. Nineteen pain-filled years have passed since their families have seen their sons, and still Syria has not revealed their whereabouts nor provided any information as to their condition.

One of these missing soldiers, Zachary Baumel is an American citizen, from my home of Brooklyn, NY. An ardent basketball fan, Zachary began his studies at the Hebrew School in Boro Park. In 1979, he moved to Israel with other family members and continued his education at Yeshivat Hesder, where religious studies are integrated with army service. When the war with Lebanon began, Zachary was completing his military service and was looking forward to attending Hebrew University, where he had been accepted to study psychology. But fate decreed otherwise and on June 11, 1982, he disappeared with Zvi Feldman and Yehudah Katz.

Zachary's parents Yonah and Miriam Baumel have been relentless in their pursuit of information about Zachary and his compatriots. I have worked closely with the Baumels, as well as the Union of Orthodox Jewish Congregations of America, the American Coalition for Missing Israeli Soldiers, and the MIA Task Force of the Conference of Presidents of Major American Jewish Organizations. These groups have been at the forefront of this pursuit of justice. I want to recognize their good work and ask my colleagues to join me in supporting their efforts. For nineteen years, these families have been without their children. Answers are long overdue.

I am not only saddened by the plight of Zachary Baumel, Zvi Feldman, and Yehudah Katz, but I am disheartened and angered by the fact that even as we continue to search for answers about their welfare, we must add more names to the list of those for who we have no knowledge of their location, health, or safety.

In a clear-cut violation of international law, three Israeli soldiers were abducted by Hezbollah on October 7, 2000 while on operational duty along the border fence in the Dov Mountain range along Israel's border with Lebanon. The soldiers—Sergeant Adi Avitan of Tiberias, Staff Sergeant Binyamin Avraham of Bnei Brak, and Staff Sergeant Omar Souad of Salma—are believed to have been wounded during the incident.

According to an investigation by the IDF Northern Command, Hezbollah terrorists set two roadside bombs, then

crossed through a gate near the fence, pulled the three soldiers out of their jeep and fired anti-armor missiles at the empty vehicle. The solders were then taken by the terrorists to the Lebanese side of the border. Although the United States has called on Syria to assist in the timely release of these three soldiers, no information has been given as to their conditions or whereabouts. The International Red Cross has also been requested to intervene by attempting to arrange for a visit with the three kidnapped IDF soldiers in order to ascertain their status.

The agony of the families of these kidnapped Israeli solders is extreme. They have not heard a word regarding the fate of their sons who are being held captive for political ransom. We must pledge to do our utmost to bring these soldiers home, for the sake of peace, decency and humanity.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. 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 want to describe a terrible crime that occurred June 20, 1993 in Everett, Washington. A gay man was stabbed to death by a hitchhiker who allegedly told friends he committed the crime because he hated homosexuals. Isaiah Clarence Enault, 24, was charged with murder and is a suspect in a stabbing assault of another gay man.

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.

HONORING CLAY COUNTY LEGACY MEMORIAL AND FOUNTAIN

Mrs. CARNAHAN. Mr. President, I would like to take this opportunity to honor the residents of Clay County, MO for their vision, harmony, and unity. At a time when some communities are engaged in divisive debates regarding our Nation's past, Clay County residents have chosen to dedicate a monument and water fountain on the county courthouse lawn honoring the unsung black heroes and heroines who survived slavery and helped make Clay County a successful and thriving community in the heartland.

Tomorrow, Friday, June 15, the Clay County Commission and the Clay County African-American Legacy Consortium will dedicate the Legacy Memorial and Fountain honoring Clay County African-American pioneers and their contributions to this county, first in slavery, and then in freedom. The location of the memorial and fountain is especially significant since slaves were once sold from the courthouse steps and African-Americans were required to drink from separate water fountains in that very building.

The monument will list over 150 Clay County African-Americans and their contributions to this community dating back to 1800. Included in the monument's listing are Vennie and Lulu Fielder. Mr. and Mrs. Fielder both became entrepreneurs, opening Fielder Hardware and Box Company in Kansas City, Missouri, and Lulu Fielder's Sandwich Shoppe. Mrs. Lulu Fielder is now the oldest living African-American native resident of Clay County at the young age of 102. Mrs. Fielder will take the first ceremonial drink from the water fountain at tomorrow's celebration. And with that drink, Lulu Fielder will epitomize the words inscribed on the monument, ''come, drink, all who thirst for freedom; the water fountain will no longer separate us as a people.''

Congratulations to the Clay County Commission, the Clay County African-American Legacy Consortium, and all Clay County residents. Thank you for making me proud to be a Missourian.

NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

Mr. MILLER. Mr. President, in education everyone claims to be for high standards. That's the good news. But a lot of folks only want to be measured by their own standards, and they don't have a very good way of knowing whether their standards are high or, more importantly, whether they are high enough.

That is why I am for measuring educational progress in America by having each State use its own standards and tests and then confirming progress by using a high-quality back-up examination. The National Assessment of Educational Progress is just such an instrument. It will help us get more information about achievement in our States and provide an independent second opinion that our student achievement progress is reaching all of our students and that we are not raising our scores just by getting a few more of our better students to do better.

In the past ten years 49 States have used the National Assessment in one form or another. This has not led to a national curriculum and it is not going to. On average, more than 40 States have participated in any one year. Last year the State school superintendent or commissioner in 48 States signed up to participate.

In the National Assessment's 30 years, never has a State or district expressed concern that it was being coerced to teach to the National Assessment tests. In fact, each test is developed through a national consensus process in which State standards and assessments are considered. Before deciding to participate, each State reviews the National Assessment content. State participation in the test development process ensures that the National Assessment is a fair representation of the material in math, reading and other subjects that states already believe is important to test.

MISSOURI BOYS STATE

Mrs. CARNAHAN. Mr. President, Saturday, June 16 starts the 62nd session of Missouri Boys State. Founded in 1938 by the Missouri American Legion, Missouri Boys State has educated over 33,000 young men on the basic principles of democracy. For more than 60 years, Missouri Boys State has lived up to its motto and has made an ''investment in our State's greatest resource—the youth of Missouri.''

Boys State was started in 1934 in Illinois by Dr. Hays Kennedy and Harold Card, and was designed to teach democratic ideals to America's youth. The four founding members of Missouri Boys State, Jerry F. Duggan, Harry M. Gambrel, Dr. Truman L. Ingle, and A.B. Weyer, did not realize that Missouri's program would develop into one of the most successful and prestigious programs in the country for youth involvement. The Missouri Boys State program has become one of the most revered honors bestowed upon high school boys in Missouri.

The first session occurred in Fulton, MO in 1938 with 129 young men. This year's session is expected to draw over 1,000 participants including over 100 counselors. From that very first session in 1938 to today, the same message rings true—''Democracy depends on me!'' Boys State continues to stress the important aspects of serving the public and one's community.

The success of Missouri Boys State continues today. In July of 1999, a high school student from Columbia, Missouri, Ryan Rippel, was elected President of Boys Nation. Boys Nation, sponsored annually by the American Legion, is a program by which select students from across the nation gain first-hand experience in how our federal government works through mock Senate activities.

Missouri Boys State has had wide community and public support. Over 500 civic organizations and individuals contribute to the success of this program. A memorial trust was established in 1982 to ensure the continuation of Missouri Boys State. The Missouri Boys State Scholarship fund was established in 1993 to provide a renewable, 4-year college scholarship for the participant that earns the ''Citizen of the Week'' honor. And the Martin Luther King, Jr. Scholarship program was established in 1989 to ensure the continued participation of minority students.

Missouri Boys State plays an integral role in developing our youth in Missouri. Therefore, I ask that my colleagues recognize all that Boys State

does for our young men and wish them well as they open their 2001 session.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, June 13, 2001, the Federal debt stood at $5,681,952,015,740.15, Five trillion, six hundred eighty-one billion, nine hundred fifty-two million, fifteen thousand, seven hundred forty dollars and fifteen cents.

One year ago, June 13, 2000, the Federal debt stood at $5,651,369,000,000, Five trillion, six hundred fifty-one billion, three hundred sixty-nine million.

Five years ago, June 13, 1996, the Federal debt stood at $5,139,482,000,000, Five trillion, one hundred thirty-nine billion, four hundred eighty-two million.

Ten years ago, June 13, 1991, the Federal debt stood at $3,494,282,000,000, Three trillion, four hundred ninety four billion, two hundred eighty-two million.

Fifteen years ago, June 13, 1986, the Federal debt stood at $2,046,290,000,000, Two trillion, forty-six billion, two hundred ninety million, which reflects a debt increase of more than $3.5 trillion, $3,635,662,015,740.15, Three trillion, six hundred thirty-five billion, six hundred sixty-two million, fifteen thousand, seven hundred forty dollars and fifteen cents during the past 15 years.

ADDITIONAL STATEMENTS

TRIBUTE TO HERBERT SAFFIR

● Mr. GRAHAM. Mr. President, today I would like to recognize an outstanding Floridian, Mr. Herbert Saffir. Herb Saffir graduated from the Georgia Institute of Technology in 1940 with a bachelor's degree in civil engineering. He served in the Army during World War II and worked as an engineer with federal agencies and private-sector firms in New York, Ohio, Tennessee, and Virginia before moving to South Florida in 1947. For the next 12 years he was an assistant county engineer for Miami-Dade County. In 1959, he started his own structural engineering firm, Herbert Saffir Consulting Engineers, in Coral Gables, FL.

Herb Saffir is considered one of the foremost experts on engineering buildings to resist damage by high winds. His expertise was so integral in the formulating of the building codes in South Florida that he is known as the ''father of the Miami building code.'' Although this is a great achievement, Herb Saffir's accolades go even further.

In 1972, Robert Simpson, former Director of the National Hurricane Center had difficulty describing to emergency management and disaster officials what kind of damage to expect from approaching hurricanes. It was determined that a scale was needed to give disaster officials an idea of what to expect from a storm. Herb Saffir was enlisted to work with Simpson on this project. Together they created the Saffir-Simpson Damage Potential Scale, which established the five categories of hurricane severity. The Saffir-Simpson Scale is still used today and is a vital tool to assess the possible destruction associated with an approaching hurricane.

When Hurricane Andrew tore through Florida in August 1992, weather forecasters relayed information on the powerful storm to concerned citizens using the ratings system. But, Herb Saffir was not satisfied to just lend his name to the efforts to mitigate damage from Hurricane Andrew. He also lent a hand. Using his vast engineering knowledge and experience, Mr. Saffir was integral in the rebuilding of South Florida. He was recognized for his efforts with the Florida Engineering Society's Engineer of the Year Award in 1994.

Mr. Saffir work continues to be recognized today. The American Society of Civil Engineers recently recognized Mr. Saffir for his research and development of wind-damage analysis on structures, and for the creation of the Saffir-Simpson Scale now used extensively by emergency management organizations as far away as Australia. In fact, the National Hurricane Center described Mr. Saffir as ''a national treasure.''

Herb Saffir is a remarkable American and a credit to the State of Florida. It brings me great joy to recognize his accomplishments today.●

TRIBUTE TO THE HONORABLE ROBERT B. PIRIE, JR.

● Mr. LEVIN. Mr. President, I rise today to recognize an outstanding public servant, Robert B. Pirie, Jr., as he completes more than 7 years of continuous service within the civilian leadership of the Department of the Navy, first as Assistant Secretary of the Navy, Installations and Environment, then as the Under Secretary of the Navy, and finally as Acting Secretary of the Navy. In each capacity, he worked tirelessly to serve America and our Navy and Marine Corps. His time in the Pentagon was the pinnacle of a public service career spanning fifty years.

Secretary Pirie is a 1955 Naval Academy graduate, whose achievements as a midshipman propelled him to a Rhodes Scholarship. He served 20 years on active duty, a military career that culminated in command-at-sea aboard a nuclear attack submarine. Secretary Pirie went on to provide exceptional public service as a Deputy Assistant Secretary of Defense in the Carter Administration.

When he returned to the Department of the Navy seven and a-half years ago, his confident leadership and far-reaching vision helped the Navy navigate through many complex issues. Whether leading the Department's efforts to conduct critical training at the Atlantic Fleet Weapons Training Facility at Vieques, Puerto Rico, or increasing force protection for Sailors and Marines in the aftermath of the USS COLE terrorist attack, or addressing the encroachment issues that complicate our operational and training ranges, Robert Pirie's leadership has been vital to the readiness and success of our country's military forces.

Secretary Pirie provided exceptional advice, support and guidance to the Secretary of Defense, the Secretary of the Navy, the Chief of Naval Operations, and the Commandant of the Marine Corps. His keen insight, relentless dedication, and extraordinary talent have contributed significantly to building and maintaining the world's best-trained, best-equipped, and best-prepared Navy and Marine Corps. His vision has positively shaped the future readiness and capabilities of the fleet in ways that will resonate for many years.

It is a pleasure to recognize Secretary Pirie for his many contributions in a life devoted to our nation's security as he leaves the Department of the Navy. I know my colleagues join me in wishing him and his wife Joan much happiness and fair winds and following seas as they begin a new chapter in their lives.●

IN HONOR OF BARBARA L. BAILEY

● Mr. LIEBERMAN. Mr. President, I rise to speak today in memory of Mrs. Barbara L. Bailey, a great and gracious lady, the first lady of Connecticut Democratic politics, who passed away this past Monday.

As my colleague Senator CLINTON said when she introduced Mrs. Bailey at the White House a few years back, Mrs. Bailey ''has been a stalwart of the Democratic Party in Connecticut and progressive politics . . . in the country.'' I first met Barbara Bailey when I was writing my senior thesis at college on her husband, John Bailey, former Democratic National Committee Chairman under President Kennedy and legendary Connecticut political leader.

Mrs. Bailey was an astute political advisor and partner to her husband. She was known as a gracious host to politicians at all levels of government. Mrs. Bailey entertained such political luminaries as President John F. Kennedy and Vice President Hubert H. Humphrey and many, many others.

After her husband died in 1975 Mrs. Bailey continued to follow Democratic politics closely and actively. In fact, a few years ago four generations of Baileys gathered at the White House when Barbara spoke about the importance of health care and introduced President Clinton at the White House on Mother's Day.

Mrs. Bailey has also spent her life devoted to public service, especially on issues concerning women. Just last month, the 93-year-old Mrs. Bailey received a lifetime achievement award from the Ladies Auxiliary of Saint Francis Hospital and Medical Center in

Hartford. She also spent ten years as a trustee of the University of Connecticut.

Mrs. Bailey is known to Connecticut as the matriarch of a distinguished political family. Her family has always been most important to her and I know it was a joy for her to see her children and grandchildren continue the tradition of civic involvement that she and her husband believed in so deeply. Her daughter, Barbara Bailey Kennelly, is the former U.S. Representative from Connecticut's first district and has run for Governor of the Nutmeg State. Her son, Jack Bailey, is currently the chief State's attorney. And just this summer Mrs. Bailey's grandson, Austin Perkins, represented Connecticut as a delegate to the Democratic National Convention in Los Angeles, CA.

Barbara Bailey's death is a loss for me personally and for the whole of Connecticut. We will remember her fondly as a gracious woman of principle, a champion of good causes and a beloved mother, grandmother and friend.●

IN RECOGNITION OF THE 100TH ANNIVERSARY OF MINNEAPOLIS METAL WORKERS LODGE 459

● Mr. DAYTON. Mr. President, I rise today to salute the Capitol City and Minneapolis Metal Workers Lodge 459 on the occasion of their 100th Anniversary.

For a century, members of this Minnesota Union have fought for and secured fair wages and decent, safe working conditions for all workers. Through the years the brothers and sisters of Lodge 459 have labored tirelessly to guarantee that each worker's rights are respected, each family's future is insured.

A strong labor force is the backbone of our economy; it is the power behind every successful business, every growing community. Today, the proud members of Lodge 459 continue in the strong tradition of their parents and grandparents. They reflect the dedication and determination which are the hallmark of the labor movement in our Nation. Together, they will safeguard the future for our children and grandchildren. And in doing so, they will assure that in America, businesses will thrive, communities will grow, and families will succeed.●

TRIBUTE TO GEORGE C. SPRINGER

● Mr. DODD. Mr. President, I rise to honor George C. Springer, who is stepping down this month after an unprecedented 11 two-year terms as the President of the Connecticut Federation of Educational and Professional Employees, formerly the Connecticut State Federation of Teachers. George will remain active in the union as the recently-appointed director of the American Federation of Teachers' Northeast Region.

I mentioned the change in the union's name because it highlights George's unceasing efforts on behalf of its members. In 1979, when George began his leadership of the union, it had about 11,000 members, almost all of whom were teachers. Today, the union has 24,000 members, including teachers and other professional school-related employees, State and municipal employees, health care professionals, and higher education faculty. Twenty-two years ago, the union had only one full-time officer, two clerical employees, and a handful of field representatives. Today, it has three full-time officers, a staff of 15, and numerous field representatives. George rightly is proud of the increased diversity of his union.

George also ought to be proud of what his advocacy has brought—not only benefits for union members, but also the ability for them to do their jobs better, to better serve the children and all citizens of Connecticut. George tirelessly has fought for greater involvement for the union and its members in legislative and policy matters. I think it is especially appropriate, as we prepare to complete debate on reauthorization of the Elementary and Secondary Education Act of 1965, to talk about how public education in Connecticut has changed for the better during George's tenure.

In 1979, teacher pay was poor, the gap between the quality of schools for wealthy children and those for poor children was great, and relations between the union and school boards was contentious. Today, teacher salaries and student achievement in Connecticut are among the best in the country, the State is working to provide a quality education for all children, and the union frequently works hand in hand with school management to improve the school system.

But, George's influence has not been limited to Connecticut, or even the United States. As President, George has represented the union around the country and around the world, in such places as Brazil, Belgium, Hong Kong, Japan, and Sweden. He also has served as an election observer in South Africa and Nigeria. I have no doubt that from New Britain, Connecticut, where he taught for 20 years, to the many places he has been around the world, George has left his mark. Nor do I doubt that he will continue to leave his mark, as he works hard at the AFT to better connect State and local affiliates with the national organization and with each other.

Tonight, George's fellow union members, other friends, and his family are gathering in Hartford to celebrate his leadership of the union. I regret that I cannot join them in person, but certainly I join them in spirit.

It has been my privilege to know George for many years, and I offer my admiration and gratitude for his work, and best wishes as he moves on to new challenges.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 9:19 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

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 enrolled bill was signed subsequently by the President pro tempore (Mr. BYRD).

At 11:53 a.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. 1157. An act to authorize the Secretary of Commerce to provide financial assistance to the States of Alaska, Washington, Oregon, California, and Idaho for salmon habitat restoration projects in coastal waters and upland drainages, and for other purposes.

H.R. 2052. An act to facilitate famine relief efforts and a comprehensive solution to the war in Sudan.

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. 145. Concurrent resolution condemning the recent order by the Taliban regime of Afghanistan to require Hindus in Afghanistan to wear symbols identifying them as Hindu.

At 4:24 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 bill, in which it requests the concurrence of the Senate:

H.R. 1088. An act to amend the Securities Exchange Act of 1934 to reduce fees collected by the Securities and Exchange Commission, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1157. An act to authorize the Secretary of Commerce to provide financial assistance to the States of Alaska, Washington, Oregon, California, and Idaho for

salmon habitat restoration projects in coastal waters and upland drainages, and for other purposes; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 145. Concurrent resolution condemning the recent order by the Taliban regime of Afghanistan to require Hindus in Afghanistan to wear symbols identifying them as Hindu; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1088. An act to amend the Securities Exchange Act of 1934 to reduce fees collected by the Securities and Exchange Commission, and for other purposes.

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 Mrs. HUTCHISON (for herself, Mr. INOUYE, Mr. HUTCHINSON, and Mr. STEVENS):

S. 1037. A bill to amend title 10, United States Code, to authorize disability retirement to be granted posthumously for members of the Armed Forces who die in the line of duty while on active duty, and for other purposes; to the Committee on Armed Services.

By Mr. JEFFORDS (for himself and Mr. LEAHY):

S. 1038. A bill to amend the Internal Revenue Code of 1986 to improve access to tax-exempt debt for small nonprofit health care and educational institutions; to the Committee on Finance.

By Mr. INOUYE:

S. 1039. A bill for the relief of the State of Hawaii; to the Committee on Finance.

By Mr. SHELBY:

S. 1040. A bill to promote freedom, fairness, and economic opportunity for families by reducing the power and reach of the Federal establishment; to the Committee on Finance.

By Mr. FEINGOLD:

S. 1041. A bill to establish a program for an information clearinghouse to increase public access to defibrillation in schools; to the Committee on Health, Education, Labor, and Pensions.

By Mr. INOUYE:

S. 1042. A bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. REID:

S. 1043. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Nevada; to the Committee on Energy and Natural Resources.

By Mr. SARBANES (for himself, Mr. WARNER, Mr. ALLEN, and Ms. MIKULSKI):

S. 1044. A bill to amend the Federal Water Pollution Control Act to provide assistance for nutrient removal technologies to States in the Chesapeake Bay watershed; to the Committee on Environment and Public Works.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER , and Mr. ALLEN):

S. 1045. A bill to amend the National Oceanic and Atmospheric Administration Authorization Act of 1992 to revise and enhance authorities, and to authorize appropriations, for the Chesapeake Bay Office, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ROBERTS (for himself and Mr. BROWNBACK):

S. 1046. A bill to establish a commission for the purpose of encouraging and providing for the commemoration of the 50th anniversary of the Supreme Court decision in Brown v. Board of Education; to the Committee on the Judiciary.

By Mr. GRAMM (for himself and Mrs. HUTCHISON):

S. 1047. A bill to amend the Internal Revenue Code of 1986 to provide for nonrecognition of gain on dispositions of dairy property which is certified by the Secretary of Agriculture as having been the subject of an agreement under the bovine tuberculosis eradication program, and for other purposes; to the Committee on Finance.

By Mr. DEWINE (for himself, Mr. LEAHY, Mr. VOINOVICH, Mr. BREAUX, Mr. CONRAD, Mr. LUGAR, Mr. SANTORUM, Ms. LANDRIEU, and Mr. HATCH):

S. 1048. A bill to amend the Internal Revenue Code of 1986 to provide relief for payment of asbestos-related claims; to the Committee on Finance.

By Mr. TORRICELLI:

S. 1049. A bill to provide for an election to exchange research-related tax benefits for a refundable tax credit, for the recapture of refunds in certain circumstances, and for other purposes; to the Committee on Finance.

By Mr. SANTORUM (for himself, Mr. FITZGERALD, and Mr. VOINOVICH):

S. 1050. A bill to protect infants who are born alive; to the Committee on the Judiciary.

By Mr. WARNER (for himself and Mr. ALLEN):

S. 1051. A bill to expand the boundary of the Booker T. Washington National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. McCAIN (for himself, Mr. EDWARDS, and Mr. KENNEDY):

S. 1052. A bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage; read the first time.

By Mr. HARKIN (for himself, Mr. AKAKA, Mr. BINGAMAN, Mr. MURKOWSKI, Mr. REID, Mr. DOMENICI, Mr. KYL, Mr. BAYH, Mr. INOUYE, Mr. LIEBERMAN, and Mr. JEFFORDS):

S. 1053. A bill to reauthorize and amend the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KOHL (for himself and Mr. REID):

S. 1054. A bill to amend titles XVIII and XIX of the Social Security Act to prevent abuse of recipients of long-term care services under the Medicare and Medicaid programs; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 1055. A bill to require the consent of an individual prior to the sale and marketing of such individual's personally identifiable information, and for other purposes; to the Committee on the Judiciary.

By Mrs. MURRAY (for herself, Mrs. BOXER, Ms. CANTWELL, Mr. KENNEDY, Ms. LANDRIEU, and Mr. SCHUMER):

S. 1056. A bill to authorize grants for community telecommunications infrastructure planning, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1057. A bill to authorize the addition of lands to Pu'uhonua o Honaunau National Historical Park in the State of Hawaii, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 110. A resolution relating to the retirement of Sharon Zelaska Assistant Secretary of the Senate; considered and agreed to.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 111. A resolution commending Robert ''Bob'' Dove on his service to the Senate; considered and agreed to.

By Mr. ALLARD (for himself, Mrs. HUTCHISON, Mr. HAGEL, Mr. CLELAND, Mr. BOND, Mr. INHOFE, Mr. HUTCHINSON, Mr. JEFFORDS, Mr. ROBERTS, Mr. REED, Mr. SMITH of New Hampshire, Mr. WARNER, Mr. LEVIN, Ms. COLLINS, Mr. BUNNING, Mr. DAYTON, Mr. KENNEDY, Mr. MCCAIN, Mr. ALLEN, Mr. THURMOND, Mr. SANTORUM, Mr. SESSIONS, Ms. LANDRIEU, and Mr. DURBIN):

S. Res. 112. A resolution honoring the United States Army on its 226th birthday; considered and agreed to.

By Mrs. BOXER (for herself and Mr. SMITH of Oregon):

S. Con. Res. 49. A concurrent resolution urging the return of portraits painted by Dina Babbitt during her internment at Auschwitz that are now in the possession of the Auschwitz-Birkenau State Museum; to the Committee on Foreign Relations.

By Mr. LEVIN (for himself and Ms. STABENOW):

S. Con. Res. 50. A concurrent resolution recognizing the important contributions that local governments make to sustainable development and ensuring a viable future for our planet; to the Committee on Environment and Public Works.

ADDITIONAL COSPONSORS

S. 88

At the request of Mr. ROCKEFELLER, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 88, a bill to amend the Internal Revenue Code of 1986 to provide an incentive to ensure that all Americans gain timely and equitable access to the Internet over current and future generations of broadband capability.

S. 278

At the request of Mr. JOHNSON, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 278, a bill to restore health care coverage to retired members of the uniformed services.

S. 530

At the request of Mr. GRASSLEY, the names of the Senator from Oregon (Mr.

WYDEN), the Senator from Hawaii (Mr. AKAKA), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Illinois (Mr. DURBIN), and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 530, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind.

S. 532

At the request of Mr. DORGAN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 532, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to permit a State to register a Canadian pesticide for distribution and use within that State.

S. 543

At the request of Mr. WELLSTONE, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 570

At the request of Mr. BIDEN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 570, a bill to establish a permanent Violence Against Women Office at the Department of Justice.

S. 583

At the request of Mr. KENNEDY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 583, a bill to amend the Food Stamp Act of 1977 to improve nutrition assistance for working families and the elderly, and for other purposes.

S. 590

At the request of Mr. JEFFORDS, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 590, a bill to amend the Internal Revenue Code of 1986 to allow a refundable tax credit for health insurance costs, and for other purposes.

S. 627

At the request of Mr. GRASSLEY, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 627, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. 670

At the request of Mr. DASCHLE, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 670, a bill to amend the Clean Air Act to eliminate methyl tertiary butyl ether from the United States fuel supply and to increase production and use of ethanol, and for other purposes.

S. 677

At the request of Mr. HATCH, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 677, a bill to amend the Internal Revenue Code of 1986 to repeal the required use of certain principal repayments on mortgage subsidy bond financing to redeem bonds, to modify the purchase price limitation under mortgage subsidy bond rules based on median family income, and for other purposes.

S. 678

At the request of Mr. BOND, the name of the Senator from Arkansas (Mrs. LINCOLN) 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. 756

At the request of Mr. GRASSLEY, the names of the Senator from Idaho (Mr. CRAPO), the Senator from California (Mrs. FEINSTEIN), and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 756, a bill to amend the Internal Revenue Code of 1986 to extend and modify the credit for electricity produced from biomass, and for other purposes.

S. 860

At the request of Mr. GRASSLEY, the names of the Senator from North Carolina (Mr. HELMS), the Senator from Illinois (Mr. FITZGERALD), the Senator from Maine (Ms. SNOWE), the Senator from Michigan (Ms. STABENOW), the Senator from Mississippi (Mr. COCHRAN), and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 860, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of certain expenses of rural letter carriers.

S. 887

At the request of Mr. WELLSTONE, the name of the Senator from Nevada (Mr. ENSIGN) 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. 908

At the request of Mr. BROWNBACK, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 908, a bill to require Congress and the President to fulfill their Constitutional duty to take personal responsibility for Federal laws.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of 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.

S. 1003

At the request of Mr. JEFFORDS, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1003, a bill to ensure the safety of children placed in child care centers in Federal facilities, and for other purposes.

S. 1004

At the request of Mr. JEFFORDS, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1004, a bill to provide for the construction and renovation of child care facilities, and for other purposes.

S. 1019

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1019, a bill to provide for monitoring of aircraft air quality, to require air carriers to produce certain mechanical and maintenance records, and for other purposes.

S. RES. 71

At the request of Mr. HARKIN, the names of the Senator from North Carolina (Mr. EDWARDS), the Senator from Maryland (Mr. SARBANES), the Senator from California (Mrs. FEINSTEIN), and the Senator from Wisconsin (Mr. KOHL) 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.

AMENDMENT NO. 516

At the request of Mr. WELLSTONE, his name was added as a cosponsor of amendment No. 516.

At the request of Mrs. CLINTON, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of amendment No. 516, supra.

AMENDMENT NO. 604

At the request of Mr. SESSIONS, the names of the Senator from Virginia (Mr. ALLEN), the Senator from Missouri (Mr. BOND), and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of amendment No. 604.

AMENDMENT NO. 648

At the request of Mr. DOMENICI, his name was added as a cosponsor of amendment No. 648.

At the request of Mr. HELMS, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of amendment No. 648, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON (for herself, Mr. INOUYE, Mr. HUTCHINSON, and Mr. STEVENS):

S. 1037. A bill to amend title 10, United States Code, to authorize disability retirement to be granted posthumously for members of the Armed Forces who die in the line of duty while on active duty, and for other purposes; to the Committee on Armed Services.

Mrs. HUTCHISON. Mr. President, I am pleased to be joined by Senator INOUYE and Senator HUTCHINSON to offer legislation on a very important issue for those military men and women who serve our country every day. Our current military retirement

system, I have come to understand, has a serious flaw on it.

We often memorialize those soldiers, sailors, and airmen who died in combat, but too often we forget that service men and women die frequently during daily operations or while training. In the past five years, 2,206 military families lost their spouse, father or mother while serving their country. In just the past year we have mourned the loss of the sailors on the USS *Cole*, Air Force pilots in Scotland, and soldiers in helicopter crashes in Hawaii, and Vietnam. What is not fully understood is that their families do not receive their full retirement pensions in many cases. Because service members are not vested in their retirement system until the day they retire active duty personnel do not qualify for a retirement pension unless the services medically retire them before death. This has caused hardships to families and necessitated extraordinary efforts by commanders and medical and manpower personnel.

Most Americans, and even many in uniform, do not understand that this affects those with one year of service as well as those with thirty. If these military members were in the Federal service system, or a policeman in Arizona, their family would be able to receive part of their pension. This bill will correct that inequity by amending Sections 1222 and 1448 of Title 10 U.S.C. and allowing members of the armed forces on active duty who die while serving in the line of duty to be posthumously retired. In addition, the bill would allow the services to ensure the family is given the best choice of benefits based on their individual situation. This is the least we can do when they make the ultimate sacrifice for their country.

Though we have not been involved in a major conflict in more than ten years, every day we deploy our military to many more places than we did just a decade ago. The day-to-day activities of our armed forces are inherently dangerous. If we are going to maintain and recruit a quality force, we must reassure those who serve that we are going to provide for their family. I believe that Brigadier General William Caldwell, Assistant Division Commander of the 25th Infantry Division, said it best, ''Everything we do is complex.'' BG Caldwell made this comment after the crash of two helicopters in Hawaii that killed six members of the 25th Infantry Division. That sums up the situation perfectly.

This bill will be a step in the right direction and is a way to help repay our debt to our military and their families. Not only is it the right thing and fair thing to do, but during these times of increased deployments and personnel shortages, it is in our national interest to continue to show our dedicated service members that we appreciate their sacrifice and commitment.

I commend the Senator from Hawaii for his support on this issue and urge other Senators to join us in this effort.

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. 1037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. POSTHUMOUS DISABILITY RETIREMENT FOR MEMBERS OF THE ARMED FORCES WHO DIE IN THE LINE OF DUTY WHILE ON ACTIVE DUTY.

(a) AUTHORITY.—Chapter 61 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 1222. Posthumous retirement: retroactive effective date; related elections

''(a) AUTHORITY.—Upon a determination by the Secretary concerned that it is advantageous for the survivors of a member of the armed forces who dies in the line of duty while on active duty, the Secretary concerned may—

''(1) posthumously retire the member under section 1201 of this title effective immediately before the member's death; and

''(2) make for the deceased member any election with respect to survivor benefits under laws referred to in subsection (c) that the deceased member would have been entitled to make upon being retired under that section.

''(b) CONSTRUCTION WITH SECTION 1201 REQUIREMENTS.—Nothing in this section modifies the requirements set forth in section 1201 of this title regarding determinations or eligibility.

''(c) ADMINISTRATION OF BENEFITS LAWS.—A retirement and election under subsection (a) shall be effective for the purposes of laws administered by the Secretary of Defense or any Secretary concerned and laws administered by the Secretary of Veterans Affairs.

''(d) NONREVIEWABILITY OF DETERMINATIONS.—A determination or election made by a Secretary concerned under subsection (a) is not subject to judicial review.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''1222. Posthumous retirement: retroactive effective date; related elections.''.

SEC. 2. SURVIVOR BENEFIT PLAN.

(a) SURVIVING SPOUSE ANNUITY.—Section 1448(d) of title 10, United States Code, is amended by striking paragraph (1) and inserting the following:

''(1) SURVIVING SPOUSE ANNUITY.—The Secretary concerned shall pay an annuity under this subchapter to the surviving spouse of a member who—

''(A) dies in the line of duty while on active duty after—

''(i) becoming eligible to receive retired pay;

''(ii) qualifying for retired pay except that the member has not applied for or been granted that pay; or

''(iii) completing 20 years of active service but before the member is eligible to retire as a commissioned officer because the member has not completed 10 years of active commissioned service; or

''(B) dies in the line of duty while on active duty and is posthumously retired under section 1201 of this title pursuant to section 1222 of this title.''.

(b) DEPENDENT CHILD ANNUITY.—Paragraph (2) of such section is amended by striking ''or if the member's surviving spouse subsequently dies'' and inserting ''or if the payment of an annuity to the member's surviving spouse under that paragraph subsequently terminates''.

(c) COMPUTATION OF SURVIVOR ANNUITY.—Section 1451(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(5) SERVICE MEMBERS POSTHUMOUSLY RETIRED.—In the case of an annuity provided under section 1448(d)(1)(B) of this title, the retired pay to which the member would have been entitled when the member died shall be determined for purposes of paragraph (1) based upon the retired pay base computed for the member under section 1406(b) or 1407 of this title as if the member had been retired under section 1201 of this title on the date of the member's death.''.

(d) CONFORMING AMENDMENT.—Section 1451(c)(3) of such title is amended by striking ''section 1448(d)(1)(B) or 1448(d)(1)(C)'' and inserting ''clause (ii) or (iii) of section 1448(d)(1)(A)''.

SEC. 3. EFFECT DATE AND APPLICABILITY.

This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act and shall apply with respect to deaths of members of the Armed Forces occurring on or after that date.

By Mr. JEFFORDS (for himself and Mr. LEAHY):

S. 1038. A bill to amend the Internal Revenue Code of 1986 to improve access to tax-exempt debt for small nonprofit health care and educational institutions; to the Committee on Finance.

Mr. JEFFORDS. Mr. President, today I am introducing the Health and Higher Education Facilities Improvement Act of 2001. This legislation will help small non-profit health and educational institutions more effectively finance the cost of essential services, and lead to new facility construction. By modifying the laws that restrict deductibility or ''bank financing for small non-profit organizations that need it the most: small local hospitals and colleges.

The Tax Reform Act of 1986 unintentionally discriminated against small non-profit educational and health care facilities that want to sell small amounts of tax-exempt debt to community banks. Before 1986, banks and financial institutions could deduct the interest incurred to carry tax-exempt bonds. This allowed banks to purchase tax-exempt bonds at attractive rates. The 1986 tax act repealed bank deductibility, but an exception was retained for small governmental issuers that issue bonds of $10 million or less each year.

This exception was designed to preserve bank deductibility for small local governments, but does not help small non-profit institutions. The small issuer exception to be of little value in many States, like Vermont where statewide health care and higher education bond issuing authorities typically issue many millions of dollars of debt each year. The legislation I am introducing today will modify the small issuer exception by granting bond issuers the right to apply the small issuer exception at the level of the ultimate beneficiary of the funding. Consequently, a small college or health

care facility borrowing less than $10 million in tax-exempt debt in any one year could elect tax-exempt status for that debt, even if it is issued by a statewide authority. This would make the debt more attractive to local banks, and could result in significant savings for beneficiary institutions over the life of the bond.

The Health and Higher Education Facilities Improvement Act of 2001 focuses the benefit of the small issuer exemption on smaller non-profits, without regard to whether the bond issuer is a government entity issuing more than $10 million in bonds per year. Small non-profits are important community institutions; they stand to benefit from greater access to tax-exempt debt. Wall Street and large money center banks may have little interest in small amounts of debt from small institutions. The bank across the street from a local college or health care clinic, however, may have greater confidence and insight into the community value of the institution. This bill would allow those banks to carry tax-exempt debt at attractive rates and maintain commitments to the people and institutions in their local communities.

I urge my colleagues to support this bill.

By Mr. SHELBY:

S. 1040. A bill to promote freedom, fairness, and economic opportunity for families by reducing the power and reach of the Federal establishment; to the Committee on Finance.

Mr. SHELBY. Mr. President, Congress recently passed a tax bill that provides much-needed relief for all Americans. While I am pleased that the tax bill included marriage penalty relief, a reduction in marginal rates and a phase out of the estate tax, these changes unfortunately increase the tax code's complexity. Furthermore, despite the positive changes made this year, the current code still retains the alternative minimum tax, the taxation of Social Security benefits, and marginal rates that increase with income.

I rise today to introduce legislation that takes tax reform to the next level and addresses the fundamental problems of the current code. My bill accomplishes this by repealing the current Internal Revenue Code and replacing it with a flat tax, where all taxpayers pay the same rate.

As with current law, not all wage earners will pay a Federal income tax under a flat tax. In order to assist lower income Americans, I have included large standard deductions. For example, a family of four would need to make more than $35,200 before paying a single penny in taxes.

Some argue that it's fair to tax wealthier people at higher rates. I believe that nothing can be further from the truth. Not only is this type of tax policy fundamentally unfair, it also prevents our economy from realizing its full potential.

A flat tax does not mean that a school teacher will have the same tax liability as Bill Gates. The principles of math dictate that people who make more will still pay more in taxes with a single rate. The difference is that with a flat tax those who earn more will no longer be penalized by rising marginal rates.

My bill also increases tax fairness by eliminating itemized deductions and credits. While these tax breaks benefit those who are lucky enough to claim them, they consequently hurt the taxpayers who are not. As a result, people with the same yearly salaries can pay very different Federal income taxes depending on whether they have children, they decide to own or rent a home, or decide to finance a family vacation through a credit card or a home equity loan.

Over time the tax code has evolved from a way to collect Federal revenue into a way to encourage and reward behavior the government deems important. I believe that the American people are intelligent enough that they do not need the Federal Government dangling a carrot in front of them when they make life decisions. Furthermore, I believe that people should not be punished for deciding to make these decisions in ways that are contrary to what the government decides is right.

Simplification is yet another reason our country needs the flat tax. The National Taxpayer Advocate cited complications in the tax code as the number one issue taxpayers faced in 2001. As the IRS publishes more and more regulations, and new tax laws are enacted, the complexity of the tax code will only grow.

The complexity of the tax code forces many Americans to seek the advice of tax professionals at the cost of many millions of dollars. No tax code should be so puzzling that the average person has to spend his hard-earned money to hire a tax preparer or an accountant. Those who decide to brave the tax code and file their own returns do not fare better. These people face conflicting IRS advice and many hours of completing confusing tax forms. All of these needless hassles results in taxpayer frustration and apathy and less time spent on more productive endeavors.

Under the flat tax, a taxpayers would be able to be quickly and accurately file their returns. There would be no itemized deductions or credits to calculate, no capital gains tabulations and no alternative minimum tax. With this new simplicity, taxpayers would be able to complete their personal income tax return in virtually no time at all compared to the 13 hours the IRS estimates it takes to complete a 1040 form.

I understand that my bill is a major change from the current tax code. Many people have become complacent with the status quo. Still others enjoy using the tax to implement social policy. I on the other hand believe though that a tax code should have one purpose and that is to collect revenue.

I hope that my colleagues will begin to seriously look at alternatives to the current code. The legislation I have introduced today is an excellent opportunity to bring this debate to the floor of the Senate. The combination of freedom, simplicity and fairness make the flat tax the ultimate goal of true tax reform. I urge my colleagues to join me in support of meaningful and comprehensive tax reform.

By Mr. FEINGOLD:

S. 1041. A bill to establish a program for an information clearinghouse to increase public access to defibrillation in schools; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, I rise today with my colleague from Maine, Senator COLLINS, to introduce the Automatic Defibrillators in Adam's Memory Act, or the ADAM Act, which would help schools across America implement public access defibrillation programs.

I am especially proud that the concept of this legislation came from my home state of Wisconsin, where a similar program has saved the lives of a number of students.

Heart disease is not only a problem among adults. I recently learned the story of Adam Lemel, a 17-year-old high school student and a star basketball and tennis player in southeastern Wisconsin. Tragically, during a timeout while playing basketball at a neighboring Milwaukee high school, Adam suffered sudden cardiac arrest, and died before the paramedics arrived.

The following November, a Milwaukee Technical High School football player died of Sudden Cardiac Arrest while playing basketball with his friends. And in April 2000, two more Milwaukee-area deaths were attributed to sudden cardiac arrest: a Marquette University senior and a visiting 12-year old from Illinois who was playing basketball.

These stories are incredibly tragic. These young people had their whole lives before them, and could have been saved. In fact, we have seen a number of examples in Wisconsin where early CPR and access to defibrillation have saved lives.

Seventy miles away from Milwaukee, a 14-year-old boy, collapsed while playing basketball. Within three minutes, the emergency team arrived and began CPR. Within five minutes of his collapse, the paramedics used an automated external defibrillator to jump start his heart. Not only has this young man survived, they have identified his father and brother to have the same heart condition. To prevent cardiac deaths, internal defibrillators were implanted in both men.

I also recently met Heather Rahn who on March 19, was at a church concert in the gymnasium of Good Hope Christian Academy. She told her friends that her heart was racing, and

she felt nervous. In the middle of running across the gym, she collapsed on the ground from cardiac arrest. She was down for about three and a half minutes when an ambulance arrived, bringing a defibrillator that would save her life. It took two shocks to bring her back.

These tragic stories help to underscore three issues. First, although cardiac arrest is most common among adults, it can occur at any age, even in apparently healthy children and adolescents. Second, early intervention is essential, a combination of CPR and use of AEDs can save lives. Third, some individuals who are at risk for sudden cardiac arrest, can be identified to prevent cardiac arrest.

After Adam Lemel tragically suffered his cardiac arrest two years ago, his friend David Ellis joined forces with Children's Hospital of Wisconsin to initiate Project ADAM to: bring CPR training and public access defibrillation into schools, educate communities about preventing sudden cardiac deaths, and save lives.

Today, Project ADAM has introduced AEDs into several Wisconsin schools, and has been a model for programs in Washington, Florida, Michigan and elsewhere.

I had the chance to visit with Dave Ellis, Adam's parents, and the dedicated people at Children's Hospital of Wisconsin, especially Karen Bauer and Dr. Stu Berger. And let me tell you, there are no better advocates for saving the lives of cardiac arrest victims. I want to commend them for their service, and efforts to save the lives of sudden cardiac arrest victims.

I strongly believe that the Federal Government should support local efforts to equip more people in our communities, including younger generations, with the necessary skills to deal with life-threatening emergencies like cardiac arrest. And there is no better way to support local efforts than by following the lead of a successful local effort such as Project ADAM.

Over two hundred twenty thousand Americans die each year of sudden cardiac arrest, including between 5000 and 7000 children. About 50,000 of these victims lives could be saved each year if more people implemented the ''Chain of Survival,'' which includes an immediate call to 911, early CPR and defibrillation, and early advanced life support.

According to the Centers for Disease Control, the number of sudden cardiac deaths of people between the ages of 15 and 34 years old has increased over 10 percent in the past 10 years. The research also shows that sudden cardiac death has increased by 30 percent in young women.

Without any training, kids would never know what to do in the face of such an emergency.

As a matter of fact, many adults wouldn't know what to do either. That lack of knowledge is a break in the chain of survival, but that break can be repaired through the right training. A number of localities have pushed for increased CPR training and public access to defibrillation in schools.

The ADAM Act will help strengthen the Chain by establishing a national Project ADAM resource center. The center would provide schools with information to help them implement public access defibrillation programs.

The ADAM Center would also provide support to CPR and AED training programs, and help foster new community partnerships among public and private organizations to promote public access to defibrillation in schools.

Finally, the ADAM Act would create a way to track cardiac arrest among children and to conduct further research into this serious health threat.

This clearinghouse responds to the growing number of schools that have the desire to set up a public access defibrillation program, but often don't know where to start.

If the ADAM Act becomes law, schools across the country will have a place to turn as they work to establish public access to defibrillation programs in more schools across America. The Project ADAM resource center will help schools give victims of cardiac arrest a fighting chance.

By Mr. INOUYE:

S. 1042. A bill to amend title 38, United States Code, to improve benefits for Filipino veterans of World War II, and for other purposes; to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, I rise to introduce the Filipino Veterans' Benefits Improvement Act of 2001. This bill provides our country the opportunity to right a wrong committed decades ago, by providing Philippine-born veterans of World War II who served in the United States Armed Forces their hard-earned, due compensation.

Our Nation is now at peace, and our prosperity has reached levels never before seen by any Nation in history. We are on the top of the world in terms of economic power and military might, and much of this unprecedented success is due to the tremendous sacrifices made by our fighting forces during World War II. We trampled tyranny in Europe and in the Pacific, and when we raised our flag proudly over hostile lands, we were greeted enthusiastically by the millions we liberated from the grasp of terrible aggression.

I take this opportunity today to remind everyone of an injustice that persists as a blemish on one of history's greatest success stories.

The Philippines became a United States possession in 1898, when it was ceded from Spain following the Spanish-American War. In 1934, the Congress enacted the Philippine Independence Act, Public Law 73–127, which provided a 10-year time frame for the independence of the Philippines. Between 1934 and final independence in 1946, the United States retained certain powers over the Philippines, including the right to call all military forces organized by the newly-formed Commonwealth government into the service of the United States Armed Forces.

On July 26, 1941, President Roosevelt issued an Executive Order calling members of the Philippine Commonwealth Army into the service of the United States Armed Forces of the Far East. Under this order, Filipinos were entitled to full veterans' benefits. More than 100,000 Filipinos volunteered for the Philippine Commonwealth Army and fought alongside the United States Armed Forces.

The United States Armed Forces of the Far East fought to reclaim control of the entire Western Pacific. Filipinos, under the command of General Douglas MacArthur, fought in the front lines of the Battle of Corregidor and at Bataan. They served in Okinawa, on occupied mainland Japan, and in Guam. They were part of what became known as the Bataan Death March, and were held and tortured as prisoners of war. Through these hardships, the men of the Philippine Commonwealth Army remained loyal to the United States during the Japanese occupation of the Philippines, and the valiant guerilla war they waged against the Japanese helped to delay the Japanese advance across the Pacific.

Despite all of their sacrifices, on February 18, 1946, Congress betrayed these veterans by enacting the Rescission Act of 1946 and declaring the service performed by the Philippine Commonwealth Army veterans as not ''active service,'' thus denying many benefits to which these veterans were entitled.

Then, shortly after Japan's surrender, Congress enacted the Armed Forces Voluntary Recruitment Act of 1945 for the purpose of sending American troops to occupy enemy lands, and to oversee military installations at various overseas locations. A provision included in the Recruitment Act called for the enlistment of Philippine citizens to constitute a new body of Philippine Scouts. The New Scouts were authorized to receive pay and allowances for services performed throughout the Western Pacific. Although hostilities had ceased, wartime service of the New Philippine Scouts continued as a matter of law until the end of 1946.

On May 27, 1946, the Congress enacted the Second Supplemental Surplus Appropriation Rescission Act, which included a provision to limit veterans' benefits to Filipinos. This provision duplicated the language that had eliminated veterans' benefits under the First Rescission Act, and placed similar restrictions on veterans of the New Philippine Scouts. Thus, the Filipino veterans that fought in the service of the United States during World War II have been precluded from receiving most veterans' benefits that had been available to them before 1946, and that are available to all other veterans of our armed forces regardless of race, national origin, or citizenship status.

The Congress tried to rectify the wrong committed against the Filipino veterans of World War II by amending the Nationality Act of 1940 to grant the veterans the privilege of becoming United States citizens for having served in the United States Armed Forces of the Far East.

The law expired at the end of 1946, but not before the United States had withdrawn its sole naturalization examiner from the Philippines for a nine-month period. This effectively denied Filipino veterans the opportunity to become citizens during this nine-month window. Forty-five years later, under the Immigration Act of 1990, certain Filipino veterans who served during World War II became eligible for United States citizenship. Between November, 1990, and February, 1995, approximately 24,000 veterans took advantage of this opportunity and became United States citizens.

For many years, Filipino veterans of World War II, who are now in their twilight years, have sought to correct the injustice caused by the Rescission Acts by seeking equal treatment of their valiant military service in our Armed Forces. They stood up to the same aggression that American-born soldiers did, and many Filipinos sacrificed their lives in the war for democracy and liberty.

Heroes should never be forgotten or ignored, so let us not turn our backs on those who sacrificed so much. Many of the Filipinos who have fought so hard for us have been honored with American citizenship, but let us now work to repay all of these brave men for their sacrifices by providing them the full veterans' benefits they have earned.

By Mr. REID:

S. 1043. A bill to extend the deadline for commencement of construction of a hydroelectric project in the State of Nevada; to the Committee on Energy and Natural Resources.

Mr. REID. Mr. President, today I am introducing a simple bill that would extend the deadline under the Federal Power Act for the commencement of construction of the Blue Diamond hydroelectric project in southern Nevada. The bill will allow the Federal Government to extend the project permit for as many as three consecutive two-year periods. At this time, serious concerns remain about the environmental impacts of the project and where power generated at the facility would be sold. These important questions merit additional dialogue and introduction of this bill provides for further examination of this project.

By Mr. SARBANES (for himself, Mr. WARNER, Mr. ALLEN, and Ms. MIKULSKI):

S. 1044. A bill to amend the Federal Water Pollution Control Act to provide assistance for nutrient removal technologies to States in the Chesapeake Bay watershed; to the Committee on Environment and Public Works.

By Mr. SARBANES (for himself, Ms. MIKULSKI, Mr. WARNER, and Mr. ALLEN):

S. 1045. A bill to amend the National Oceanic and Atmospheric Administration Authorization Act of 1992 to revise and enhance authorities, and to authorize appropriations, for the Chesapeake Bay Office, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. SARBANES. Mr. President, today I am introducing two measures to expand restoration and protection efforts in the Chesapeake Bay watershed. Joining me in sponsoring these measures are my colleagues Senators WARNER, ALLEN, and MIKULSKI.

Nearly two decades ago, the Bay area States and the Federal Government signed an historic agreement to work together to restore the Chesapeake Bay, our Nation's largest estuary and one of the most productive ecosystems in the world. In 1987, the Governors of Maryland, Virginia, Pennsylvania, the Chesapeake Bay Commission, the Mayor of the District of Columbia and the Administrator of the EPA, on behalf of the Federal Government, reaffirmed their commitment to that compact and agreed to 29 specific goals and action plans including the unprecedented goal of a 40 percent reduction of nitrogen and phosphorous loads to the main stem of the Bay by the year 2000. Last year, the State and the Federal Government conducted an extensive evaluation of cleanup progress since the 1980s and determined that, despite important advances, efforts must be redoubled to restore the integrity of the Chesapeake Bay ecosystem. A new Chesapeake 2000 agreement was signed to serve as a blueprint for the restoration effort over the next decade.

To meet the goals established in the new agreement, it is estimated that the local, State and Federal Governments must invest $8.5 billion over the course of the next ten years. Thousands of acres of watershed property must be preserved, buffer zones to protect rivers and streams need to be created, and pollution from all sources will have to be further reduced. While $8.5 billion seems like an enormous sum, we should remember that the health of Chesapeake is vital not only to the more than 15 million people who live in the watershed, but to the nation. The Chesapeake Bay watershed is one of our Nation's and the world's greatest natural resources covering 64,000 square miles within six States. It is a world-class fishery that still produces a significant portion of the fin fish and shellfish catch in the United States. It provides vital habitat for living resources, including more than 3600 species of plants, fish and animals. It is a major resting area for migratory waterfowls and birds along the Atlantic including many endangered and threatened species. It is also a one-of-a-kind recreational asset enjoyed by millions of people, a major commercial waterway and shipping center for much of the eastern United States, and provides jobs for thousands of people. In short, the Chesapeake Bay is a magnificent, multifaceted resource worthy of the highest levels of protection and restoration.

Over the years, human activities have profoundly impacted the Bay. Untreated sewage, deforestation, toxic chemicals, runoff and increased development have degraded the Bay's water quality and contributed to the decline of such key species as oysters and blue crabs and the underwater grasses they favor for habitat. We have lost not only thousands of jobs in the fishing industry but much of the wilderness that defined the watershed. By the year 2020, an additional three million people are expected to settle in the watershed and this growth could eclipse the nutrient reduction and habitat protection gains of the past. Not meeting the investment needs of the next 10 years risks reversing all that has been achieved over the past two decades in cleaning up the Bay.

The first measure we are introducing would establish a grant program in the Environmental Protection Agency to support the installation of nutrient reduction technologies at major wastewater treatment facilities in the Chesapeake Bay watershed. Despite important water quality improvements over the past decade, nutrient over-enrichment remains the most serious pollution problem facing the Bay. The overabundance of the nutrients nitrogen and phosphorous continues to rob the Bay of life sustaining oxygen. Recent modeling of EPA's Bay Program has found that total nutrient discharges must be reduced by more than 35 percent from current levels to restore the Chesapeake Bay and its major tributaries to health. To do so, nitrogen discharges from all sources must be reduced drastically below current levels. Annual nitrogen discharges into the Bay will need to be cut by at least 110 million pounds from the current 300 million pounds to less than 190 million pounds. Municipal wastewater treatment plants, in particular, will have to reduce nitrogen discharges by nearly 75 percent.

There are 288 major wastewater treatment plants in the Chesapeake Bay watershed: Pennsylvania, 124, Maryland, 62, Virginia, 70, New York, 18, Delaware, 3, Washington, D.C., 2, and West Virginia, 9. These plants contribute about 60 million pounds of nitrogen per year, one fifth, of the total loads of nitrogen to the Bay. Upgrading these plants with nutrient removal technologies to achieve nitrogen reductions of 3 mg/liter would remove 46 million pounds of nitrogen in the Bay each year or 40 percent of the total nitrogen reductions needed. Nutrient removal technologies have other benefits as well, they provide significant savings in energy usage, 20 to 30 percent, in chemical usage, more than 50 percent, and in the amount of sludge produced, five to 15 percent. They are one of the

most cost-effective methods of reducing nutrients discharged to the Bay.

My legislation would provide grants for 55 percent of the capital cost of upgrading all 288 plants with nutrient removal technologies capable of achieving nitrogen reductions of 3 mg/liter. The total cost of these upgrades is estimated at $1.2 billion, with a federal share of $660 million. Any publically owned wastewater treatment plant which has a permitted design capacity to threat an annual average of 0.5 million gallons per day within the Chesapeake Bay watershed portion of New York, Pennsylvania, Maryland, West Virginia, Delaware, Virginia and the District of Columbia would be eligible to receive these grants. As a signatory to the Chesapeake Bay Agreement, the EPA has an important responsibility to assist the states with financing these water infrastructure needs.

The second measure would reauthorize the National Oceanic and Atmospheric, NOAA, Chesapeake Bay Office. I first introduced a similar measure in June, 2000, but unfortunately it was not acted upon prior to the adjournment of the 106th Congress.

The NOAA Chesapeake Bay office, NCBO, was first established in 1992 pursuant to Public Law 102–567. It serves as the focal point for all of NOAA's activities within the Chesapeake Bay watershed and is a vital part of the effort to achieve the long-term goal of the Bay Program, restoring the Bay's living resources to healthy and balanced levels. During the past nine years, the NCBO has made great strides in realizing the objectives of the NOAA Authorization Act of 1992 and the overall Bay Program living resource goals. Working with other Bay Program partners, important progress has been made in surveying and assessing fishery resources in the Bay, developing fishery management plans for selected species, undertaking habitat restoration projects, removing barriers to fish passage, and undertaking important remote sensing and data analysis activities.

NOAA's responsibilities to the Bay restoration effort are far from complete, however. Some populations of major species of fish and shellfish in Chesapeake Bay such as shad and oysters, remain severely depressed, while others, such as blue crab are at risk. Bay-wide, some 16 of 25 ecologically important species are in decline or severe decline, due to disease, habitat loss, over-fishing and other factors. The underwater grasses that once sustained these fisheries are only at a fraction of their historic levels. Research and monitoring must be continued and enhanced to track living resource trends, evaluate the responses of the estuary's biota to changes in their environment and establish clear management goals and progress indicators for restoring the productivity, diversity and abundance of these species. Chesapeake 2000, the new Bay Agreement, has identified several living resource goals which will require strong NOAA involvement to achieve.

The legislation which we are introducing would provide NOAA with additional resources and authority necessary to ensure its continued full participation in the Bay's restoration and in meeting with goals and objectives of Chesapeake 2000. First, the legislation authorizes and directs NOAA to undertake a special five-year study, in cooperation with the scientific community of the Chesapeake Bay and appropriate other federal agencies, to develop the knowledge base required for understanding multi-species interactions and developing multi-species management plans. To date, fisheries management in Chesapeake Bay and other waters, has been largely based upon single-species plans that often ignore the critical relationships between water and habitat quality, ecosystem health and the food webs that support the Bay's living resources. There is a growing consensus between scientific leaders and managers alike that we must move beyond the one-species-at-a-time approach toward a wider, multi-species and ecosystem perspective. Chesapeake 2000 calls for developing multi-species management plans for targeted species by the year 2005 and implementing the plans by 2007. In order to achieve these goals, NOAA must take a leadership role and support a sustained research and monitoring program.

Second, the legislation authorizes NOAA to carry out a small-scale fishery and habitat restoration grant and technical assistance program to help citizens organizations and local governments in the Chesapeake Bay watershed undertake habitat, fish and shellfish restoration projects. Experience has shown that, with the proper tools and training, citizens' groups and local communities can play a tremendous role in fisheries and habitat protection and restoration efforts. The Chesapeake Bay Foundation's oyster gardening program, for example, has proven to be highly successful in training citizens to grow oysters at their docks to help restore oysters' populations in the Bay. The new Bay Agreement has identified a critical need to not only to expand and promote community-based programs but to restore historic levels of oyster production, restore living resource habitat and submerged aquatic vegetation. The NOAA small-grants program, which this bill would authorize, would complement EPA's Chesapeake Bay small watershed program, and make ''seed'' grants available on a competitive, cost-sharing basis to local governments and nonprofit organizations to implement hands-on projects such as improvement of fish passageways, creating artificial or natural reefs, restoring wetlands and seagrass beds, and producing oysters for restoration projects.

Third, the legislation would establish an internet-based Coastal Predictions Center for the Chesapeake Bay. Resource managers and scientists alike agree that we must make better use of the various modeling and monitoring systems and new technologies to improve prediction capabilities and response to physical and chemical events within the Bay and tributary rivers. There are substantial amounts of data collected and compiled by Federal, state and local government agencies and academic institutions including information on weather, tides, currents, circulation, climate, land use, coastal environmental quality, aquatic living resources and habitat conditions. Unfortunately, little of this data is coordinated and organized in a manner that is useful to the wide range of potential users. The Coastal Predictions Center would serve as a knowledge bank for assembling monitoring and modeling data from relevant government agencies and academic institutions, interpreting that data, and organizing it into products that are useful to resource managers, scientists and the public.

Finally, the legislation would direct NOAA to implement an education program targeted toward the 3 million pupils in kindergarten through 12th grade in the Chesapeake Bay watershed. One of the key goals of the Chesapeake 2000 Agreement is to expand education and public awareness of the Bay and local watersheds. Among other activities, the Agreement calls for providing meaningful Bay or stream outdoor experiences for every school student in the watershed before graduation from high school, incorporating the Chesapeake Bay watershed into school curricula, and providing students and teachers alike with information to increase awareness of Bay living resource and other issues. Our legislation would enable NOAA to enter into partnerships with non-profit environmental organizations in the region experienced in conducting environmental education programs, the Chesapeake Bay Foundation and the Living Classrooms Foundation, for example, and to expand opportunities for students and teachers to participate in Bay and other field and classroom learning experiences which support Chesapeake Bay restoration and protection efforts.

The legislation increases the authorization for the NOAA Bay Program from the current level of $2.5 million to $8.5 million per year to enhance current activities and to carry out these new initiatives. For more than a decade, funding for NOAA's Bay Program has remained static at an annual average of $1.9 million. If we are to achieve the ultimate, long-term goal of the Bay Program, protecting, restoring and maintaining the health of the living resources of the Bay, additional financial resources must be provided.

These two measures would provide an important boost to our efforts to save the Chesapeake Bay. They are strongly supported by the Chesapeake Bay Commission, the Chesapeake Bay Foundation, and other organizations in the

watershed. I ask unanimous consent that the full text of the measures and supporting letters be printed in the RECORD. I urge my colleagues to join with us in supporting the two measures and continue the momentum contributing to the improvement and enhancement of our Nation's most valuable and treasured natural resource.

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

S. 1044

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 ''Chesapeake Bay Watershed Nutrient Removal Assistance Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) nutrient pollution from point sources and nonpoint sources continues to be the most significant water quality problem in the Chesapeake Bay watershed;

(2) a key commitment of the Chesapeake 2000 agreement, an interstate agreement among the Administrator, the Chesapeake Bay Commission, the District of Columbia, and the States of Maryland, Virginia, and Pennsylvania, is to achieve the goal of correcting the nutrient-related problems in the Chesapeake Bay by 2010;

(3) by correcting those problems, the Chesapeake Bay and its tidal tributaries may be removed from the list of impaired bodies of water designated by the Administrator of the Environmental Protection Agency under section 303(d) of the Federal Water Pollution Control Act (33 U.S.C. 1313(d));

(4) nearly 300 major sewage treatment plants located in the Chesapeake Bay watershed annually discharge approximately 60,000,000 pounds of nitrogen, or the equivalent of 20 percent of the total nitrogen load, into the Chesapeake Bay; and

(5) nutrient removal technology is 1 of the most reliable, cost-effective, and direct methods for reducing the flow of nitrogen from point sources into the Chesapeake Bay.

(b) PURPOSES.—The purposes of this Act are—

(1) to authorize the Administrator of the Environmental Protection Agency to provide financial assistance to States and municipalities for use in upgrading publicly-owned wastewater treatment plants in the Chesapeake Bay watershed with nutrient removal technologies; and

(2) to further the goal of restoring the water quality of the Chesapeake Bay to conditions that are protective of human health and aquatic living resources.

SEC. 3. SEWAGE CONTROL TECHNOLOGY GRANT PROGRAM.

The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end the following:

''TITLE VII—MISCELLANEOUS

''SEC. 701. SEWAGE CONTROL TECHNOLOGY GRANT PROGRAM.

''(a) DEFINITION OF ELIGIBLE FACILITY.—In this section, the term 'eligible facility' means a municipal wastewater treatment plant that—

''(1) as of the date of enactment of this title, has a permitted design capacity to treat an annual average of at least 500,000 gallons of wastewater per day; and

''(2) is located within the Chesapeake Bay watershed in any of the States of Delaware, Maryland, New York, Pennsylvania, Virginia, or West Virginia or in the District of Columbia.

''(b) GRANT PROGRAM.—

''(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of this title, the Administrator shall establish a program within the Environmental Protection Agency to provide grants to States and municipalities to upgrade eligible facilities with nutrient removal technologies.

''(2) PRIORITY.—In providing a grant under paragraph (1), the Administrator shall—

''(A) consult with the Chesapeake Bay Program Office;

''(B) give priority to eligible facilities at which nutrient removal upgrades would—

''(i) produce the greatest nutrient load reductions at points of discharge; or

''(ii) result in the greatest environmental benefits to local bodies of water surrounding, and the main stem of, the Chesapeake Bay; and

''(iii) take into consideration the geographic distribution of the grants.

''(3) APPLICATION.—

''(A) IN GENERAL.—On receipt of an application from a State or municipality for a grant under this section, if the Administrator approves the request, the Administrator shall transfer to the State or municipality the amount of assistance requested.

''(B) FORM.—An application submitted by a State or municipality under subparagraph (A) shall be in such form and shall include such information as the Administrator may prescribe.

''(4) USE OF FUNDS.—A State or municipality that receives a grant under this section shall use the grant to upgrade eligible facilities with nutrient removal technologies that are designed to reduce total nitrogen in discharged wastewater to an average annual concentration of 3 milligrams per liter.

''(5) COST SHARING.—

''(A) FEDERAL SHARE.—The Federal share of the cost of upgrading any eligible facility as described in paragraph (1) using funds provided under this section shall not exceed 55 percent.

''(B) NON-FEDERAL SHARE.—The non-Federal share of the costs of upgrading any eligible facility as described in paragraph (1) using funds provided under this section may be provided in the form of funds made available to a State or municipality under—

''(i) any provision of this Act other than this section (including funds made available from a State revolving fund established under title VI); or

''(ii) any other Federal or State law.

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $132,000,000 for each of fiscal years 2003 through 2007, to remain available until expended.

''(2) ADMINISTRATIVE COSTS.—The Administrator may use not to exceed 4 percent of any amount made available under paragraph (1) to pay administrative costs incurred in carrying out this section.''.

S. 1045

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 ''NOAA Chesapeake Bay Office Reauthorization Act of 2001''.

SEC. 2. CHESAPEAKE BAY OFFICE.

(a) ESTABLISHMENT.—Section 307(a) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d(a)) is amended—

(1) in paragraph (1), by striking ''Estuarine Resources''; and

(2) by amending paragraph (2) to read as follows:

''(2) The Secretary of Commerce shall appoint as Director of the Office an individual who has knowledge of and experience in research or resource management efforts in the Chesapeake Bay.''.

(b) FUNCTIONS.—

(1) Section 307(b)(3) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d(b)(3)) is amended to read as follows:

''(3) facilitate coordination of the programs and activities of the various organizations and facilities within the National Oceanic and Atmospheric Administration, the Chesapeake Bay units of the National Estuarine Research Reserve System, the Chesapeake Bay Regional Sea Grant Programs, and the Cooperative Oxford Lab, including—

''(A) programs and activities in—

''(i) coastal and estuarine research, monitoring, and assessment;

''(ii) fisheries research and stock assessments;

''(iii) data management;

''(iv) remote sensing;

''(v) coastal management;

''(vi) habitat conservation and restoration; and

''(vii) atmospheric deposition; and

''(B) programs and activities of the Cooperative Oxford Laboratory of the National Ocean Service with respect to—

''(i) nonindigenous species;

''(ii) marine species pathology;

''(iii) human pathogens in marine environments; and

''(iv) ecosystems health;''.

(2) Section 307(b)(7) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d(b)(7)) is amended by striking the period at the end and inserting the following: '', which report shall include an action plan consisting of—

''(A) a list of recommended research, monitoring, and data collection activities necessary to continue implementation of the strategy described in paragraph (2); and

''(B) proposals for—

''(i) continuing and new National Oceanic and Atmospheric Administration activities in the Chesapeake Bay; and

''(ii) the integration of those activities with the activities of the partners in the Chesapeake Bay Program to meet the commitments of the Chesapeake 2000 agreement and subsequent agreements.''.

(c) CONFORMING AMENDMENT.—Section 307 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d) is amended by striking the section heading and inserting the following:

''SEC. 307. CHESAPEAKE BAY OFFICE.''.

SEC. 3. MULTIPLE SPECIES MANAGEMENT STRATEGY; CHESAPEAKE BAY FISHERY AND HABITAT RESTORATION SMALL GRANTS PROGRAM; COASTAL PREDICTION CENTER.

The National Oceanic and Atmospheric Administration Authorization Act of 1992 is amended by inserting after section 307 (15 U.S.C. 1511d) the following:

''SEC. 307A. MULTIPLE SPECIES MANAGEMENT STRATEGY.

''(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Director of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration shall commence a 5-year study, in cooperation with the scientific community of the Chesapeake Bay and appropriate Federal agencies—

''(1) to determine and expand the understanding of the role and response of living resources in the Chesapeake Bay ecosystem; and

''(2) to develop a multiple species management strategy for the Chesapeake Bay.

''(b) REQUIRED ELEMENTS OF STUDY.—In order to improve the understanding necessary for the development of the strategy under subsection (a), the study shall—

''(1) determine the current status and trends of fish and shellfish that live in the Chesapeake Bay estuary and are selected for study;

''(2) evaluate and assess interactions among the fish and shellfish described in paragraph (1) and other living resources, with particular attention to the impact of changes within and among trophic levels; and

''(3) recommend management actions to optimize the return of a healthy and balanced ecosystem for the Chesapeake Bay.

''SEC. 307B. CHESAPEAKE BAY FISHERY AND HABITAT RESTORATION SMALL GRANTS PROGRAM.

''(a) IN GENERAL.—The Director of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration (referred to in this section as the 'Director'), in cooperation with the Chesapeake Executive Council (as defined in section 307(e)), shall carry out a community-based fishery and habitat restoration small grants and technical assistance program in the Chesapeake Bay watershed.

''(b) PROJECTS.—

''(1) SUPPORT.—The Director shall make grants under the program under subsection (a) to pay the Federal share of the cost of projects that are carried out by eligible entities described in subsection (c) for the restoration of fisheries and habitats in the Chesapeake Bay.

''(2) FEDERAL SHARE.—The Federal share of the cost of a project under paragraph (1) shall not exceed 75 percent of the total cost of that project.

''(3) TYPES OF PROJECTS.—Projects for which grants may be made under the program include—

''(A) the improvement of fish passageways;

''(B) the creation of natural or artificial reefs or substrata for habitats;

''(C) the restoration of wetland or sea grass;

''(D) the production of oysters for restoration projects; and

''(E) the identification and characterization of contaminated habitats, and the development of restoration plans for those habitats in the Chesapeake Bay watershed.

''(c) ELIGIBLE ENTITIES.—The following entities are eligible to receive grants under the program under this section:

''(1) The government of a political subdivision of a State in the Chesapeake Bay watershed and the Government of the District of Columbia.

''(2) An organization in the Chesapeake Bay watershed (such as an educational institution or a community organization) that is described in section 501(c) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of the Code.

''(d) ADDITIONAL REQUIREMENTS.—The Director may prescribe any additional requirements, including procedures, that the Director considers necessary to carry out the program under this section.

''SEC. 307C. COASTAL PREDICTION CENTER.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Director of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration (referred to in this section as the 'Director'), in collaboration with regional scientific institutions, shall establish a coastal prediction center for the Chesapeake Bay (referred to in this section as the 'center').

''(2) PURPOSE OF CENTER.—The center shall serve as a knowledge bank for—

''(A) assembling, integrating, and modeling coastal information and data from appropriate government agencies and scientific institutions;

''(B) interpreting the data; and

''(C) organizing the data into predictive products that are useful to policy makers, resource managers, scientists, and the public.

''(b) ACTIVITIES.—

''(1) INFORMATION AND PREDICTION SYSTEM.—The center shall develop an Internet-based information system for integrating, interpreting, and disseminating coastal information and predictions concerning—

''(A) climate;

''(B) land use;

''(C) coastal pollution;

''(D) coastal environmental quality;

''(E) ecosystem health and performance;

''(F) aquatic living resources and habitat conditions; and

''(G) weather, tides, currents, and circulation that affect the distribution of sediments, nutrients, and organisms, coastline erosion, and related physical and chemical events within the Chesapeake Bay and the tributaries of the Chesapeake Bay.

''(2) AGREEMENTS TO PROVIDE DATA, INFORMATION, AND SUPPORT.—The Director may enter into agreements with other entities of the National Oceanic and Atmospheric Administration, other appropriate Federal, State, and local government agencies, and academic institutions, to provide and interpret data and information, and provide appropriate support, relating to the activities of the center.

''(3) AGREEMENTS RELATING TO INFORMATION PRODUCTS.—The Director may enter into grants, contracts, and interagency agreements with eligible entities for the collection, processing, analysis, interpretation, and electronic publication of information products for the center.''.

SEC. 4. ENVIRONMENTAL EDUCATION.

The National Oceanic and Atmospheric Administration Authorization Act of 1992 is amended by inserting after section 307C (as added by section 3) the following:

''SEC. 307D. ENVIRONMENTAL EDUCATION PILOT PROGRAM.

''(a) PILOT PROGRAM ESTABLISHED.—Not later than 180 days after the date of enactment of this section, the Director, in cooperation with the Chesapeake Executive Council, shall establish the Chesapeake Bay Environmental Education Program to improve the understanding of elementary and secondary school students and teachers of the living resources of the ecosystem of the Chesapeake Bay, and to meet the educational goals of the Chesapeake 2000 agreement.

''(b) GRANT PROGRAM.—

''(1) IN GENERAL.—The Director, through the pilot program established under subsection (a), shall make grants to not-for-profit institutions (or consortia of such institutions) to pay the federal share of the cost of programs described in paragraph (3).

''(2) CRITERIA.—The Director shall award grants under this subsection based on the experience of the applicant in providing environmental education and training programs regarding the Chesapeake Bay watershed to a range of participants and in a range of settings.

''(3) FUNCTIONS AND ACTIVITIES.—Grants awarded under this subsection may be used to support education and training programs that—

''(A) provide classroom education, including the use of distance learning technologies, on the issues, science, and problems of the living resources of the Chesapeake Bay watershed;

''(B) provide meaningful outdoor experience on the Chesapeake Bay, or on a stream or in a local watershed of the Chesapeake Bay, in the design and implementation of field studies, monitoring and assessments, or restoration techniques for living resources;

''(C) provide professional development for teachers related to the science of the Chesapeake Bay watershed and the dissemination of pertinent education materials oriented to varying grade levels;

''(D) demonstrate or disseminate environmental educational tools and materials related to the Chesapeake Bay watershed;

''(E) demonstrate field methods, practices and techniques including assessment of environmental and ecological conditions and analysis of environmental problems; and

''(F) develop or disseminate projects designed to—

''(i) enhance understanding and assessment of a specific environmental problem in the Chesapeake Bay watershed or of a goal of the Chesapeake Bay Program; or

''(ii) protect or restore living resources of the Chesapeake Bay watershed.

''(4) FEDERAL SHARE.—The Federal share of the cost of a program under paragraph (1) shall not exceed 75 percent of the total cost of that program.

''(5) PROGRAM REVIEW.—Not later than 1 year after the date on which the Director awards the first grant under this subsection, and annually thereafter, the Director shall conduct a detailed review and evaluation of the programs supported by grants awarded under this subsection to determine whether the quality of the content, delivery, and outcome of the program warrants continued support.

''(c) PROCEDURES.—The Director shall establish procedures, including safety protocols, as necessary for carrying out the purposes of this section.

''(d) TERMINATION AND REPORT.—

''(1) TERMINATION.—The program established under this section shall be effective during the 4-year period beginning on October 1, 2001.

''(2) REPORT.—Not later than December 31, 2005, the Director, in consultation with the Chesapeake Executive Council, shall submit a report through the Administrator of National Oceanic and Atmospheric Administration to Congress regarding this program and, on the appropriate role of Federal, State and local governments in continuing the program established under this section.

''(e) DEFINITION.—In this section, the term 'Chesapeake 2000 agreement' means the agreement between the United States, the States of Maryland, Pennsylvania, and Virginia, and the District of Columbia entered into on June 28, 2000.''.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 307(d) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d(d)) is amended to read as follows:

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to the Department of Commerce for the Chesapeake Bay Office $8,000,000 for each of fiscal years 2002 through 2005.

''(2) AMOUNTS FOR PROGRAMS.—Of the amount authorized to be appropriated for each fiscal year under paragraph (1)—

''(A) not more than $2,500,000 shall be available to operate the Chesapeake Bay Office and to carry out section 307A;

''(B) not more than $1,000,000 shall be available to carry out section 307B; and

''(C) not more than $500,000 shall be available to carry out section 307C.

''(D) not more than $2,000,000 shall be available to carry out section 307D.

(c) CONFORMING AMENDMENT.—Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (97 Stat. 1409) is amended by striking subsection (e), as added by section 307(d) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (106 Stat. 4285).

SEC. 6. TECHNICAL CORRECTION.

Section 307(b) of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d(b)) is amended by striking ''Chesapeake Bay Executive Council'' and inserting ''Chesapeake Executive Council''.

CHESAPEAKE BAY FOUNDATION,
Annapolis, MD, May 15, 2001.

Hon. PAUL SARBANES,
U.S. Senate, Hart Office Building, Washington, DC.

DEAR SENATOR SARBANES: Last year, a few Members claimed that the Florida Everglades was a national treasure. I know you agree with me that the Chesapeake Bay, which drains six states and the District, has more claim to being a national treasure than the Florida Everglades.

I am writing to thank you for your steadfast support for the Bay. I am also writing to urge you to pass new legislation that will fund wastewater treatment plant upgrades to reduce nutrient pollution in the Bay. Nutrient pollution is the Bay's number one problem. The Bay and its tributaries receive about twice as much nitrogen and phosphorus as they should. Sewage plants are not the sole source, but new technology makes them the low-hanging fruit as we seek reductions.

First, let me give credit where it is due. Over 70 large wastewater treatment plants have been upgraded with technology that dramatically reduces the amount of nitrogen and phosphorus in the treated discharge. Some plants, like the Blue Plains facility in DC, have gone beyond what was asked of them. Virginia and Maryland and the local municipalities have shouldered that cost so far.

Nevertheless, to make a real dent in nutrient pollution, we need to get serious about getting all the major plants to remove nitrogen and phosphorus from the effluent. Another 218 major plants await upgrades. These plants need to install state-of-the-art technology, which would cut 85% of the nitrogen and phosphorus pollution from the treated discharge. That would slash nutrients in the Bay by more than 50 million pounds each year. I've attached a copy of a letter from my staff to yours that provides a detailed background briefing on this subject.

The Clean Water Act promised citizens that they would have clean waters by now. Sadly, the Bay is still polluted thirty years later. If we fail to greatly reduce nutrient pollution in the next few years, the Bay will not be the only loser. Commercial fishermen and their families will suffer. Waterfront property owners will not realize a gain in their investment. Recreational opportunities—so important in this workaholic world—will be diminished. And certainly, an unhealthy Bay imperils human health.

The Chesapeake Bay Foundation stands ready to galvanize public support behind your effort to fund these upgrades. With 92,000 members, a dedicated professional staff and a volunteer board, we are determined to do whatever it takes to save the Bay. Thank you again for all of your hard work on behalf of the Bay.

Sincerely,

WILLIAM C. BAKER,
President.

CHESAPEAKE BAY COMMISSION,
Annapolis, MD, May 23, 2001.

Hon. PAUL S. SARBANES,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR SARBANES: We write in support of your efforts to reduce the environmental and public health impacts of one of the major point sources of nutrient pollution to the Chesapeake Bay—municipal wastewater treatment plants. As you know, nearly 300 major sewerage treatment plants located in the Chesapeake Bay watershed discharge approximately 60 million pounds of nitrogen, amounting to 20 percent of the total nitrogen load, into the Chesapeake Bay.

Nutrient pollution has been a particularly difficult and persistent problem in our efforts to protect and restore the Chesapeake Bay's ecosystem. In 1987, the Chesapeake Bay Commission and our Bay partners committed to achieving a 40 percent reduction in controllable nutrient loads to the Bay by the year 2000. While measurable pollution reductions were achieved despite continued population growth and development, the Chesapeake Bay Program estimates that at least an additional 100 million lbs. of nitrogen must be removed in order to correct the Bay's nutrient-related problems by 2010.

Fortunately, the Bay states have led the way in the application of advanced nutrient removal technologies. For example, of Maryland's 66 wastewater treatment plants, biological nutrient removal (BNR) technology is in operation at 34 plants, under construction at 9 plants, and all but one of the remaining wastewater treatment plants have signed cost-share agreements for implementation of BNR. While this technology is one of the most reliable and cost-effective means of reducing nutrient loads to the Bay, it is prohibitively expensive without the combined contribution of local, state, and Federal funds. To date, the financial burden for upgrading aging sewerage infrastructure has rested largely upon local governments, which have a limited capacity to support such expensive capital improvements. The Chesapeake Bay Foundation has derived a rough estimate of $1.2 billion for the application of BNR at treatment plants within the Bay watershed over a 10-year period.

By establishing the proposed grant program under the ''Chesapeake Bay Watershed Nutrient Removal Assistance Act,'' state and local funds could be matched with Federal funds to initiate urgently needed upgrades to eligible wastewater treatment facilities. By prioritizing those facilities that would produce the greatest nutrient load reductions at points of discharge and the greatest environmental benefits to local bodies of water, this program would ensure significant and measurable improvements to the water quality and living resources of the Chesapeake Bay. We commend you and your colleagues for addressing this important issue and offer our assistance in your endeavor.

Sincerely,

BRIAN E. FROSH,
Chairman (Senate of Maryland).
ROBERT S. BLOXOM,
Vice-Chairman (Virginia House of Delegates).
RUSS FAIRCHILD,
Vice-Chairman (Pennsylvania House of Representatives).

MARYLAND DEPARTMENT
OF THE ENVIRONMENT,
Baltimore, MD, June 12, 2001.

Hon. PAUL SARBANES,
U.S. Senate, Hart Building,
Washington, DC.

DEAR SENATOR SARBANES: The State of Maryland has been pursuing an aggressive program of reducing nutrients from publicly owned wastewater treatment plants through its Biological Nutrient Removal (BNR) Cost-Share Program. This State funded program provides 50% of the costs to upgrade existing wastewater treatment plants with pollutant removal technologies that go beyond regulatory requirements to help meet the goal of cleaning up the Chesapeake Bay and its tributaries.

This State funded program has benefited from your efforts as well as those of Senator Mikulski through the earmarking of special federal appropriations to some of the wastewater treatment plants targeted for these BNR upgrades. This assistance has made the needed improvements affordable to the citizens served by these treatment plants and advanced the goals of the Chesapeake Bay Program.

I am writing to you today to request your continued support of the BNR Program. Maryland has accomplished much in this program. Of the 66 targeted plants, 34 are in operation and 9 are under construction. The remaining plants are in planning and design. Maryland has provided $163 million to fund these improvements, with another $73 to $100 million estimated to be needed to complete the program. The local governments have committed an equal share, and have the need for additional funding to implement BNR. With full implementation of the BNR Program, nitrogen loadings to the Bay will be reduced from 32 to 15.2 million pounds per year.

Achieving this level of nutrient reduction is more critical than ever, as the new goals being evaluated for the Chesapeake 2000 Agreement are refined. It is already clear that we will have to do much more to reduce both point sources and non-point sources of nutrient pollution to restore the Bay.

BNR will remain the cornerstone of the point survey strategy to achieve the needed nutrient reductions. While the BNR program has targeted a nitrogen concentration of 8 mg/l, many of the plants designed with BNR will be able to achieve even lower concentrations. The plants currently in planning and design are being evaluated and designed to be able to achieve lower concentrations, in anticipation of more ambitious Bay goals. In some cases, this may increase project costs, but is a reasonable investment to protect the Bay and its tributaries.

In the interest of maintaining the leadership of the Chesapeake Bay restoration effort by providing a nationally significant demonstration effort, I am asking for your continuing assistance in helping Maryland, and the other jurisdictions in the Chesapeake Bay region, meet these ambitious yet critical nutrient reduction goals. The creation of a special grant program to help local governments upgrade their wastewater treatment plants to reach the lowest possible nutrient discharge levels would ensure that the large publicly owned wastewater treatment plants in the region are maximizing pollutant removals to the benefit of the Chesapeake Bay.

The beneficiaries of this capital investment will be not only the future residents in the Chesapeake Bay region, who will be able to enjoy the environment and economic wealth of the Bay and the living resources with which we share this unique resource, but also the nation which will benefit from

the knowledge gained from the Chesapeake Bay restoration effort.

Sincerely,

JANE NISHIDA,
Secretary.

By Mr. DEWINE (for himself, Mr. LEAHY, Mr. VOINOVICH, Mr. BREAUX, Mr. CONRAD, Mr. LUGAR, Mr. SANTORUM Ms. LANDRIEU, and Mr. HATCH):

S. 1048. A bill to amend the Internal Revenue Code of 1986 to provide relief for payment of asbestos-related claims; to the Committee on Finance.

Mr. DEWINE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection the text of the bill was ordered to be printed in the RECORD.

S. 1048

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. EXEMPTION FOR ASBESTOS-RELATED SETTLEMENT FUNDS.

(a) EXEMPTION FOR ASBESTOS-RELATED SETTLEMENT FUNDS.—Subsection (b) of section 468B of the Internal Revenue Code of 1986 (relating to special rules for designated settlement funds) is amended by adding at the end the following new paragraph:

''(6) EXEMPTION FROM TAX FOR ASBESTOS-RELATED SETTLEMENT FUNDS.—Notwithstanding paragraph (1), no tax shall be imposed under this section or any other provision of this subtitle on any settlement fund to which this section or the regulations thereunder applies that is established for the principal purpose of resolving and satisfying present and future claims relating to asbestos.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 468B(b) of such Code is amended by striking ''There'' and inserting ''Except as provided in paragraph (6), there''.

(2) Subsection (g) of section 468B of such Code is amended by inserting ''(other than subsection (b)(6))'' after ''Nothing in any provision of law''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after December 31, 2000.

SEC. 2. MODIFY TREATMENT OF ASBESTOS-RELATED NET OPERATING LOSSES.

(a) ASBESTOS-RELATED NET OPERATING LOSSES.—Subsection (f) of section 172 of the Internal Revenue Code of 1986 (relating to net operating loss deduction) is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) SPECIAL RULES FOR ASBESTOS LIABILITY LOSSES.—

''(A) IN GENERAL.—At the election of the taxpayer, the portion of any specified liability loss that is attributable to asbestos may, for purposes of subsection (b)(1)(C), be carried back to the taxable year in which the taxpayer, including any predecessor corporation, was first involved in the production or distribution of products containing asbestos and each subsequent taxable year. In determining its specified liability losses attributable to asbestos, the taxpayer may elect to take into account payments of related parties attributable to asbestos-related products produced or distributed by the taxpayer.

''(B) COORDINATION WITH CREDITS.—If a deduction is allowable for any taxable year by reason of a carryback described in subparagraph (A)—

''(i) the credits allowable under part IV (other than subpart C) of subchapter A shall be determined without regard to such deduction, and

''(ii) the amount of taxable income taken into account with respect to the carryback under subsection (b)(2) for such taxable year shall be reduced by an amount equal to—

''(I) the increase in the amount of such credits allowable for such taxable year solely by reason of clause (i), divided by

''(II) the maximum rate of tax under section 1 or 11 (whichever is applicable) for such taxable year.

''(C) CARRYFORWARDS TAKEN INTO ACCOUNT BEFORE ASBESTOS-RELATED DEDUCTIONS.—For purposes of this section—

''(i) in determining whether a net operating loss carryforward may be carried under subsection (b)(2) to a taxable year, taxable income for such year shall be determined without regard to the deductions referred to in paragraph (1)(A) with respect to asbestos, and

''(ii) if there is a net operating loss for such year after taking into account such carryforwards and deductions, the portion of such loss attributable to such deductions shall be treated as a specified liability loss that is attributable to asbestos.

''(D) LIMITATION.—The amount of reduction in income tax liability arising from the election described in subparagraph (A) that exceeds the amount of reduction in income tax liability that would have resulted if the taxpayer utilized the 10-year carryback period under subsection (b)(1)(C) shall be devoted by the taxpayer solely to asbestos claimant compensation and related costs, through a settlement fund or otherwise.

''(E) COORDINATION WITH OTHER CARRYBACK LIMITATIONS.—The amount of asbestos-related specified liability loss that may be absorbed in a prior taxable year (and the amount of refund attributable to such loss absorption) shall be determined without regard to any limitation under section 381, 382, or 1502 or the regulations thereunder.

''(F) PREDECESSOR CORPORATION.—For purposes of this paragraph, a predecessor corporation shall include a corporation that transferred or distributed assets to the taxpayer in a transaction to which section 381(a) applies or that distributed the stock of the taxpayer in a transaction to which section 355 applies.''.

(b) CONFORMING AMENDMENT.—Paragraph (7) of section 172(f) of such Code, as redesignated by this section, is amended by striking ''10-year''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after December 31, 2000.

Mr. LEAHY. Mr. President, I am pleased to join with Senator DEWINE in introducing bipartisan legislation to provide common-sense tax incentives to help address asbestos liability issues.

First, our legislation would exempt investment income in an asbestos-related designated settlement funds from Federal income tax, much as the investment income in a 401(k) savings plan is exempt from Federal income tax under current law. To qualify for this exemption from Federal taxation, the principal purpose of the asbestos-related designated settlement fund must be to pay present and future claims to asbestos victims and their families. This tax incentive encourages businesses to create settlement funds to meet their asbestos-related liabilities, just as the tax incentive for 401(k) savings plans encourages workers to invest for their retirement.

Second, our legislation recognizes the unique nature of asbestos-related diseases by providing a special ''carry-back'' rule for a company's losses from paying claims to asbestos victims and their families. Under current law, a company may carry back these costs from products sold in the last ten years. This carry-back period, however, fails to match the realities of asbestos-related diseases, which are often latent for forty or more years. In many cases, companies are paying asbestos-related claims for exposure to products that were produced a half-century ago.

Our legislation would permit companies for whom the ten-year period provides no relief to carry back their current expenses from asbestos payments to victims and their families to the years in which the company produced the asbestos product. This extension of the carry-back tax rule is only fair given the long latency period of asbestos-related diseases.

I agree with Supreme Court Justice Ruth Bader Ginsburg in the Amchem Products decision that Congress can provide a secure, fair and efficient means of compensating victims of asbestos exposure. The appropriate role for Congress is to provide incentives for private parties to reach settlements, not to take away the legal rights of asbestos victims and their families. Our bipartisan bill provides these tax incentives for private parties involved in asbestos-related litigation to reach global settlements and for asbestos victims and their families to receive the full benefit of the incentives.

Encouraging fair settlements while still preserving the legal rights of all parties involved is a win-win situation for business and asbestos victims. For example, Rutland Fire Clay Company, a family-run, 118-year-old small business in my home state of Vermont, recently reached a settlement with its insurers and the trial bar concerning the firm's asbestos problems. Unlike some big businesses that are trying to avoid any accountability for their asbestos responsibilities through national ''tort reform'' legislation, the Rutland Fire Clay Company and its President, Tom Martin, are doing the right thing within the legal system. The tax incentives in our bipartisan bill will support the Rutland Fire Clay Company and its employees while providing financial security for its settlement with asbestos victims and their families.

I believe it is in the national interest to encourage fair and expeditious settlements between companies and asbestos victims. The legislation we are introducing today will encourage payments to victims while ensuring defendant firms remain solvent.

I thank Senator DEWINE for his leadership on this issue. I urge my colleagues to support our bipartisan approach to provide a secure and fair

means of compensating victims of asbestos exposure and to permit businesses with asbestos liabilities to efficiently meet their responsibilities.

By Mr. TORRICELLI:

S. 1049. A bill to provide for an election to exchange research-related tax benefits for a refundable tax credit, for the recapture of refunds in certain circumstances, and for other purposes; to the Committee on Finance.

Mr. TORRICELLI. Mr. President, I rise today to introduce a vital piece of legislation that will encourage the growth of some of the most innovative companies in the world. I refer to the small biotechnology firms throughout the country which on a daily basis perform breakthrough research that enhances our daily lives.

Indeed, biotechnology research over the years has benefitted greatly from successful initiatives such as the R&D tax credit. The R&D credit is of particular importance to my State of New Jersey because there are over 100 companies who spend $20 billion a year in R&D. In fact, over 50 percent of all the prescription drug research in the world is conducted in my State.

Going hand in hand with the R&D tax credit are the contributions of the biotechnology industry. My colleagues are well aware of the importance of this segment of industry and the beneficial role biotechnology plays in improving our quality of life and protecting the environment. In fact, the Senate unanimously approved a resolution acknowledging the benefits of biotech research earlier this Congress.

The Senate has recognized these benefits that are seen in the drugs and vaccines developed over the last 20 years, which have already enabled over 270 million people throughout the world live healthier and longer lives. Today, a breast cancer, leukemia or diabetes patient has a fighting chance to survive their illness through treatments developed by biotech research.

The record number of biotech drug approvals by the FDA over the past five years demonstrates the potential of this industry to develop new therapies which may someday lead to cures and vaccines for debilitating diseases such as heart disease, Alzheimer's, AIDS and cancer.

While the R&D credit has been responsible for enabling much of this breakthrough research, the irony is that many small firms who are performing the most advanced, cutting edge research and experimentation, who desperately need the R&D credit are unable to utilize it because they have failed to turn a profit. These small companies often dedicate all of their resources to one or two major initiatives to conduct long term R&D projects benefitting our medical, agricultural and industrial sectors.

In many instances, these projects are time consuming, expend much capital, and unfortunately are unsuccessful or unmarketable. Consequently, the long term unprofitability of these companies make them unable to take advantage of tax breaks and incentives such as the R&D credit. Therefore, many small firms are forced to abandon their research, sell their innovations to larger companies or simply go out of business.

I firmly believe that these industry failures are our failures because the firm that ends its research today, may have been the company that provides the cure for Parkinson's or Lou Gherig's disease tomorrow.

In order to address this situation, it is time for Congress to adopt a straightforward proposal that would build on the success of the R&D credit to provide these small research companies with the resources they need to continue their vital work. Specifically, I am introducing a proposal to allow these small firms to elect to take a refundable tax credit, equal to 75 percent of the nominal value of their current-year research credits or deductions or 75 percent of the value of the current-year net operating losses multiplied by the highest marginal tax rate for corporations (currently 35 percent).

I have also included safeguard provisions to ensure that the government's investment in these companies is put to good use. Any company that elects to take this refundable tax credit would become ineligible for normal R&D tax credits and normal corporate tax deductions until they are able to payback the original amount of the refundable tax credit in federal income taxes after they turn a profit. Furthermore, my proposal requires that the proceeds from the refundable tax credit must be used towards ongoing research-related activities. My legislation also maintains that if it is determined that a company claiming this credit is not using the proceeds for research, the IRS can recapture that portion of the credit.

This proposal does not seek to supercede or replace the R&D tax credit. Rather, it complements the tremendous success of the R&D credit. It helps the struggling companies that the R&D credit doesn't reach. I am hopeful that my colleagues will recognize, as I do, the magnificent potential of the biotech industry and make this investment in its future.

By Mr. SANTORUM (for himself, Mr. FITZGERALD, and Mr. VOINOVICH):

S. 1050. A bill to protect infants who are born alive; to the Committee on the Judiciary.

Mr. SANTORUM. Mr. President, today I am introducing the Born Alive Infants Protection Act.

When I was first elected to the Senate in 1994, I never imagined that the bill I am offering today would be necessary. Simply stated, this measure gives legal status to a fully born living infant, regardless of the circumstances of his or her birth. I am deeply saddened that we must clarify Federal law to specify that a living newborn baby is, in fact, a person.

One could ask, ''Why do you need Federal legislation to state the obvious? What else could a living baby be, except a person?'' I will begin my explanation with events in 1995, when the Senate began its attempts to outlaw a horrifying, inhumane, and barbaric abortion procedure: partial birth abortion. In this particular abortion method, a living baby is killed when he or she is only inches from being fully born. Twice, the House and Senate stood united in sending a bill to President Clinton to ban this procedure. Twice, President Clinton vetoed the bill; and twice, the House courageously voted to override his veto. Although support in the Senate grew each time the ban came to a vote, the Senate fell a few votes shy of overriding the veto.

Then, on June 28, 2000, the U.S. Supreme Court struck down Nebraska's partial birth abortion ban. The Supreme Court's ruling in Stenberg v. Carhart, as well as subsequent rulings in lower courts, are disturbing on a number of levels. First, the Supreme Court struck down Nebraska's attempt to ban a grotesque procedure the American Medical Association has called ''bad medicine,'' and thousands of physicians who specialize in high risk pregnancies have called ''never medically necessary.'' Further, the Court said it did not matter that the baby is killed when it is almost totally outside the mother's body in this abortion method. In other known abortion methods, the baby is killed in utero. Finally, the U.S. Supreme Court, and the Third Circuit Court have stated it does not matter where the baby is positioned when it is aborted. This assertion, to me, is the most horrifying of all.

In the years of debates on partial birth abortion, I have asked Senators a very simple question: If a partial birth abortion were being performed on a baby, and for some reason the head slipped out and the baby were delivered, would it be o.k. to kill that baby? Not one Senator who defended the procedure has ever provided a straightforward ''yes'' or ''no'' response. They would not answer my question. I believe it is important to define when a child is protected by the Constitution; so, I revised my question. I asked whether it would be alright to kill a baby whose foot is still inside the mother's body, or what if only a toe is inside? Again, I did not receive an answer.

Unfortunately, evidence uncovered last year at a hearing before the House Judiciary Subcommittee on the Constitution suggests my questions were not so hypothetical. In fact, two nurses testified to seeing babies who were born alive as a result of induced labor abortions being left to die in soiled utility rooms. Furthermore, the intellectual framework for legalization of

killing unwanted babies is being constructed by a prominent bioethics professor at Princeton University. Professor Peter Singer has advocated allowing parents a 28-day waiting period to decide whether to kill a disabled or unhealthy newborn. In his widely disseminated book, Practical Ethics, he asserts, ''killing a disabled infant is not morally equivalent to killing a person. Very often it is not wrong at all.''

In response to these events, the Born Alive Infants Protection Act grants protection under Federal law to newborns who are fully outside of the mother. Specifically, it states that Federal laws and regulations referring to a ''person,'' ''human being,'' ''child,'' and ''individual'' include ''every infant member of the species homo sapiens who is born alive at any stage of development.'' ''Born alive'' means ''the complete expulsion or extraction from its mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, caesarean section, or induced abortion.'' The definition of ''born alive'' is derived from a World Health Organization definition of ''live birth'' that has been enacted in approximately 30 states and the District of Columbia.

Again, all this bill says is that a living baby who is completely outside of its mother is a person, a human being, a child, an individual. Similar legislation passed by the House of Representatives last year by an overwhelming vote of 380–15. I am hopeful that Senators on both sides of the general abortion debate can agree that once a baby is completely outside of its mother, it is a person, deserving the protections and dignity afforded to all other Americans.

I ask unanimous consent that the text of the Born Alive Infants Protection Act be printed in the RECORD.

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

S. 1050

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 ''Born-Alive Infants Protection Act''.

SEC. 2. DEFINITION OF BORN-ALIVE INFANT.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

''§ 8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant

''(a) In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words 'person', 'human being', 'child', and 'individual', shall include every infant member of the species homo sapiens who is born alive at any stage of development.

''(b) As used in this section, the term 'born alive', with respect to a member of the species homo sapiens, means the complete expulsion or extraction from its mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor,caesarean section, or induced abortion.

''(c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being born alive as defined in this section''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by adding at the end the following new item:

''8. 'Person', 'human being', 'child', and 'individual' as including born-alive infant.''.

By Mr. WARNER (for himself and Mr. ALLEN):

S. 1051. A bill to expand the boundary of the Booker T. Washington National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WARNER. Mr. President, today I rise to introduce a bill which will expand the borders of the Booker T. National Washington Monument in Virginia. This extraordinary 224 acres of rolling hills, woodlands, and agricultural fields preserves and protects the birth site and childhood home of Booker T. Washington. It interprets both his life experiences and significance in American history.

On April 2, 1956 the Monument was authorized by Congress to create a ''public national memorial to Booker T. Washington, noted Negro educator and apostle of good will . . .''. Mr. Washington was widely considered the most powerful African American of his time. This park provides a focal point for the continuing discussions on the context of race in American society, a resource for public education, and the continuation of his legacy today.

The agricultural landscape surrounding the Monument plays a critical role in the park's interpretation of Washington's life as an enslaved child during the Civil War era. Many of his most significant experiences center on this small tobacco farm located near the rapidly developing recreational area of Smith Mountain Lake. It is remarkable that the area immediately surrounding the national monument remains relatively unchanged since the time of Booker T. Washington's birth.

As part of the park's strategic plan, a viewshed study was conducted in 1998. It's purpose was to survey the surrounding lands in the most highly visited areas of the park and determine what visual effects urban development would have on the preservation of this historic site. The study identified a 15-acre parcel of land to be the most critical addition for this park because of its proximity to Booker T. Washington's birth site.

Several private landowners now wish to sell some of the surrounding farmland, including the 15-acre tract identified in the viewshed study. I believe that in order to maintain this unique historic setting, the Park Service should acquire this property so that visitors will be able to experience the same pastoral setting that was so crucial to Booker T. Washington's life. I urge my colleagues to join me in preserving this important landmark in our nation's history for all future generations.

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. 1051

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 ''Booker T. Washington National Monument Boundary Adjustment Act of 2001''.

SEC. 2. BOUNDARY OF BOOKER T. WASHINGTON NATIONAL MONUMENT EXPANDED.

The Act entitled ''An Act to provide for the establishment of the Booker T. Washington National Monument'', approved April 2, 1956 (16 U.S.C. 450*ll* et seq.), is amended by adding at the end the following new section:

''SEC. 5. ADDITIONAL LANDS.

''(a) LANDS ADDED TO MONUMENT.—The boundary of the Booker T. Washington National Monument is modified to include the approximately 15 acres, as generally depicted on the map entitled ''Boundary Map, Booker T. Washington National Monument, Franklin County, Virginia'', numbered BOWA 404/80,024, and dated February 2001. The map shall be on file and available for inspection in the appropriate offices of the National Park Service, Department of the Interior.

''(b) ACQUISITION OF ADDITIONAL LANDS.—The Secretary of the Interior is authorized to acquire from willing owners the land or interests in land described in subsection (a) by donation, purchase with donated or appropriated funds, or exchange.

''(c) ADMINISTRATION OF ADDITIONAL LANDS.—Lands added to Booker T. Washington National Monument by subsection (a) shall be administered by the Secretary of the Interior as part of the monument in accordance with applicable laws and regulations.''.

By Mr. HARKIN (for himself, Mr. AKAKA, Mr. BINGAMAN, Mr. MURKOWSKI, Mr. REID, Mr. DOMENICI, Mr. KYL, Mr. BAYH, Mr. INOUYE, Mr. LIEBERMAN, and Mr. JEFFORDS):

S. 1053. A bill to reauthorize and amend the Spark M. Matsunaga Hydrogen Research Development, and Demonstration Act of 1990, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. HARKIN. Mr. President, I am pleased to introduce today the Hydrogen Future Act of 2001, a bill to reauthorize the Department of Energy's hydrogen energy programs. I am especially pleased that this bill has strong bipartisan support. I worked closely with my colleague from Hawaii, Senator AKAKA, in developing the bill, which builds on the great work of his

predecessor, Spark Matsunaga, and I thank him for his support. Other cosponsors include Senators BINGAMAN, MURKOWSKI, REID, DOMENICI, KYL, BAYH, INOUYE, LIEBERMAN, and JEFFORDS.

There has been a wide-ranging and sometimes fierce debate recently over what should be in a national energy policy. But while there is significant disagreement over near-term strategies, there is a widely shared vision of where we need to end up. For the sake of both the economy and the environment, we need to develop clean, domestic renewable fuels, such as solar heat and power, wind turbines, geothermal power, hydroelectric power, and biomass and ethanol. These fuels are domestic, avoiding the risks of dependence on foreign sources; indeed several of these fuels are widely available in the U.S., so that many states, such as Iowa, that now import virtually all their fuel could bring that work home. The use of multiple fuels, and the local availability, should make supplies more reliable as well. And these renewable fuels are truly ''green''—they cause almost no pollution and result in almost no global warming.

However, the sun, the wind, and even the rivers are not always available when you need them, and you can't store sunlight, wind, or the electricity you make from them. If they are to be major sources of power, you need a way to store the energy.

The need to store electricity is not just a hypothetical problem for an energy future. The California energy crisis this year has vividly demonstrated that electricity is not just another commodity. The terrible price spikes and rolling blackouts occur in part because customers need electricity but cannot store or stockpile it, during brief shortages purchasers have paid hundreds or thousands of dollars a kilowatthour, or found there was no electricity to buy. Californians hoped to create a free and fair market in electricity, but instead find themselves at the mercy of electricity providers.

The automobile industry has also recognized for some time that electric cars could be much more efficient than any combustion engine vehicle, as well as quieter and non-polluting. But they have lacked an effective way to generate electricity on board.

These issues may be even more important abroad. Our world population continues to increase at an almost alarming rate. Back when I was born in 1939, there were three billion people on the earth. When I turned 60 not long ago, there were 6 billion people. And 40 years from now, when by daughter turns 60, there will be 11 billion people on earth.

As countries like India, China and the African Nations become industrialized consumer societies, billions of additional people will want, and deserve to have, a better quality of life. That means heating in the winter and air conditioning in the summer, televisions and microwave ovens and cars. But if they develop the same way we did, we are all in trouble. The air pollution, water pollution, and global warming could make our earth unlivable. And if China and other developing nations import oil to fuel a billion cars, our recent $2 a gallon gasoline prices will look like bargains. For the sake of these countries and for our own sake, we've got to help these developing countries leap-frog fossil fuels and move directly to sustainable development based on renewable energy.

The Hydrogen Future Act is about the solution to the electricity storage problem. Hydrogen is a colorless, odorless, non-toxic gas that can be obtained from ordinary water using electricity or from plants such as switchgrass and trees. Hydrogen can be stored and transported much like natural gas. And it is an almost perfect fuel. When burned, the main waste product is water. But hydrogen can more efficiently be used to power fuel cells, making only electricity, heat, and pure water. And it's safe, escaping harmlessly into the air if there is a leak.

Because of these qualities, hydrogen has long been a technologist's dream. Jules Verne imagined hydrogen from water powering machinery, trains, and and lights back in 1874. But in 1990, when the Hydrogen Research, Development, and Demonstration Act first became law, hydrogen was still used for energy more in space, by NASA, than on earth.

How things are changing. Hydrogen fuel cells are no longer a laboratory curiosity. Today, the First National Bank of Omaha, just outside my home state of Iowa, uses fuel cells to power its credit card service operations. They wanted fuel cells because of their reliability. They figure it costs them one million dollars for every hour their power is out, and that the $3.8 million system has already paid for itself. The New York Central Park Police Station relies on a fuel cell for off-grid electricity because it would have cost over a million dollars to run power line extensions to the building. And at the Kirby Cove Campground in California, fuel cells have another advantage: they're quiet.

We've seen public buses running on hydrogen fuel cells in Chicago and Vancouver and Southern California. Every major car manufacturer has prototype fuel cell cars and vans on the roads. And there are hydrogen fueling stations in places such as Dearborn, Michigan; Las Vegas, Nevada, and Sacramento, CA. Some companies are developing fuel cells to power cell phones and personal computers, others for full-size power plants. Companies have announced plans to deliver commercial fuel cell products in the next few years in cars, buses, and homes.

Soon hydrogen may be powering the world. It's potential is so great that some people look forward to a ''hydrogen economy,'' an economy in which hydrogen is the ubiquitous energy ''carrier'' between renewable sources and all end uses. Larry Burns, a vice president of General Motors has said, ''We believe hydrogen will be the fuel of the future.'' And Don Huberts, of Shell, said ''The stone age did not end because the world ran out of stones, and the oil age will not end because we run out of oil.'' Saudi Arabian Oil Minister Ahmed Zaki Yamani has used almost the same words. Now Iceland has embarked on a visionary program to create the world's first hydrogen economy using their abundant hydroelectric and geothermal resources.

The Department of Energy hydrogen energy program is a critical part of this revolution. The program conducts research in the efficient and cost-effective production of hydrogen from renewable sources and from fossil fuels, in effective storage of hydrogen, and in potential uses such as reversible fuel cells, as well as in necessary infrastructure including hydrogen sensors. The program demonstrates technologies such as hydrogen fueling and remote off-grid power applications. The program also conducts invaluable process and market analyses, as well as doing necessary work on codes and regulations. They are working on ceramic membranes, combined electricity generation and hydrogen production, and niche markets such as vehicles in mines. Almost all projects are funded in party by industry.

The bill we are introducing today will extend, expand, and improve this DOE program. Because of the enormous promise of hydrogen energy, and the current rapid expansion of opportunities, the bill authorizes a significant increase in funding for the hydrogen program, to $60 million next year, with a total of $350 million over five years.

It also establishes a new program aimed at demonstrating hydrogen technologies and their integration with fuel cells at Federal, State, and local government facilities. The program would be based on a plan to be developed by an interagency task force. It would focus on hydrogen production, storage, and use in buildings and vehicles; on hydrogen-based infrastructure for buses and fleet transportation; and on distributed power generation, including the generation of combined heat, power, and hydrogen. This new demonstration program would be funded at an additional $20 million next year, with a total of $150 million over five years.

The bill makes other improvements, including: Modification of cost-sharing requirements to enable more participation in research projects by small companies and to exclude from cost-sharing analytical and service work that will not lead to commercial products. These changes are intended to conform more closely to the requirements in the Energy Policy Act of 1992 that govern the rest of the renewable energy program, without violating WTO rules; Language incorporating international activities where appropriate in the

DOE programs. A global perspective is necessary both to develop world markets for our products and to encourage international development on a sustainable path; Clarification of the composition of the Hydrogen Technical Advisory Panel that oversees the program for DOE; Reporting requirements to further enhance inter-agency and inter-governmental cooperation in the hydrogen program.

This bill has the support of the chairman and ranking members of the Energy Committee as well as the chairman and ranking member of the Energy and Water Subcommittee of the Appropriations Committee. I understand that a bill to reauthorize the Hydrogen Future Act will also be introduced today in the House by Representatives KEN CALVERT and SHERWOOD BOEHLERT, key members of the Science Committee. And the recent report of the administration's National Energy Policy Development Group recommended reauthorization of the hydrogen program. I hope with this strong bipartisan support we will be able to pass this bill quickly and to help realize hydrogen's potential in providing the clean, reliable energy we so desperately need.

Mr. AKAKA. Mr. President, I am pleased to join Senator HARKIN, Senator BINGAMAN and Senator MURKOWSKI, Chairman and Ranking Member of the Senate Committee on Energy and Natural Resources, my colleagues Senators BAYH, DOMENICI, JEFFORDS, KYL, LIEBERMAN, REID, and my senior colleague from Hawaii, Senator INOUYE, in introducing legislation that will accelerate the ongoing efforts for the development of a fuel for the future—hydrogen. Hydrogen is an efficient and environmentally friendly energy carrier that can be obtained using conventional or renewable resources.

In these days of soaring energy prices, oil cartels, air pollution, global climate change and greenhouse gases, hydrogen is a dazzling alternative. We can have a zero-pollution fuel. It can be produced domestically, ending our dependence on foreign oil. The question is not whether there will be a hydrogen age but when.

Hydrogen as a fuel can help us resolve our energy problems and satisfy much of the world's energy needs. I am convinced that sometimes in the 21st century, hydrogen will join electricity as one of our Nation's primary energy carriers, and hydrogen will ultimately be produced from renewable sources. In the next twenty years, increasing concerns about global climate change and energy security will help bring about penetration of hydrogen in several niche markets. The growth of fuel cell technology will allow the introduction of hydrogen in both the transportation and electricity sectors.

I have a long-term vision for hydrogen energy as a renewable resource. Progress is being made and challenges and barriers are being surmounted at an accelerating pace on a global scale. Fuel cells for distributed stationary power are being commercialized and installed in various locations in the United States and worldwide. Transit bus demonstration programs are underway in both the United States and Europe. Major automobile companies are poised to deploy fuel cell passenger cars within the next few years. All these activities involve government and private sector cooperation.

Industry is moving ahead with fuel cell developments at a rapid pace. Many companies are forming partnerships to bring new technologies to the marketplace. Daimler-Chrysler, Ford, and Ballard have formed a partnership and pledged $1.5 billion for commercialization of automotive fuel cells. Edison Development Company, General Electric, SoCal Gas, and Plug Power have agreements to commercialize residential fuel cells.

National governments are turning to hydrogen as the fuel of the future. Iceland is making a strong bid to become the world's first hydrogen-based economy. According to its plans, hydrogen-powered cars and buses will transport people in Reykjavik, the country's capital within ten years. If all goes well there will be no need for oil in Iceland.

Closer to home, I am particularly pleased that the State of Hawaii is taking the lead in ushering in the hydrogen era. Our State Legislature is advancing bills that would authorize the formation of a public-private sector partnership for promoting hydrogen as an energy source. The partnership would involve the State, Counties, Federal Government, utilities, and private companies. The partnership would be charged with developing plans to promote investment in hydrogen infrastructure, begin pilot plants to produce hydrogen from geothermal and other sources on Oahu, study how to move hydrogen to other islands, and study how wind and other methods could be used to produce hydrogen. In California, the state's zero emissions vehicle requirements favor early introduction of hydrogen-powered vehicles.

These are very important initiatives. They may be small steps, but for the hydrogen future they are important steps forward.

My predecessor in the Senate, Senator Spark Matsunaga was one of the first to focus attention on hydrogen by sponsoring hydrogen research legislation. The Matsunaga Hydrogen Act, as the legislation became known, was designed to accelerate development of domestic capability to produce an economically renewable energy source in sufficient quantities to reduce the Nation's dependence on conventional fuels. As a result of Senator Matsunaga's vision, the Department of Energy has been conducting research that will advance technologies for cost-effective production, storage, and utilization of hydrogen.

The Hydrogen Future Act of 1996, which followed the Matsunaga Hydrogen Act, expanded the research, development, and demonstration program under the original Act. It authorized activities leading to production, storage, transformation, and use of hydrogen for industrial, residential, transportation, and utility applications. It enjoyed bipartisan support in Congress.

Today we are introducing legislation that reauthorizes and amends the Hydrogen Future Act of 1996. It highlights the potential of hydrogen as an efficient and environmentally friendly source of energy, the need for a strong partnership between the Federal government, industry, and academia, and the importance of continued support for hydrogen research. It fosters collaboration between Federal agencies, State and local governments, universities, and industry, and it encourages private sector investment and cost sharing in the development of hydrogen as an energy source. It adds provisions for the demonstration of hydrogen technologies at government facilities to expedite wider application of these technologies.

The bill we are introducing today supports the recommendations of the President's Council of Advisors on Science and Technology, PCAST. In its report issued in November 1997, PCAST proposed a substantial increase in Federal spending for applied energy technology R&D, with the largest share going to energy efficiency and renewable energy technologies. The PCAST report, ''Federal Energy Research and Development for the Challenges of the Twenty-First Century,'' acknowledged and supported advances in a wide range of both hydrogen-producing and hydrogen-using technologies.

The current Hydrogen Program, administered by the Department of Energy, supports a broad range of research and development projects in the areas of hydrogen production, storage, and use in a safe and cost-effective manner. Some of these new technologies may become available for wider use in the next few years. The most promising include advanced natural gas- and biomass-based hydrogen production technologies, high pressure gaseous and cryogas storage systems, and reversible PEM fuel cell systems. Other projects lay the groundwork for long range opportunities. These activities need continued support if the nation is to enjoy the benefits of a clean energy source.

The Hydrogen Program utilizes the talents of our national laboratories and our universities. The National Renewable Energy Laboratory, Sandia, Lawrence Livermore, Los Alamos, and Oak Ridge National Laboratories, as well as Jet Propulsion Laboratory are involved in the program. The DOE Field Office at Golden, Colorado, and Nevada Operations Office in Nevada are also involved. University-led centers-of-excellence have been established at the University of Miami and the University of Hawaii. U.S. participation in the International Energy Agency contributes to

the advancement of DOE hydrogen research through international cooperation. The program has also built strong links with the industry. This has resulted in strong industry participation and cost sharing. Cooperation between government, industry, universities, and the national laboratories is key to the successful development and commercialization of new and environmentally friendly energy technologies.

The legislation we are introducing today authorizes $350 million over the next five years for research and development for hydrogen production, storage and use. This will allow advancement of technologies such as smaller-scale production systems that are applicable to distributed-generation and vehicle applications, advanced pressure vessels, photobiological and photocatalytic production of hydrogen, and carbon nanotubes, graphite nanofibers, and fullerenes.

The bill also authorizes $150 million for conducting integrated demonstrations of hydrogen technologies at government facilities. This provision will help secure industry participation through competitive solicitations for technology development and testing. It will test the viability of hydrogen production, storage, and use, and lead to the development of hydrogen-based operating experience acceptance to meet safety codes and standards.

By supporting this bill, we will be ushering in a new era of non-polluting energy. I urge my colleagues to support this important legislation.

By Mr. KOHL (for himself and Mr. REID):

S. 1054. A bill to amend titles XVIII and XIX of the Social Security Act to prevent abuse of recipients of long-term care services under the Medicare and Medicaid programs; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today to re-introduce the Patient Abuse Prevention Act. I am pleased to be joined in this effort by Senator REID, who has worked tirelessly with me on this important legislation.

There is absolutely no excuse for abuse or neglect of the elderly and disabled at the hands of those who are supposed to care for them. Our parents and grandparents made our country what it is today, and they deserve to live with dignity and the highest quality care.

Unfortunately, this is not always the case. We know that the majority of caregivers are dedicated, professional, and do their best under difficult circumstances. But we also know that too often, the elderly are starved, shamed, abused, neglected and exploited by the very people charged with their care. And the systems that are in place today are not enough to protect them.

It is estimated that more than 43 percent of Americans over the age of 65 will likely spend time in a nursing home. The number of people needing long-term care services will continue to increase as the Baby Boom generation ages. While most long-term care workers do an excellent job, it only takes a few abusive staff to cast a dark shadow over what should be a healing environment.

A disturbing number of cases have been reported where workers with criminal backgrounds have been cleared to work in direct patient care, and have subsequently abused patients in their care. In 1997, the Milwaukee Journal-Sentinel ran a series of articles describing this problem, which led my home State of Wisconsin to pass a criminal background check law for health care workers. The legislation I introduce today follows their example and builds on their efforts.

Current State and National safeguards are inadequate to screen out abusive workers. All States are required to maintain registries of abusive nurse aides. But nurse aides are not the only workers involved in abuse, and other workers are not tracked at all. Even worse, there is no system to coordinate information about abusive nurse aides between States. A known abuser in Iowa would have little trouble moving to Wisconsin and continuing to work with patients there.

In addition, there is no Federal requirement that long-term care facilities conduct criminal background checks on prospective employees. People with violent criminal backgrounds, people who have already been convicted of murder, rape, and assault, could easily get a job in a nursing home or other health care setting without their past ever being discovered.

Our legislation will go a long way toward solving this problem. First, it will create a National Registry of abusive long-term care employees. States will be required to submit information from their current State registries to the National Registry. Facilities will be required to check the National Registry before hiring a prospective worker. Any worker with a substantiated finding of patient abuse will be prohibited from working in long-term care.

Second, the bill provides a second line of defense to protect patients from violent criminals. If the National Registry does not contain information about a prospective worker, the facility is then required to initiate an FBI background check. Any conviction for patient abuse or a relevant violent crime would bar that applicant from working with patients.

There is clear evidence that this is needed. In 1998, at my request, the Senate Special Committee on Aging held a hearing that focused on how easy it is for known abusers to find work in long-term care and continue to prey on patients. At that hearing, the HHS Inspector General presented a report which found that, in the two States they studied, between 5–10 percent of employees currently working in nursing homes had serious criminal convictions in their past. They also found that among aides who had abused patients, 15–20 percent of them had at least one conviction in their past.

But even more compelling, we heard from Richard Meyer of Libertyville, Illinois, whose 92-year old mother was raped by a nursing home worker who had a previous conviction for child sexual abuse. A criminal background check could have prevented this tragedy. But even more appalling, there is nothing in current law that prevents her assailant from travelling 50 miles to my home town of Milwaukee and finding another job in a home health agency.

There's no greater illustration of the need for background checks than this. But for those who need more hard data, there is more evidence. In 1998, I offered an amendment which became law that allowed long-term care providers to voluntarily use the FBI system for background checks. So far, 7 percent of those checks have come back with criminal convictions, including rape and kidnapping.

Clearly, this is a critical tool that long-term care providers should have, they don't want abusive caregivers working for them any more than families do. The current voluntary system was a good first step, but if we're serious about protecting our seniors, and I believe that every Member of the Senate is, then we have to do more than make it voluntary. We should make it a national priority to require all long-term care providers who participate in Medicare and Medicaid to conduct these checks. And we should make the investment necessary to cover the costs of the checks, just like we reimburse providers for other costs of providing care to Medicare and Medicaid beneficiaries. This is a common-sense, inexpensive step we can take to protect patients by helping long-term care providers thoroughly screen potential caregivers.

I realize that this legislation will not solve all instances of abuse. We still need to do more to stop abuse from occurring in the first place. But this bill will ensure that those who have already abused an elderly or disabled patient, and those who have committed violent crimes against people in the past, are kept away from vulnerable patients.

I want to repeat that I strongly believe that most long-term care providers and their staff work hard to deliver the highest quality care. However, it is imperative that Congress act immediately to get rid of those that don't. When a patient checks into a nursing home or hospice, or receives home health care, they should not have to give up their right to be free from abuse, neglect, or mistreatment.

This bill is the product of collaboration and input from the health care industry, patient and employee advocates who all have the same goal I do: protecting patients in long-term care. I look forward to continuing to work with my colleagues, the Administration, and the health care industry in

this effort. Our nation's seniors and disabled deserve nothing less than our full attention.

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. 1054

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Patient Abuse Prevention Act''.

SEC. 2. ESTABLISHMENT OF PROGRAM TO PREVENT ABUSE OF NURSING FACILITY RESIDENTS.

(a) NURSING FACILITY AND SKILLED NURSING FACILITY REQUIREMENTS.—

(1) MEDICAID PROGRAM.—Section 1919(b) of the Social Security Act (42 U.S.C. 1396r(b)) is amended by adding at the end the following new paragraph:

''(8) SCREENING OF NURSING FACILITY WORKERS.—

''(A) BACKGROUND CHECKS ON APPLICANTS.—Subject to subparagraph (B)(ii), before hiring a nursing facility worker, a nursing facility shall—

''(i) give the worker written notice that the facility is required to perform background checks with respect to applicants;

''(ii) require, as a condition of employment, that such worker—

''(I) provide a written statement disclosing any conviction for a relevant crime or finding of patient or resident abuse;

''(II) provide a statement signed by the worker authorizing the facility to request the search and exchange of criminal records;

''(III) provide in person a copy of the worker's fingerprints or thumb print, depending upon available technology; and

''(IV) provide any other identification information the Secretary may specify in regulation;

''(iii) initiate a check of the data collection system established under section 1128E in accordance with regulations promulgated by the Secretary to determine whether such system contains any disqualifying information with respect to such worker; and

''(iv) if that system does not contain any such disqualifying information—

''(I) request that the State initiate a State and national criminal background check on such worker in accordance with the provisions of subsection (e)(8); and

''(II) furnish to the State the information described in subclauses (II) through (IV) of clause (ii) not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after completion of the check against the system initiated under clause (iii).

''(B) PROHIBITION ON HIRING OF ABUSIVE WORKERS.—

''(i) IN GENERAL.—A nursing facility may not knowingly employ any nursing facility worker who has any conviction for a relevant crime or with respect to whom a finding of patient or resident abuse has been made.

''(ii) PROVISIONAL EMPLOYMENT.—After complying with the requirements of clauses (i), (ii), and (iii) of subparagraph (A), a nursing facility may provide for a provisional period of employment for a nursing facility worker pending completion of the check against the data collection system described under subparagraph (A)(iii) and the background check described under subparagraph (A)(iv). Such facility shall maintain direct supervision of the worker during the worker's provisional period of employment.

''(C) REPORTING REQUIREMENTS.—A nursing facility shall report to the State any instance in which the facility determines that a nursing facility worker has committed an act of resident neglect or abuse or misappropriation of resident property in the course of employment by the facility.

''(D) USE OF INFORMATION.—

''(i) IN GENERAL.—A nursing facility that obtains information about a nursing facility worker pursuant to clauses (iii) and (iv) of subparagraph (A) may use such information only for the purpose of determining the suitability of the worker for employment.

''(ii) IMMUNITY FROM LIABILITY.—A nursing facility that, in denying employment for an applicant (including during the period described in subparagraph (B)(ii)), reasonably relies upon information about such applicant provided by the State pursuant to subsection (e)(8) or section 1128E shall not be liable in any action brought by such applicant based on the employment determination resulting from the information.

''(iii) CRIMINAL PENALTY.—Whoever knowingly violates the provisions of clause (i) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

''(E) CIVIL PENALTY.—

''(i) IN GENERAL.—A nursing facility that violates the provisions of this paragraph shall be subject to a civil penalty in an amount not to exceed—

''(I) for the first such violation, $2,000; and

''(II) for the second and each subsequent violation within any 5-year period, $5,000.

''(ii) KNOWING RETENTION OF WORKER.—In addition to any civil penalty under clause (i), a nursing facility that—

''(I) knowingly continues to employ a nursing facility worker in violation of subparagraph (A) or (B); or

''(II) knowingly fails to report a nursing facility worker under subparagraph (C),

shall be subject to a civil penalty in an amount not to exceed $5,000 for the first such violation, and $10,000 for the second and each subsequent violation within any 5-year period.

''(F) DEFINITIONS.—In this paragraph:

''(i) CONVICTION FOR A RELEVANT CRIME.—The term 'conviction for a relevant crime' means any Federal or State criminal conviction for—

''(I) any offense described in paragraphs (1) through (4) of section 1128(a); and

''(II) such other types of offenses as the Secretary may specify in regulations, taking into account the severity and relevance of such offenses, and after consultation with representatives of long-term care providers, representatives of long-term care employees, consumer advocates, and appropriate Federal and State officials.

''(ii) DISQUALIFYING INFORMATION.—The term 'disqualifying information' means information about a conviction for a relevant crime or a finding of patient or resident abuse.

''(iii) FINDING OF PATIENT OR RESIDENT ABUSE.—The term 'finding of patient or resident abuse' means any substantiated finding by a State agency under subsection (g)(1)(C) or a Federal agency that a nursing facility worker has committed—

''(I) an act of patient or resident abuse or neglect or a misappropriation of patient or resident property; or

''(II) such other types of acts as the Secretary may specify in regulations.

''(iv) NURSING FACILITY WORKER.—The term 'nursing facility worker' means any individual (other than any volunteer) that has direct access to a patient of a nursing facility under an employment or other contract, or both, with such facility. Such term includes individuals who are licensed or certified by the State to provide such services, and nonlicensed individuals providing such services, as defined by the Secretary, including nurse assistants, nurse aides, home health aides, and personal care workers and attendants.''.

(2) MEDICARE PROGRAM.—Section 1819(b) of the Social Security Act (42 U.S.C. 1395i–3(b)) is amended by adding at the end the following:

''(8) SCREENING OF SKILLED NURSING FACILITY WORKERS.—

''(A) BACKGROUND CHECKS ON APPLICANTS.—Subject to subparagraph (B)(ii), before hiring a skilled nursing facility worker, a skilled nursing facility shall—

''(i) give the worker written notice that the facility is required to perform background checks with respect to applicants;

''(ii) require, as a condition of employment, that such worker—

''(I) provide a written statement disclosing any conviction for a relevant crime or finding of patient or resident abuse;

''(II) provide a statement signed by the worker authorizing the facility to request the search and exchange of criminal records;

''(III) provide in person a copy of the worker's fingerprints or thumb print, depending upon available technology; and

''(IV) provide any other identification information the Secretary may specify in regulation;

''(iii) initiate a check of the data collection system established under section 1128E in accordance with regulations promulgated by the Secretary to determine whether such system contains any disqualifying information with respect to such worker; and

''(iv) if that system does not contain any such disqualifying information—

''(I) request that the State initiate a State and national criminal background check on such worker in accordance with the provisions of subsection (e)(6); and

''(II) furnish to the State the information described in subclauses (II) through (IV) of clause (ii) not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5, United States Code) after completion of the check against the system initiated under clause (iii).

''(B) PROHIBITION ON HIRING OF ABUSIVE WORKERS.—

''(i) IN GENERAL.—A skilled nursing facility may not knowingly employ any skilled nursing facility worker who has any conviction for a relevant crime or with respect to whom a finding of patient or resident abuse has been made.

''(ii) PROVISIONAL EMPLOYMENT.—After complying with the requirements of clauses (i), (ii), and (iii) of subparagraph (A), a skilled nursing facility may provide for a provisional period of employment for a skilled nursing facility worker pending completion of the check against the data collection system described under subparagraph (A)(iii) and the background check described under subparagraph (A)(iv). Such facility shall maintain direct supervision of the covered individual during the worker's provisional period of employment.

''(C) REPORTING REQUIREMENTS.—A skilled nursing facility shall report to the State any instance in which the facility determines that a skilled nursing facility worker has committed an act of resident neglect or abuse or misappropriation of resident property in the course of employment by the facility.

''(D) USE OF INFORMATION.—

''(i) IN GENERAL.—A skilled nursing facility that obtains information about a skilled nursing facility worker pursuant to clauses

(iii) and (iv) of subparagraph (A) may use such information only for the purpose of determining the suitability of the worker for employment.

''(ii) IMMUNITY FROM LIABILITY.—A skilled nursing facility that, in denying employment for an applicant (including during the period described in subparagraph (B)(ii)), reasonably relies upon information about such applicant provided by the State pursuant to subsection (e)(6) or section 1128E shall not be liable in any action brought by such applicant based on the employment determination resulting from the information.

''(iii) CRIMINAL PENALTY.—Whoever knowingly violates the provisions of clause (i) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

''(E) CIVIL PENALTY.—

''(i) IN GENERAL.—A skilled nursing facility that violates the provisions of this paragraph shall be subject to a civil penalty in an amount not to exceed—

''(I) for the first such violation, $2,000; and

''(II) for the second and each subsequent violation within any 5-year period, $5,000.

''(ii) KNOWING RETENTION OF WORKER.—In addition to any civil penalty under clause (i), a skilled nursing facility that—

''(I) knowingly continues to employ a skilled nursing facility worker in violation of subparagraph (A) or (B); or

''(II) knowingly fails to report a skilled nursing facility worker under subparagraph (C),

shall be subject to a civil penalty in an amount not to exceed $5,000 for the first such violation, and $10,000 for the second and each subsequent violation within any 5-year period.

''(F) DEFINITIONS.—In this paragraph:

''(i) CONVICTION FOR A RELEVANT CRIME.—The term 'conviction for a relevant crime' means any Federal or State criminal conviction for—

''(I) any offense described in paragraphs (1) through (4) of section 1128(a); and

''(II) such other types of offenses as the Secretary may specify in regulations, taking into account the severity and relevance of such offenses, and after consultation with representatives of long-term care providers, representatives of long-term care employees, consumer advocates, and appropriate Federal and State officials.

''(ii) DISQUALIFYING INFORMATION.—The term 'disqualifying information' means information about a conviction for a relevant crime or a finding of patient or resident abuse.

''(iii) FINDING OF PATIENT OR RESIDENT ABUSE.—The term 'finding of patient or resident abuse' means any substantiated finding by a State agency under subsection (g)(1)(C) or a Federal agency that a skilled nursing facility worker has committed—

''(I) an act of patient or resident abuse or neglect or a misappropriation of patient or resident property; or

''(II) such other types of acts as the Secretary may specify in regulations.

''(iv) SKILLED NURSING FACILITY WORKER.—The term 'skilled nursing facility worker' means any individual (other than any volunteer) that has direct access to a patient of a skilled nursing facility under an employment or other contract, or both, with such facility. Such term includes individuals who are licensed or certified by the State to provide such services, and nonlicensed individuals providing such services, as defined by the Secretary, including nurse assistants, nurse aides, home health aides, and personal care workers and attendants.''.

(3) TECHNICAL AMENDMENTS.—Effective as if included in the enactment of section 941 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (114 Stat. 2763A–585), as enacted into law by section 1(a)(6) of Public Law 106–554, sections 1819(b) and 1919(b) of the Social Security Act (42 U.S.C. 1395i–3(b), 1396r(b)), as amended by such section 941 (as so enacted into law) are each amended by redesignating the paragraph (8) added by such section as paragraph (9).

(b) STATE REQUIREMENTS.—

(1) MEDICAID PROGRAM.—

(A) EXPANSION OF STATE REGISTRY TO COLLECT INFORMATION ABOUT NURSING FACILITY EMPLOYEES OTHER THAN NURSE AIDES.—Section 1919 of the Social Security Act (42 U.S.C. 1396r) is amended—

(i) in subsection (e)(2)—

(I) in the paragraph heading, by striking ''NURSE AIDE REGISTRY'' and inserting ''NURSING FACILITY EMPLOYEE REGISTRY'';

(II) in subparagraph (A)—

(aa) by striking ''By not later than January 1, 1989, the'' and inserting ''The'';

(bb) by striking ''a registry of all individuals'' and inserting ''a registry of (I) all individuals''; and

(cc) by inserting before the period '', and (II) all other nursing facility employees with respect to whom the State has made a finding described in subparagraph (B)'';

(III) in subparagraph (B), by striking ''involving an individual listed in the registry'' and inserting ''involving a nursing facility employee''; and

(IV) in subparagraph (C), by striking ''nurse aide'' and inserting ''nursing facility employee or applicant for employment''; and

(ii) in subsection (g)(1)—

(I) in subparagraph (C)—

(aa) in the first sentence, by striking ''nurse aide'' and inserting ''nursing facility employee''; and

(bb) in the third sentence, by striking ''nurse aide'' each place it appears and inserting ''nursing facility employee''; and

(II) in subparagraph (D)—

(aa) in the subparagraph heading, by striking ''NURSE AIDE REGISTRY'' and inserting ''NURSING FACILITY EMPLOYEE REGISTRY''; and

(bb) by striking ''nurse aide'' each place it appears and inserting ''nursing facility employee''.

(B) FEDERAL AND STATE REQUIREMENT TO CONDUCT BACKGROUND CHECKS.—Section 1919(e) of the Social Security Act (42 U.S.C. 1396r(e)) is amended by adding at the end the following:

''(8) FEDERAL AND STATE REQUIREMENTS CONCERNING CRIMINAL BACKGROUND CHECKS ON NURSING FACILITY EMPLOYEES.—

''(A) IN GENERAL.—Upon receipt of a request by a nursing facility pursuant to subsection (b)(8) that is accompanied by the information described in subclauses (II) through (IV) of subsection (b)(8)(A)(ii), a State, after checking appropriate State records and finding no disqualifying information (as defined in subsection (b)(8)(F)(ii)), shall submit such request and information to the Attorney General and shall request the Attorney General to conduct a search and exchange of records with respect to the individual as described in subparagraph (B).

''(B) SEARCH AND EXCHANGE OF RECORDS BY ATTORNEY GENERAL.—Upon receipt of a submission pursuant to subparagraph (A), the Attorney General shall direct a search of the records of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints and other positive identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the State.

''(C) STATE REPORTING OF INFORMATION TO NURSING FACILITY.—Upon receipt of the information provided by the Attorney General pursuant to subparagraph (B), the State shall—

''(i) review the information to determine whether the individual has any conviction for a relevant crime (as defined in subsection (b)(8)(F)(i));

''(ii) report to the nursing facility the results of such review; and

''(iii) in the case of an individual with a conviction for a relevant crime, report the existence of such conviction of such individual to the database established under section 1128E.

''(D) FEES FOR PERFORMANCE OF CRIMINAL BACKGROUND CHECKS.—

''(i) AUTHORITY TO CHARGE FEES.—

''(I) ATTORNEY GENERAL.—The Attorney General may charge a fee to any State requesting a search and exchange of records pursuant to this paragraph and subsection (b)(8) for conducting the search and providing the records. The amount of such fee shall not exceed the lesser of the actual cost of such activities or $50. Such fees shall be available to the Attorney General, or, in the Attorney General's discretion, to the Federal Bureau of Investigation, until expended.

''(II) STATE.—A State may charge a nursing facility a fee for initiating the criminal background check under this paragraph and subsection (b)(8), including fees charged by the Attorney General, and for performing the review and report required by subparagraph (C). The amount of such fee shall not exceed the actual cost of such activities.

''(ii) PROHIBITION ON CHARGING APPLICANTS OR EMPLOYEES.—An entity may not impose on an applicant for employment or an employee any charges relating to the performance of a background check under this paragraph.

''(E) REGULATIONS.—

''(i) IN GENERAL.—In addition to the Secretary's authority to promulgate regulations under this title, the Attorney General, in consultation with the Secretary, may promulgate such regulations as are necessary to carry out the Attorney General's responsibilities under this paragraph and subsection (b)(8), including regulations regarding the security, confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, and the imposition of fees.

''(ii) APPEAL PROCEDURES.—The Attorney General, in consultation with the Secretary, shall promulgate such regulations as are necessary to establish procedures by which an applicant or employee may appeal or dispute the accuracy of the information obtained in a background check conducted under this paragraph. Appeals shall be limited to instances in which an applicant or employee is incorrectly identified as the subject of the background check, or when information about the applicant or employee has not been updated to reflect changes in the applicant's or employee's criminal record.

''(F) REPORT.—Not later than 2 years after the date of enactment of this paragraph, the Attorney General shall submit a report to Congress on—

''(i) the number of requests for searches and exchanges of records made under this section;

''(ii) the disposition of such requests; and

''(iii) the cost of responding to such requests.''.

(2) MEDICARE PROGRAM.—

(A) EXPANSION OF STATE REGISTRY TO COLLECT INFORMATION ABOUT SKILLED NURSING FACILITY EMPLOYEES OTHER THAN NURSE AIDES.—Section 1819 of the Social Security Act (42 U.S.C. 1395i–3) is amended—

(i) in subsection (e)(2)—

(I) in the paragraph heading, by striking ''NURSE AIDE REGISTRY'' and inserting

''SKILLED NURSING CARE EMPLOYEE REGISTRY'';

(II) in subparagraph (A)—

(aa) by striking ''By not later than January 1, 1989, the'' and inserting ''The'';

(bb) by striking ''a registry of all individuals'' and inserting ''a registry of (I) all individuals''; and

(cc) by inserting before the period '', and (II) all other skilled nursing facility employees with respect to whom the State has made a finding described in subparagraph (B)'';

(III) in subparagraph (B), by striking ''involving an individual listed in the registry'' and inserting ''involving a skilled nursing facility employee''; and

(IV) in subparagraph (C), by striking ''nurse aide'' and inserting ''skilled nursing facility employee or applicant for employment''; and

(ii) in subsection (g)(1)—

(I) in subparagraph (C)—

(aa) in the first sentence, by striking ''nurse aide'' and inserting ''skilled nursing facility employee''; and

(bb) in the third sentence, by striking ''nurse aide'' each place it appears and inserting ''skilled nursing facility employee''; and

(II) in subparagraph (D)—

(aa) in the subparagraph heading, by striking ''NURSE AIDE REGISTRY'' and inserting ''NURSING FACILITY EMPLOYEE REGISTRY''; and

(bb) by striking ''nurse aide'' each place it appears and inserting ''nursing facility employee''.

(B) FEDERAL AND STATE REQUIREMENT TO CONDUCT BACKGROUND CHECKS.—Section 1819(e) of the Social Security Act (42 U.S.C. 1395i–3(e)) is amended by adding at the end the following:

''(6) FEDERAL AND STATE REQUIREMENTS CONCERNING CRIMINAL BACKGROUND CHECKS ON SKILLED NURSING FACILITY EMPLOYEES.—

''(A) IN GENERAL.—Upon receipt of a request by a skilled nursing facility pursuant to subsection (b)(8) that is accompanied by the information described in subclauses (II) through (IV) of subsection (b)(8)(A)(ii), a State, after checking appropriate State records and finding no disqualifying information (as defined in subsection (b)(8)(F)(ii)), shall submit such request and information to the Attorney General and shall request the Attorney General to conduct a search and exchange of records with respect to the individual as described in subparagraph (B).

''(B) SEARCH AND EXCHANGE OF RECORDS BY ATTORNEY GENERAL.—Upon receipt of a submission pursuant to subparagraph (A), the Attorney General shall direct a search of the records of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints and other positive identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the State.

''(C) STATE REPORTING OF INFORMATION TO SKILLED NURSING FACILITY.—Upon receipt of the information provided by the Attorney General pursuant to subparagraph (B), the State shall—

''(i) review the information to determine whether the individual has any conviction for a relevant crime (as defined in subsection (b)(8)(F)(i));

''(ii) report to the skilled nursing facility the results of such review; and

''(iii) in the case of an individual with a conviction for a relevant crime, report the existence of such conviction of such individual to the database established under section 1128E.

''(D) FEES FOR PERFORMANCE OF CRIMINAL BACKGROUND CHECKS.—

''(i) AUTHORITY TO CHARGE FEES.—

''(I) ATTORNEY GENERAL.—The Attorney General may charge a fee to any State requesting a search and exchange of records pursuant to this paragraph and subsection (b)(8) for conducting the search and providing the records. The amount of such fee shall not exceed the lesser of the actual cost of such activities or $50. Such fees shall be available to the Attorney General, or, in the Attorney General's discretion, to the Federal Bureau of Investigation until expended.

''(II) STATE.—A State may charge a skilled nursing facility a fee for initiating the criminal background check under this paragraph and subsection (b)(8), including fees charged by the Attorney General, and for performing the review and report required by subparagraph (C). The amount of such fee shall not exceed the actual cost of such activities.

''(ii) PROHIBITION ON CHARGING APPLICANTS OR EMPLOYEES.—An entity may not impose on an applicant for employment or an employee any charges relating to the performance of a background check under this paragraph.

''(E) REGULATIONS.—

''(i) IN GENERAL.—In addition to the Secretary's authority to promulgate regulations under this title, the Attorney General, in consultation with the Secretary, may promulgate such regulations as are necessary to carry out the Attorney General's responsibilities under this paragraph and subsection (b)(9), including regulations regarding the security confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, and the imposition of fees.

''(ii) APPEAL PROCEDURES.—The Attorney General, in consultation with the Secretary, shall promulgate such regulations as are necessary to establish procedures by which an applicant or employee may appeal or dispute the accuracy of the information obtained in a background check conducted under this paragraph. Appeals shall be limited to instances in which an applicant or employee is incorrectly identified as the subject of the background check, or when information about the applicant or employee has not been updated to reflect changes in the applicant's or employee's criminal record.

''(F) REPORT.—Not later than 2 years after the date of enactment of this paragraph, the Attorney General shall submit a report to Congress on—

''(i) the number of requests for searches and exchanges of records made under this section;

''(ii) the disposition of such requests; and

''(iii) the cost of responding to such requests.''.

(c) APPLICATION TO OTHER ENTITIES PROVIDING HOME HEALTH OR LONG-TERM CARE SERVICES.—

(1) MEDICAID.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a) is amended—

(A) in paragraph (65), by striking the period and inserting ''; and''; and

(B) by inserting after paragraph (65) the following:

''(66) provide that any entity that is eligible to be paid under the State plan for providing home health services or long-term care services for which medical assistance is available under the State plan to individuals requiring long-term care complies with the requirements of subsections (b)(8) and (e)(8) of section 1919.''.

(2) MEDICARE.—Part D of title XVIII of the Social Security Act (42 U.S.C. 1395x et seq.) is amended by adding at the end the following:

''APPLICATION OF SKILLED NURSING FACILITY PREVENTIVE ABUSE PROVISIONS TO ANY PROVIDER OF SERVICES OR OTHER ENTITY PROVIDING HOME HEALTH OR LONG-TERM CARE SERVICES

''SEC. 1897. The requirements of subsections (b)(8) and (e)(6) of section 1819 shall apply to any provider of services or any other entity that is eligible to be paid under this title for providing home health services or long-term care services to an individual entitled to benefits under part A or enrolled under part B (including an individual provided with a Medicare+Choice plan offered by a Medicare+Choice organization under part C).''.

(d) REIMBURSEMENT OF REASONABLE COSTS FOR BACKGROUND CHECKS.—The Secretary of Health and Human Services shall factor into any payment system under titles XVIII and XIX of the Social Security Act the reasonable costs of the requirements of sections 1819(b)(8) and 1919(b)(8) of such Act, as added by this section, incurred by any entity subject to such requirements.

SEC. 3. INCLUSION OF ABUSIVE WORKERS IN THE DATABASE ESTABLISHED AS PART OF NATIONAL HEALTH CARE FRAUD AND ABUSE DATA COLLECTION PROGRAM.

(a) INCLUSION OF ABUSIVE ACTS WITHIN A LONG-TERM CARE FACILITY OR PROVIDER.—Section 1128E(g)(1)(A) of the Social Security Act (42 U.S.C. 1320a–7e(g)(1)(A)) is amended—

(1) by redesignating clause (v) as clause (vi); and

(2) by inserting after clause (iv), the following:

''(v) A finding of abuse or neglect of a patient or a resident of a long-term care facility, or misappropriation of such a patient's or resident's property.''.

(b) COVERAGE OF LONG-TERM CARE FACILITY OR PROVIDER EMPLOYEES.—Section 1128E(g)(2) of the Social Security Act (42 U.S.C. 1320a–7e(g)(2)) is amended by inserting '', and includes any individual of a long-term care facility or provider (other than any volunteer) that has direct access to a patient or resident of such a facility under an employment or other contract, or both, with the facility or provider (including individuals who are licensed or certified by the State to provide services at the facility or through the provider, and nonlicensed individuals, as defined by the Secretary, providing services at the facility or through the provider, including nurse assistants, nurse aides, home health aides, and personal care workers and attendants)'' before the period.

(c) REPORTING BY LONG-TERM CARE FACILITIES OR PROVIDERS.—

(1) IN GENERAL.—Section 1128E(b)(1) of the Social Security Act (42 U.S.C. 1320a–7e(b)(1)) is amended by striking ''and health plan'' and inserting '', health plan, and long-term care facility or provider''.

(2) CORRECTION OF INFORMATION.—Section 1128E(c)(2) of the Social Security Act (42 U.S.C. 1320a–7e(c)(2)) is amended by striking ''and health plan'' and inserting '', health plan, and long-term care facility or provider''.

(d) ACCESS TO REPORTED INFORMATION.—Section 1128E(d)(1) of the Social Security Act (42 U.S.C. 1320a–7e(d)(1)) is amended by striking ''and health plans'' and inserting '', health plans, and long-term care facilities or providers''.

(e) MANDATORY CHECK OF DATABASE BY LONG-TERM CARE FACILITIES OR PROVIDERS.—Section 1128E(d) of the Social Security Act (42 U.S.C. 1320a–7e(d)) is amended by adding at the end the following:

''(3) MANDATORY CHECK OF DATABASE BY LONG-TERM CARE FACILITIES OR PROVIDERS.—A long-term care facility or provider shall check the database maintained under this

section prior to hiring under an employment or other contract, or both, any individual as an employee of such a facility or provider who will have direct access to a patient or resident of the facility or provider (including individuals who are licensed or certified by the State to provide services at the facility or through the provider, and nonlicensed individuals, as defined by the Secretary, that will provide services at the facility or through the provider, including nurse assistants, nurse aides, home health aides, and personal care workers and attendants).''.

(f) DEFINITION OF LONG-TERM CARE FACILITY OR PROVIDER.—Section 1128E(g) of the Social Security Act (42 U.S.C. 1320a–7e(g)) is amended by adding at the end the following:

''(6) LONG-TERM CARE FACILITY OR PROVIDER.—The term 'long-term care facility or provider' means a skilled nursing facility (as defined in section 1819(a)), a nursing facility (as defined in section 1919(a)), a home health agency, a hospice facility, an intermediate care facility for the mentally retarded (as defined in section 1905(d)), or any other facility that provides, or provider of, long-term care services or home health services and receives payment for such services under the medicare program under title XVIII or the medicaid program under title XIX.''.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the amendments made by this section, $10,200,000 for fiscal year 2002.

SEC. 4. PREVENTION AND TRAINING DEMONSTRATION PROJECT.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish a demonstration program to provide grants to develop information on best practices in patient abuse prevention training (including behavior training and interventions) for managers and staff of hospital and health care facilities.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall be a public or private nonprofit entity and prepare and submit to the Secretary of Health and Human Services an application at such time, in such manner, and containing such information as the Secretary may require.

(c) USE OF FUNDS.—Amounts received under a grant under this section shall be used to—

(1) examine ways to improve collaboration between State health care survey and provider certification agencies, long-term care ombudsman programs, the long-term care industry, and local community members;

(2) examine patient care issues relating to regulatory oversight, community involvement, and facility staffing and management with a focus on staff training, staff stress management, and staff supervision;

(3) examine the use of patient abuse prevention training programs by long-term care entities, including the training program developed by the National Association of Attorneys General, and the extent to which such programs are used; and

(4) identify and disseminate best practices for preventing and reducing patient abuse.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 5. EFFECTIVE DATE.

The provisions of and amendments made by the Act shall apply, without regard to whether implementing regulations are in effect, to any individual applying for employment or hired for such employment—

(1) by any skilled nursing facility (as defined in section 1819(a) of the Social Security Act) or any nursing facility (as defined in section 1919(a) of such Act), on or after the date which is 6 months after the date of enactment of this Act,

(2) by any home health agency, on or after the date which is 12 months after such date of enactment, and

(3) by any hospice facility, any intermediate care facility for the mentally retarded (as defined in section 1905(d) of the Social Security Act), or any other facility that provides long-term care services and receives payment for such services under the medicare program under title XVIII of such Act or the medicaid program under title XIX of such Act, on or after the date which is 18 months after such date of enactment.

By Mrs. FEINSTEIN:

S. 1055. A bill to require the consent of an individual prior to the sale and marketing of such individual's personally identifiable information, and for other purposes; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I am pleased today to introduce the Privacy Act of 2001.

This legislation combats the growing scourge of identity theft and other privacy abuses by setting a national standard for privacy protection.

The bill has a simple goal. It is designed to give back to ordinary citizens control over their personal information.

Under the Privacy Act of 2001, if a company intends to collect and sell a customer's address, phone number, or other non-sensitive information, the company must give the customer notice and an opportunity to opt-out of the sale if they so choose.

For especially sensitive personal information such as financial, health, driver's licenses, and Social Security Numbers, the legislation establishes more stringent privacy protections.

Specifically, the bill requires an individual's opt-in prior to the sale, licensing, or renting of their personal financial or health information.

In other words, opt-in means that a person must give their explicit and affirmative consent before an entity can use this type of personal information.

The bill would also close loopholes in the Driver's Privacy Protection Act, most recently amended last year, so that a State Department of Motor Vehicles can no longer disclose the most sensitive information on a driver's license, such as the driver's identification number or physical characteristics, without the driver's opt-in.

Finally, the bill would restrict the purchase, sale, and display of Social Security numbers to the general public.

Why do we need a Federal privacy law?

The new economy has exponentially increased the flow of personal information, but the protections for individual privacy have not kept pace.

With access to sensitive data so widely available, often just at the touch of a keyboard, identity theft has become one of the country's fastest growing crimes.

Identity theft is when a thief steals your personal information and then uses it to run up huge bills on your credit cards, bank accounts or other accounts. In some cases, identity theft has also resulted in stalking and murder.

Recent statistics on the growth of identity theft suggest we have no time to waste in protecting personal privacy.

The Federal Bureau of Investigation estimates 350,000 cases of identity theft occur each year. That's one case every two minutes.

Not surprisingly, members of the public have flooded our Federal agencies with pleas for assistance. Reports to the Social Security Administration of Social Security number misuse have increased from 7,868 in 1997 to 46,839 in 2000, an astonishing increase of over 500 percent.

The Federal Trade Commission, FTC, has experienced a similar explosion of cases. If recent trends continue, reports of identity theft to the Federal Trade Commission will double between 2000 and 2001, to over 60,000 cases.

Fully 40 percent of all consumer fraud complaints received by the FTC in the first three months of 2001 involved identity theft.

Unfortunately, the State most affected by these complaints is California. Fully 17 percent of the identity theft complaints the FTC received this past winter came from my home state.

Let me give some real-world examples of privacy abuses:

Social Security Number Privacy: Amy Boyer, a 20-year-old dental assistant from Maine was killed in 1999 by a stalker who bought her Social Security number off the Internet for $45, and then used it to locate her work address.

Identity Theft No. 1: Michelle Brown of Los Angeles, California, had her Social Security number stolen in 1999, and it was used to charge $50,000 including a $32,000 truck, a $5,000 liposuction operation, and a year-long residential lease.

While assuming the victim's name, the perpetrator also became the object of an arrest warrant for drug smuggling in Texas.

Identity Theft No. 2: An identity theft ring in Riverside County allegedly bilked eight victims of $700,000. The thieves stole personal information of employees at a large phone company and drained their on-line stock accounts.

One employee reportedly had $285,000 taken from his account when someone was able to access his account by supplying the employee's name and Social Security number.

Financial Privacy: In a September 14, 1999 editorial, the Los Angeles Times described how a small San Fernando Valley bank, ''sold 3.7 million credit card numbers to a felon, who then bilked cardholders out of millions of dollars.'' According to the article, the bank was not held liable for this action.

It is also astonishing what some data marketers are now providing to their customers.

According to the Los Angeles Times, some marketing companies have started selling lists of as many as 120 million households which include names, addresses, and phone numbers, estimated income, marital status, buying habits and hobbies.

Similarly, a medical information service has made databases available to its customers which contain the phone number, gender and address of: 3.3 million people with allergies, 3.0 million people with heartburn, 850,000 with yeast infections, 450,000 people with incontinence, and 368,000 people who suffer clinical depression.

As a result, we have seen privacy become the top consumer protection issue.

The bill I am introducing today, the Privacy Act of 2001, contains two bedrock principles.

Privacy legislation should not discriminate against any system of communication.

If personal information deserves protection, it deserves protection however it is collected. It should not matter whether personal data is collected in person, over the phone, or on the Internet.

Nevertheless, some privacy bills have exclusively targeted Internet transactions. There is no justification for discriminating against high technology companies by imposing Internet-specific privacy rules.

Companies operating on the Internet should not have any more duties to protect privacy than businesses extracting information from warranty cards or mail catalogues.

Not all personal information deserves the same level of privacy protection.

Some information like Social Security numbers, motor vehicle records, personal financial information, and medical information deserve higher levels of privacy protection.

With regard to the first principle, the Privacy Act of 2001 protects the privacy of information regardless of the medium through which it is collected.

Other privacy proposals have tried to confine privacy legislation to the Internet.

These proposals unfairly discriminate against high technology users. Put simply, companies and other entities can misuse personal information from off-line sources just as easily as with on-line sources.

Why should a company extracting data from a warranty card have any less of a duty to protect personal privacy than a company collecting personal data on-line?

For example, telemarketers who besiege consumers with phone calls during the dinner hour get much of their personal information used from consumers filling out and mailing back warranty and registration cards. But these warranty cards give consumers no notice about how their personal information will be used.

Consider the case of Anne Marie Levine, a Virginia resident, who entered a raffle to win a new car.

The sponsor of the raffle, unbeknownst to Ms. Levine, sold the personal information on her raffle ticket. In the next two weeks, she received calls from a host of jeep dealers in the area.

While some may consider unsolicited marketing calls a mere annoyance, Ms. Levine was outraged, as I'm sure many Americans would be, that the auto dealer sold her personal information without her permission.

Moreover, with the advent of digital scanners, digital photography, and data processing, the distinctions between on-line and off-line transactions are already blurring.

With regard to the second principle, the Privacy Act of 2001 recognizes that not all categories of personal information merit the same level of protection.

The bill requires businesses intending to collect and sell nonsensitive personal information, eg. name, phone number, address, to nonaffiliated third parties to give customers notice and the opportunity to opt-out of the sale.

The opt-out standard for non-sensitive information ensures that if a person fills out a warranty card, sign-up for a computer service, or submit an entry for a sweepstakes, the business must notify him before it sells his personal information to other businesses or marketers.

This framework guarantees basic privacy protections for consumers without unduly impacting commerce.

To eliminate unnecessary burdens on businesses, the legislation sets up a safe harbor for businesses which appropriately use nonsensitive personal information. Industries and industry-sponsored seal programs which have already adopted Notice-and-Opt Out information policies will be exempt.

The bill also sets a national standard for the sale or marketing of nonsensitive personal information.

Federal preemption is needed because a jumbled patchwork of State privacy laws helps neither businesses nor consumers. Conflicting State laws lead to consumer confusion about privacy rights.

For example, if one logs onto an Internet site, which State law governs: the law of the State of the computer user, the law where the website is being operated, or the law of the State of the manufacturer of a product?

Similarly, a patchwork of 50 State privacy laws, would pose a logistical nightmare for corporate America.

Without Federal preemption, businesses will face the unsavory choice of either adopting, for consistency's sake, privacy guidelines that comply with the strictest state privacy law, or dealing with the costs and paperwork imposed by 50 different state privacy laws.

For especially sensitive personal data, like financial data, medical data, or a driver's license, the bill pushes for an opt-in model of consent.

I believe people should have control over how their most sensitive information is used. In the absence of a customer's express permission, company's should not market or sell sensitive personal data.

To create this opt-in standard, this legislation builds upon the existing lattice-work of Federal privacy laws.

For example, the bill modifies the recently enacted Gramm-Leach-Bliley Financial Services Modernization Act by requiring an opt-in for the sale of personal financial information.

Presently, under the Gramm-Leach-Bliley Act, a bank must give a customer notice and the opportunity to opt-out before the bank can disclose private financial information to non-affiliated third parties.

This legislation would impose a stricter standard if the bank tries to sell the information. Any bank that sells personal financial information to non-affiliated third parties would have to get the prior consent of the customer, OPT-in.

Similarly, this bill strengthens the privacy protections for personal health data.

The newly enacted Department of Health and Human Services privacy regulations set a basic opt-in framework for disclosure of health information. I recognize that the rules are being revised by the Bush administration, so any discussion of health privacy must necessarily contemplate a moving target.

Nevertheless, the current version of the regulation has loopholes that limit patient privacy.

The regulations only prohibit ''covered entities, namely health insurers, health providers, and health care clearinghouses, from selling a patient's health information without that patient's prior consent, an Opt-in Model.

Meanwhile, non-covered entities such as business associates, health researchers, schools or universities, and life insurers are not subject to this opt-in requirement, except through contractual arrangements.

My bill would preserve the privacy of health information wherever the information is sold. Any life insurer, school or non-covered entity trying to sell protected health information would have to get the patient's consent.

In addition, the bill would require entities to obtain a patient's approval before using ''protected health information'' for marketing purposes.

This legislation builds on existing law to protect the information on our drivers' licenses.

With its recent amendments, the Driver's Privacy Protection Act, DPPA, offers some meaningful protections for drivers privacy.

For example, under the DPPA, a State Department of Motor Vehicles must obtain the prior consent, Opt-in of the driver before ''highly restricted personal information, defined as the driver's photograph, image, Social Security number, medical or disability information, can be disclosed to a third party.

However, loopholes remain. Other sensitive information found on a driver's license deserves equal protection.

This legislation would expand the definition of ''highly restricted personal'' to include a physical copy of a driver's license, the driver identification number, birth date, information on the driver's physical characteristics and any biometric identifiers like a fingerprint that are found on the driver's license.

Thus, this bill would ensure consumers have control over how their motor vehicle records and driver's license data are used.

I would like to take a moment to highlight Title II of this legislation, which reflects a compromise with Senator GREGG on the privacy of Social Security numbers.

It is so crucial to protect Social Security Numbers because these are the key to unlocking a person's identity.

Many identity theft cases start with the theft of a Social Security number.

Once a thief has access to a victim's Social Security number, it is only a short step to acquiring credit cards, driver's licenses, or other crucial identification documents.

The Feinstein/Gregg compromise bars the sale or display of Social Security numbers to the public except in a very narrow set of circumstances.

Display or sale is permitted if the Social Security Number holder gives consent or if there are compelling public safety needs.

For the first time, Federal, State, and local governments will have to redact Social Security numbers on government records before these records are provided to the public.

Thus, enterprising identity thieves no longer can scour bankruptcy records, liens, marriage certificates, or other public documents to steal Social Security Numbers.

Moreover, State governments will no longer be permitted to use the Social Security number as the default driver's license number.

The legislation, however, recognizes that some industries, like banks, rely on Social Security Numbers to exchange information between databases and complete identification verification necessary for certain transactions.

It permits the sale or purchase of Social Security Numbers to facilitate business-to-business transactions so long as businesses put appropriate safeguards in place and do not permit public access to the number.

Some critics of privacy legislation argue it will impede commerce. I disagree. A reasonable baseline of privacy laws will stimulate commerce. On the Internet, for example, fear of identity theft has impeded consumer transactions.

One study of e-commerce estimates consumer privacy fears prevented up to $2.8 billion in online retail sales in 1999. Another study suggests that, by 2002, over $18 billion of lost sales can be attributed to consumer privacy concerns.

This legislation codifies steps Congress can take to protect citizens from identity thieves and other predators of personal information.

It restores to individuals more control over their most sensitive personal information such as Social Security numbers, driver's license information, health information, and financial information.

The legislation sets reasonable guidelines for businesses that handle our personal information every day, like credit card companies, hospitals, and banks.

Our Nation is rushing toward an information economy that will yield unprecedented economic efficiencies.

The commercial benefits of the new economy are unquestionable. But, in our rush to embrace the new, we must remember to protect the core Democratic values on which our country depends.

Every American has a fundamental right to privacy, no matter how fast our technology grows or changes.

But our right to privacy only will remain vital, if we take strong action to protect it.

I look forward to working with my colleagues to enact the Privacy Act of 2001.

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. 1055

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Privacy Act of 2001''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—COMMERCIAL SALE AND MARKETING OF PERSONALLY IDENTIFIABLE INFORMATION

SEC. 101. COLLECTION AND DISTRIBUTION OF PERSONALLY IDENTIFIABLE INFORMATION.

(a) PROHIBITION.—

(1) IN GENERAL.—It is unlawful for a commercial entity to collect personally identifiable information and disclose such information to any nonaffiliated third party for marketing purposes or sell such information to any nonaffiliated third party, unless the commercial entity provides—

(A) notice to the individual to whom the information relates in accordance with the requirements of subsection (b); and

(B) an opportunity for such individual to restrict the disclosure or sale of such information.

(2) EXCEPTION.—A commercial entity may collect personally identifiable information and use such information to market to potential customers such entity's product.

(b) NOTICE.—

(1) IN GENERAL.—A notice under subsection (a) shall contain statements describing the following:

(A) The identity of the commercial entity collecting the personally identifiable information.

(B) The types of personally identifiable information that are being collected on the individual.

(C) How the commercial entity may use such information.

(D) A description of the categories of potential recipients of such personally identifiable information.

(E) Whether the individual is required to provide personally identifiable information in order to do business with the commercial entity.

(F) How an individual may decline to have such personally identifiable information used or sold as described in subsection (a).

(2) TIME OF NOTICE.—Notice shall be conveyed prior to the sale or use of the personally identifiable information as described in subsection (a) in such a manner as to allow the individual a reasonable period of time to consider the notice and limit such sale or use.

(3) MEDIUM OF NOTICE.—The medium for providing notice must be—

(A) the same medium in which the personally identifiable information is or will be collected, or a medium approved by the individual; or

(B) in the case of oral communication, notice may be conveyed orally or in writing.

(4) FORM OF NOTICE.—The notice shall be clear and conspicuous.

(c) OPT-OUT.—

(1) OPPORTUNITY TO OPT-OUT OF SALE OR MARKETING.—The opportunity provided to limit the sale of personally identifiable information to nonaffiliated third parties or the disclosure of such information for marketing purposes, shall be easy to use, accessible and available in the medium the information is collected, or in a medium approved by the individual.

(2) DURATION OF LIMITATION.—An individual's limitation on the sale or marketing of personally identifiable information shall be considered permanent, unless otherwise specified by the individual.

(3) REVOCATION OF CONSENT.—After an individual grants consent to the use of that individual's personally identifiable information, the individual may revoke the consent at any time, except to the extent that the commercial entity has taken action in reliance thereon. The commercial entity shall provide the individual an opportunity to revoke consent that is easy to use, accessible, and available in the medium the information was or is collected.

(4) NOT APPLICABLE.—This section shall not apply to disclosure of personally identifiable information—

(A) that is necessary to facilitate a transaction specifically requested by the consumer;

(B) is used for the sole purpose of facilitating this transaction; and

(C) in which the entity receiving or obtaining such information is limited, by contract, to use such formation for the purpose of completing the transaction.

SEC. 102. ENFORCEMENT.

(a) IN GENERAL.—In accordance with the provisions of this section, the Federal Trade Commission shall have the authority to enforce any violation of section 101 of this Act.

(b) VIOLATIONS.—The Federal Trade Commission shall treat a violation of section 101 as a violation of a rule under section 18a(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(c) TRANSFER OF ENFORCEMENT AUTHORITY.—The Federal Trade Commission shall promulgate rules in accordance with section 553 of title 5, United States Code, allowing for the transfer of enforcement authority from the Federal Trade Commission to a Federal agency regarding section 101 of this Act. The Federal Trade Commission may permit a Federal agency to enforce any violation of section 101 if such agency submits a written request to the Commission to enforce such violations and includes in such request—

(1) a description of the entities regulated by such agency that will be subject to the provisions of section 101;

(2) an assurance that such agency has sufficient authority over the entities to enforce violations of section 101; and

(3) a list of proposed rules that such agency shall use in regulating such entities and enforcing section 101.

(d) ACTIONS BY THE COMMISSION.—Absent transfer of enforcement authority to a Federal agency under subsection (c), the Federal Trade Commission shall prevent any person from violating section 101 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as provided to such Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.). Any entity that violates section 101 is subject to the penalties and entitled to the privileges and immunities provided in such Act in the same manner, by the same means, and with the same jurisdiction, power, and duties under such Act.

(e) RELATIONSHIP TO OTHER LAWS.—

(1) COMMISSION AUTHORITY.—Nothing contained in this title shall be construed to limit authority provided to the Commission under any other law.

(2) COMMUNICATIONS ACT.—Nothing in section 101 requires an operator of a website to take any action that is inconsistent with the requirements of section 222 or 631 of the Communications Act of 1934 (47 U.S.C. 222 and 5551).

(3) OTHER ACTS.—Nothing in this title is intended to affect the applicability or the enforceability of any provision of, or any amendment made by—

(A) the Children's Online Privacy Protection Act of 1998 (15 U.S.C. 6501 et seq.);

(B) title V of the Gramm-Leach-Bliley Act;

(C) the Health Insurance Portability and Accountability Act of 1996; or

(D) the Fair Credit Reporting Act.

(f) PUBLIC RECORDS.—Nothing in this title shall be construed to restrict commercial entities from obtaining or disclosing personally identifying information from public records.

(g) CIVIL PENALTIES.—In addition to any other penalty applicable to a violation of section 101(a), a penalty of up to $25,000 may be issued for each violation.

(h) ENFORCEMENT REGARDING PROGRAMS.—

(1) IN GENERAL.—A Federal agency or department providing financial assistance to any entity required to comply with section 101 of this Act shall issue regulations requiring that such entity comply with such section or forfeit some or all of such assistance. Such regulations shall prescribe sanctions for noncompliance, require that such department or agency provide notice of failure to comply with such section prior to any action being taken against such recipient, and require that a determination be made prior to any action being taken against such recipient that compliance cannot be secured by voluntary means.

(2) FEDERAL FINANCIAL ASSISTANCE.—The term ''Federal financial assistance'' means assistance through a grant, cooperative agreement, loan, or contract other than a contract of insurance or guaranty.

SEC. 103. SAFE HARBOR.

A commercial entity may not be held to have violated any provision of this title if such entity complies with self-regulatory guidelines that—

''(1) are issued by seal programs or representatives of the marketing or online industries or by any other person; and

''(2) are approved by the Federal Trade Commission, after public comment has been received on such guidelines by the Commission, as meeting the requirements of this title.

SEC. 104. DEFINITIONS.

In this title:

(1) COMMERCIAL ENTITY.—The term ''commercial entity''—

(A) means any person offering products or services involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; and

(B) does not include—

(i) any nonprofit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(ii) any financial institution that is subject to title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.); or

(iii) any group health plan, health insurance issuer, or other entity that is subject to the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 201 note).

(2) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(3) INDIVIDUAL.—The term ''individual'' means a person whose personally identifying information has been, is, or will be collected by a commercial entity.

(4) MARKETING.—The term ''marketing'' means to make a communication about a product or service a purpose of which is to encourage recipients of the communication to purchase or use the product or service.

(5) MEDIUM.—The term ''medium'' means any channel or system of communication including oral, written, and online communication.

(6) NONAFFILIATED THIRD PARTY.—The term ''nonaffiliated third party'' means any entity that is not related by common ownership or affiliated by corporate control with, the commercial entity, but does not include a joint employee of such institution.

(7) PERSONALLY IDENTIFIABLE INFORMATION.—The term ''personally identifiable information'' means individually identifiable information about the individual that is collected including—

(A) a first, middle, or last name, whether given at birth or adoption, assumed, or legally changed;

(B) a home or other physical address, including the street name, zip code, and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a photograph or other form of visual identification;

(F) a birth date, birth certificate number, or place of birth for that person; or

(G) information concerning the individual that is combined with any other identifier in this paragraph.

(8) SALE; SELL; SOLD.—The terms ''sale'', ''sell'', and ''sold'', with respect to personally identifiable information, mean the exchanging of such information for any thing of value, directly or indirectly, including the licensing, bartering, or renting of such information.

(9) WRITING.—The term ''writing'' means writing in either a paper-based or computer-based form, including electronic and digital signatures.

SEC. 105. PREEMPTION.

The provisions of this title shall supersede any statutory and common law of States and their political subdivisions insofar as that law may now or hereafter relate to the—

(1) collection and disclosure of personally identifiable information for marketing purposes; and

(2) collection and sale of personally identifiable information.

SEC. 106. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 1 year after the date of enactment of this Act.

TITLE II—LIMITATIONS ON USE OF SOCIAL SECURITY NUMBERS

SEC. 201. FINDINGS.

Congress makes the following findings:

(1) The inappropriate display, sale, or purchase of social security numbers has contributed to a growing range of illegal activities, including fraud, identity theft, and, in some cases, stalking and other violent crimes.

(2) While financial institutions, health care providers, and other entities have often used social security numbers to confirm the identity of an individual, the general display to the public, sale, or purchase of these numbers has been used to commit crimes, and also can result in serious invasions of individual privacy.

(3) The Federal Government requires virtually every individual in the United States to obtain and maintain a social security number in order to pay taxes, to qualify for

social security benefits, or to seek employment. An unintended consequence of these requirements is that social security numbers have become tools that can be used to facilitate crime, fraud, and invasions of the privacy of the individuals to whom the numbers are assigned. Because the Federal Government created and maintains this system, and because the Federal Government does not permit individuals to exempt themselves from those requirements, it is appropriate for the Federal Government to take steps to stem the abuse of this system.

(4) A social security number does not contain, reflect, or convey any publicly significant information or concern any public issue. The display, sale, or purchase of such numbers in no way facilitates uninhibited, robust, and wide-open public debate, and restrictions on such display, sale, or purchase would not affect public debate.

(5) No one should seek to profit from the display, sale, or purchase of social security numbers in circumstances that create a substantial risk of physical, emotional, or financial harm to the individuals to whom those numbers are assigned.

(6) Consequently, this Act offers each individual that has been assigned a social security number necessary protection from the display, sale, and purchase of that number in any circumstance that might facilitate unlawful conduct.

SEC. 202. PROHIBITION OF THE DISPLAY, SALE, OR PURCHASE OF SOCIAL SECURITY NUMBERS.

(a) PROHIBITION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1028 the following:

''§ 1028A. Prohibition of the display, sale, or purchase of social security numbers

''(a) DEFINITIONS.—In this section:

''(1) DISPLAY.—The term 'display' means to intentionally communicate or otherwise make available (on the Internet or in any other manner) to the general public an individual's social security number.

''(2) PERSON.—The term 'person' means any individual, partnership, corporation, trust, estate, cooperative, association, or any other entity.

''(3) PURCHASE.—The term 'purchase' means providing directly or indirectly, anything of value in exchange for a social security number.

''(4) SALE.—The term 'sale' means obtaining, directly or indirectly, anything of value in exchange for a social security number.

''(5) STATE.—The term 'State' means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any territory or possession of the United States.

''(b) LIMITATION ON DISPLAY.—Except as provided in section 1028B, no person may display any individual's social security number to the general public without the affirmatively expressed consent of the individual.

''(c) LIMITATION ON SALE OR PURCHASE.—Except as otherwise provided in this section, no person may sell or purchase any individual's social security number without the affirmatively expressed consent of the individual.

''(d) PROHIBITION OF WRONGFUL USE AS PERSONAL IDENTIFICATION NUMBER.—No person may obtain any individual's social security number for purposes of locating or identifying an individual with the intent to physically injure, harm, or use the identity of the individual for any illegal purpose.

''(e) PREREQUISITES FOR CONSENT.—In order for consent to exist under subsection (b) or (c), the person displaying or seeking to display, selling or attempting to sell, or purchasing or attempting to purchase, an individual's social security number shall—

''(1) inform the individual of the general purpose for which the number will be used, the types of persons to whom the number may be available, and the scope of transactions permitted by the consent; and

''(2) obtain the affirmatively expressed consent (electronically or in writing) of the individual.

''(f) EXCEPTIONS.—

''(1) IN GENERAL.—Except as provided in subsection (d), nothing in this section shall be construed to prohibit or limit the display, sale, or purchase of a social security number—

''(A) permitted, required, or excepted, expressly or by implication, under section 205(c)(2), 1124A(a)(3), or 1141(c) of the Social Security Act (42 U.S.C. 405(c)(2), 1320a–3a(a)(3), and 1320b–11(c)), section 7(a)(2) of the Privacy Act of 1974 (5 U.S.C. 552a note), section 6109(d) of the Internal Revenue Code of 1986, or section 6(b)(1) of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6305(b)(1));

''(B) for a public health purpose, including the protection of the health or safety of an individual in an emergency situation;

''(C) for a national security purpose;

''(D) for a law enforcement purpose, including the investigation of fraud, as required under subchapter II of chapter 53 of title 31, United States Code, and chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951–1959), and the enforcement of a child support obligation;

''(E) if the display, sale, or purchase of the number is for a business-to-business use, including, but not limited to—

''(i) the prevention of fraud (including fraud in protecting an employee's right to employment benefits);

''(ii) the facilitation of credit checks or the facilitation of background checks of employees, prospective employees, and volunteers;

''(iii) compliance with any requirement related to the social security program established under title II of the Social Security Act (42 U.S.C. 401 et seq.); or

''(iv) the retrieval of other information from, or by, other businesses, commercial enterprises, or private nonprofit organizations,

except that, nothing in this subparagraph shall be construed as permitting a professional or commercial user to display or sell a social security number to the general public;

''(F) if the transfer of such a number is part of a data matching program under the Computer Matching and Privacy Protection Act of 1988 (5 U.S.C. 552a note) or any similar computer data matching program involving a Federal, State, or local agency; or

''(G) if such number is required to be submitted as part of the process for applying for any type of Federal, State, or local government benefit or program.

''(g) CIVIL ACTION IN UNITED STATES DISTRICT COURT; DAMAGES; ATTORNEY'S FEES AND COSTS.—

''(1) IN GENERAL.—Any individual aggrieved by any act of any person in violation of this section may bring a civil action in a United States district court to recover—

''(A) such preliminary and equitable relief as the court determines to be appropriate; and

''(B) the greater of—

''(i) actual damages;

''(ii) liquidated damages of $2,500; or

''(iii) in the case of a violation that was willful and resulted in profit or monetary gain, liquidated damages of $10,000.

''(2) STATUTE OF LIMITATIONS.—No action may be commenced under this subsection more than 3 years after the date on which the violation was or should reasonably have been discovered by the aggrieved individual.

''(3) NONEXCLUSIVE REMEDY.—The remedy provided under this subsection shall be in addition to any other remedy available to the individual.

''(h) CIVIL PENALTIES.—

''(1) IN GENERAL.—Any person who the Attorney General determines has violated this section shall be subject, in addition to any other penalties that may be prescribed by law—

''(A) to a civil penalty of not more than $5,000 for each such violation; and

''(B) to a civil penalty of not more than $50,000, if the violations have occurred with such frequency as to constitute a general business practice.

''(2) DETERMINATION OF VIOLATIONS.—Any willful violation committed contemporaneously with respect to the social security numbers of 2 or more individuals by means of mail, telecommunication, or otherwise, shall be treated as a separate violation with respect to each such individual.

''(3) ENFORCEMENT PROCEDURES.—The provisions of section 1128A of the Social Security Act (42 U.S.C. 1320a–7a), other than subsections (a), (b), (f), (h), (i), (j), (m), and (n) and the first sentence of subsection (c) of such section, and the provisions of subsections (d) and (e) of section 205 of such Act (42 U.S.C. 405) shall apply to a civil penalty under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act (42 U.S.C. 1320a–7a(a)), except that, for purposes of this paragraph, any reference in section 1128A of such Act (42 U.S.C. 1320a–7a) to the Secretary shall be deemed to be a reference to the Attorney General.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following:

''1028A. Prohibition of the display, sale, or purchase of social security numbers.''.

(b) CRIMINAL SANCTIONS.—Section 208(a) of the Social Security Act (42 U.S.C. 408(a)) is amended—

(1) in paragraph (8), by inserting ''or'' after the semicolon; and

(2) by inserting after paragraph (8) the following new paragraphs:

''(9) except as provided in paragraph (5) of section 1028A(a) of title 18, United States Code, knowingly and willfully displays, sells, or purchases (as those terms are defined in paragraph (1) of such section) any individual's social security number (as defined in such paragraph) without the affirmatively expressed consent of that individual after having met the prerequisites for consent under paragraph (4) of such section, electronically or in writing, with respect to that individual; or

''(10) obtains any individual's social security number for the purpose of locating or identifying the individual with the intent to injure or to harm that individual, or to use the identity of that individual for an illegal purpose;''.

(c) EFFECTIVE DATE.—Section 1028A of title 18, United States Code (as added by subsection (a)), and section 208 of the Social Security Act (42 U.S.C. 408) (as amended by subsection (b)) shall take effect 30 days after the date on which the final regulations promulgated under section 204(b) are published in the Federal Register.

SEC. 203. NO PROHIBITION WITH RESPECT TO PUBLIC RECORDS.

(a) PUBLIC RECORDS EXCEPTION.—

(1) IN GENERAL.—Chapter 47 of title 18, United States Code (as amended by section

202(a)(1)), is amended by inserting after section 1028A the following:

"§ 1028B. No prohibition of the display, sale, or purchase of social security numbers included in public records

''(a) IN GENERAL.—Nothing in section 1028A shall be construed to prohibit or limit the display, sale, or purchase of any public record which includes a social security number that—

''(1) is incidentally included in a public record, as defined in subsection (d);

''(2) is intended to be purchased, sold, or displayed pursuant to an exception contained in section 1028A(f);

''(3) is intended to be purchased, sold, or displayed pursuant to the consent provisions of subsections (b), (c), and (e) of section 1028A; or

''(4) includes a redaction of the nonincidental occurrences of the social security numbers when sold or displayed to members of the general public.

''(b) AGENCY REQUIREMENTS.—Each agency in possession of documents that contain social security numbers which are nonincidental, shall, with respect to such documents—

''(1) ensure that access to such numbers is restricted to persons who may obtain them in accordance with applicable law;

''(2) require an individual who is not exempt under section 1028A(f) to provide the social security number of the person who is the subject of the document before making such document available; or

''(3) redact the social security number from the document prior to providing a copy of the requested document to an individual who is not exempt under section 1028A(f) and who is unable to provide the social security number of the person who is the subject of the document.

''(c) RULE OF CONSTRUCTION.—Nothing in this section shall be used as a basis for permitting or requiring a State or local government entity or other repository of public documents to expand or to limit access to documents containing social security numbers to entities covered by the exception in section 1028A(f).

''(d) DEFINITIONS.—In this section:

''(1) INCIDENTAL.—The term 'incidental' means that the social security number is not routinely displayed in a consistent and predictable manner on the public record by a government entity, such as on the face of a document.

''(2) PUBLIC RECORD.—The term 'public record' means any item, collection, or grouping of information about an individual that is maintained by a Federal, State, or local government entity and that is made available to the public.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 47 of title 18, United States Code (as amended by section 202(a)(2)), is amended by inserting after the item relating to section 1028A the following:

''1028B. No prohibition of the display, sale, or purchase of social security numbers included in public records.''.

SEC. 204. RULEMAKING AUTHORITY OF THE ATTORNEY GENERAL.

(a) IN GENERAL.—Except as provided in subsection (b), the Attorney General may prescribe such rules and regulations as the Attorney General deems necessary to carry out the provisions of section 202.

(b) BUSINESS-TO-BUSINESS COMMERCIAL DISPLAY, SALE, OR PURCHASE RULEMAKING.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General, in consultation with the Commissioner of Social Security, the Federal Trade Commission, and such other Federal agencies as the Attorney General determines appropriate, may conduct such rulemaking procedures in accordance with subchapter II of chapter 5 of title 5, United States Code, as are necessary to promulgate regulations to implement and clarify the business-to-business provisions pertaining to section 1028A(f)(1)(E) of title 18, United States Code (as added by section 202(a)(1)). The Attorney General shall consult with other agencies to ensure, where possible, that these provisions are consistent with other privacy laws, including title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.).

(2) FACTORS TO BE CONSIDERED.—In promulgating the regulations required under paragraph (1), the Attorney General shall, at a minimum, consider the following factors:

(A) The benefit to a particular business practice and to the general public of the sale or purchase of an individual's social security number.

(B) The risk that a particular business practice will promote the use of the social security number to commit fraud, deception, or crime.

(C) The presence of adequate safeguards to prevent the misappropriation of social security numbers by the general public, while permitting internal business uses of such numbers.

(D) The implementation of procedures to prevent identity thieves, stalkers, and others with ill intent from posing as legitimate businesses to obtain social security numbers.

SEC. 205. TREATMENT OF SOCIAL SECURITY NUMBERS ON GOVERNMENT DOCUMENTS.

(a) PROHIBITION OF USE OF SOCIAL SECURITY ACCOUNT NUMBERS ON CHECKS ISSUED FOR PAYMENT BY GOVERNMENTAL AGENCIES.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following new clause:

''(x) No Federal, State, or local agency may display the social security account number of any individual, or any derivative of such number, on any check issued for any payment by the Federal, State, or local agency.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to violations of section 205(c)(2)(C)(x) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(x)), as added by paragraph (1), occurring after the date that is 3 years after the date of enactment of this Act.

(b) PROHIBITION OF APPEARANCE OF SOCIAL SECURITY ACCOUNT NUMBERS ON DRIVER'S LICENSES OR MOTOR VEHICLE REGISTRATION.—

(1) IN GENERAL.—Section 205(c)(2)(C)(vi) of the Social Security Act (42 U.S.C. 405(c)(2)(C)(vi)) is amended—

(A) by inserting ''(I)'' after ''(vi)''; and

(B) by adding at the end the following new subclause:

''(II)(aa) An agency of a State (or political subdivision thereof), in the administration of any driver's license or motor vehicle registration law within its jurisdiction, may not disclose the social security account numbers issued by the Commissioner of Social Security, or any derivative of such numbers, on any driver's license or motor vehicle registration or any other document issued by such State (or political subdivision thereof) to an individual for purposes of identification of such individual.

''(bb) Nothing in this subclause shall be construed as precluding an agency of a State (or political subdivision thereof), in the administration of any driver's license or motor vehicle registration law within its jurisdiction, from using a social security account number for an internal use or to link with the database of an agency of another State that is responsible for the administration of any driver's license or motor vehicle registration law.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to licenses, registrations, and other documents issued or reissued after the date that is 1 year after the date of enactment of this Act.

(c) PROHIBITION OF INMATE ACCESS TO SOCIAL SECURITY ACCOUNT NUMBERS.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by subsection (b)) is amended by adding at the end the following new clause:

''(xi) No Federal, State, or local agency may employ, or enter into a contract for the use or employment of, prisoners in any capacity that would allow such prisoners access to the social security account numbers of other individuals. For purposes of this clause, the term 'prisoner' means an individual confined in a jail, prison, or other penal institution or correctional facility pursuant to such individual's conviction of a criminal offense.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to employment of prisoners, or entry into contract with prisoners, after the date that is 1 year after the date of enactment of this Act.

SEC. 206. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL SECURITY NUMBER FOR CONSUMER TRANSACTIONS.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"SEC. 1150A. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL SECURITY NUMBER FOR CONSUMER TRANSACTIONS.

''(a) IN GENERAL.—A commercial entity may not require an individual to provide the individual's social security number when purchasing a commercial good or service or deny an individual the good or service for refusing to provide that number except—

''(1) for any purpose relating to—

''(A) obtaining a consumer report for any purpose permitted under the Fair Credit Reporting Act;

''(B) a background check of the individual conducted by a landlord, lessor, employer, voluntary service agency, or other entity as determined by the Attorney General;

''(C) law enforcement; or

''(D) a Federal or State law requirement; or

''(2) if the social security number is necessary to verify identity and to prevent fraud with respect to the specific transaction requested by the consumer and no other form of identification can produce comparable information.

''(b) OTHER FORMS OF IDENTIFICATION.—Nothing in this section shall be construed to prohibit a commercial entity from—

''(1) requiring an individual to provide 2 forms of identification that do not contain the social security number of the individual; or

''(2) denying an individual a good or service for refusing to provide 2 forms of identification that do not contain such number.

''(c) APPLICATION OF CIVIL MONEY PENALTIES.—A violation of this section shall be deemed to be a violation of section 1129(a)(3)(F).

''(d) APPLICATION OF CRIMINAL PENALTIES.—A violation of this section shall be deemed to be a violation of section 208(a)(8).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to requests to provide a social security number made on or after the date of enactment of this Act.

SEC. 207. EXTENSION OF CIVIL MONETARY PENALTIES FOR MISUSE OF A SOCIAL SECURITY NUMBER.

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.—

(1) CIVIL PENALTIES.—The first sentence of section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a–8(a)(1)) is amended—

(A) by striking ''who'' and inserting ''who—'';

(B) by striking ''makes'' and all that follows through ''shall be subject to'' and inserting the following:

''(A) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;

''(B) makes such a statement or representation for such use with knowing disregard for the truth; or

''(C) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to'';

(C) by inserting ''or each receipt of such benefits while withholding disclosure of such fact'' after ''each such statement or representation'';

(D) by inserting ''or because of such withholding of disclosure of a material fact'' after ''because of such statement or representation''; and

(E) by inserting ''or such a withholding of disclosure'' after ''such a statement or representation''.

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—The first sentence of section 1129A(a) of the Social Security Act (42 U.S.C. 1320a–8a(a)) is amended—

(A) by striking ''who'' and inserting ''who—''; and

(B) by striking ''makes'' and all that follows through ''shall be subject to'' and inserting the following new paragraphs:

''(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI, that the person knows or should know is false or misleading;

''(2) makes such a statement or representation for such use with knowing disregard for the truth; or

''(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the individual knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under title II or benefits or payments under title VIII or XVI and the individual knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to''.

(b) APPLICATION OF CIVIL MONEY PENALTIES TO ELEMENTS OF CRIMINAL VIOLATIONS.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a–8(a)), as amended by subsection (a)(1), is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by redesignating the last sentence of paragraph (1) as paragraph (2) and inserting such paragraph after paragraph (1); and

(3) by inserting after paragraph (2) (as so redesignated) the following new paragraph:

''(3) Any person (including an organization, agency, or other entity) who—

''(A) uses a social security account number that such person knows or should know has been assigned by the Commissioner of Social Security (in an exercise of authority under section 205(c)(2) to establish and maintain records) on the basis of false information furnished to the Commissioner by any person;

''(B) falsely represents a number to be the social security account number assigned by the Commissioner of Social Security to any individual, when such person knows or should know that such number is not the social security account number assigned by the Commissioner to such individual;

''(C) knowingly alters a social security card issued by the Commissioner of Social Security, or possesses such a card with intent to alter it;

''(D) knowingly displays, sells, or purchases a card that is, or purports to be, a card issued by the Commissioner of Social Security, or possesses such a card with intent to display, purchase, or sell it;

''(E) counterfeits a social security card, or possesses a counterfeit social security card with intent to display, sell, or purchase it;

''(F) discloses, uses, compels the disclosure of, or knowingly displays, sells, or purchases the social security account number of any person in violation of the laws of the United States;

''(G) with intent to deceive the Commissioner of Social Security as to such person's true identity (or the true identity of any other person) furnishes or causes to be furnished false information to the Commissioner with respect to any information required by the Commissioner in connection with the establishment and maintenance of the records provided for in section 205(c)(2);

''(H) offers, for a fee, to acquire for any individual, or to assist in acquiring for any individual, an additional social security account number or a number which purports to be a social security account number; or

''(I) being an officer or employee of a Federal, State, or local agency in possession of any individual's social security account number, willfully acts or fails to act so as to cause a violation by such agency of clause (vi)(II) or (x) of section 205(c)(2)(C)

shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each violation. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from such violation, of not more than twice the amount of any benefits or payments paid as a result of such violation.''.

(c) CLARIFICATION OF TREATMENT OF RECOVERED AMOUNTS.—Section 1129(e)(2)(B) of the Social Security Act (42 U.S.C. 1320a–8(e)(2)(B)) is amended by striking ''In the case of amounts recovered arising out of a determination relating to title VIII or XVI,'' and inserting ''In the case of any other amounts recovered under this section,''.

(d) CONFORMING AMENDMENTS.—

(1) Section 1129(b)(3)(A) of the Social Security Act (42 U.S.C. 1320a–8(b)(3)(A)) is amended by striking ''charging fraud or false statements''.

(2) Section 1129(c)(1) of the Social Security Act (42 U.S.C. 1320a–8(c)(1)) is amended by striking ''and representations'' and inserting '', representations, or actions''.

(3) Section 1129(e)(1)(A) of the Social Security Act (42 U.S.C. 1320a–8(e)(1)(A)) is amended by striking ''statement or representation referred to in subsection (a) was made'' and inserting ''violation occurred''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to violations of sections 1129 and 1129A of the Social Security Act (42 U.S.C. 1320–8 and 1320a–8a), as amended by this section, committed after the date of enactment of this Act.

(2) VIOLATIONS BY GOVERNMENT AGENTS IN POSSESSION OF SOCIAL SECURITY NUMBERS.—Section 1129(a)(3)(I) of the Social Security Act (42 U.S.C. 1320a–8(a)(3)(I)), as added by subsection (b), shall apply with respect to violations of that section occurring on or after the effective date under section 202(c).

TITLE III—LIMITATIONS ON SALE AND SHARING OF NONPUBLIC PERSONAL FINANCIAL INFORMATION

SEC. 301. DEFINITION OF SALE.

Section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809) is amended by adding at the end the following:

''(12) SALE.—The terms 'sale', 'sell', and 'sold', with respect to nonpublic personal information, mean the exchange of such information for any thing of value, directly or indirectly, including the licensing, bartering, or renting of such information.''.

SEC. 302. RULES APPLICABLE TO SALE OF NONPUBLIC PERSONAL INFORMATION.

Section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802) is amended—

(1) in the section heading, by inserting ''and sales'' after ''disclosures'';

(2) in subsection (a), by inserting ''or sell'' after ''disclose'';

(3) in subsection (b)—

(A) in the heading, by inserting ''FOR CERTAIN DISCLOSURES'' before the period; and

(B) by adding at the end the following:

''(3) LIMITATION.—Paragraphs (1) and (2) do not apply to the sale of nonpublic personal information.'';

(4) by striking subsection (e);

(5) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(6) by inserting after subsection (b) the following:

''(c) OPT-IN FOR SALE OF INFORMATION.—

''(1) AFFIRMATIVE CONSENT REQUIRED.—Each agency or authority described in section 504(a) shall, by rule prescribed under that section, prohibit a financial institution that is subject to its jurisdiction from selling any nonpublic personal information to any nonaffiliated third party, unless the consumer to whom the information pertains—

''(A) has affirmatively consented in accordance with such rule to the sale of such information; and

''(B) has not withdrawn the consent.

''(2) DENIAL OF SERVICE PROHIBITED.—The rule prescribed pursuant to paragraph (1) shall prohibit a financial institution from denying any consumer a financial product or a financial service for the refusal by the consumer to grant the consent required by such rule.''.

SEC. 303. EXCEPTIONS TO SALE PROHIBITION.

Section 502 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802), as amended by this title, is amended by adding at the end the following:

''(f) GENERAL EXCEPTIONS.—This section does not prohibit—

''(1) the sale or other disclosure of nonpublic personal information to a nonaffiliated third party—

''(A) as necessary to effect, administer, or enforce a transaction requested or authorized by the consumer to whom the information pertains, or in connection with—

''(i) servicing or processing a financial product or service requested or authorized by the consumer;

''(ii) maintaining or servicing the account of the consumer with the financial institution, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity; or

''(iii) a proposed or actual securitization, secondary market sale (including sales of servicing rights), or similar transaction related to a transaction of the consumer;

''(B) with the consent or at the direction of the consumer, in accordance with applicable rules prescribed under this subtitle;

''(C) to the extent specifically permitted or required under other provisions of law and in accordance with the Right to Financial Privacy Act of 1978; or

''(D) to law enforcement agencies (including a Federal functional regulator, the Secretary of the Treasury, with respect to subchapter II of chapter 53 of title 31, United States Code, and chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951–1959), a State insurance authority, or the Federal Trade Commission), self-regulatory organizations, or for an investigation on a matter related to public safety; or

''(2) the disclosure, other than the sale, of nonpublic personal information—

''(A) to protect the confidentiality or security of the records of the financial institution pertaining to the consumer, the service or product, or the transaction therein;

''(B) to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability;

''(C) for required institutional risk control, or for resolving customer disputes or inquiries;

''(D) to persons holding a legal or beneficial interest relating to the consumer;

''(E) to persons acting in a fiduciary or representative capacity on behalf of the consumer;

''(F) to provide information to insurance rate advisory organizations, guaranty funds or agencies, applicable rating agencies of the financial institution, persons assessing the compliance of the institution with industry standards, or the attorneys, accountants, or auditors of the institution;

''(G) to a consumer reporting agency, in accordance with the Fair Credit Reporting Act or from a consumer report reported by a consumer reporting agency, as those terms are defined in that Act;

''(H) in connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal information concerns solely consumers of such business or unit;

''(I) to comply with Federal, State, or local laws, rules, or other applicable legal requirements, or with a properly authorized civil, criminal, or regulatory investigation or subpoena or summons by Federal, State, or local authorities; or

''(J) to respond to judicial process or government regulatory authorities having jurisdiction over the financial institution for examination, compliance, or other purposes, as authorized by law.''.

SEC. 304. EFFECTIVE DATE.

This title shall take effect 6 months after the date on which the rules are required to be prescribed under section 504(a)(3).

TITLE IV—LIMITATIONS ON THE PROVISION OF PROTECTED HEALTH INFORMATION

SEC. 401. DEFINITIONS.

In this title:

(1) BUSINESS ASSOCIATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''business associate'' means, with respect to a covered entity, a person who—

(i) on behalf of such covered entity or of an organized health care arrangement in which the covered entity participates, but other than in the capacity of a member of the workforce of such covered entity or arrangement, performs, or assists in the performance of—

(I) a function or activity involving the use or disclosure of individually identifiable health information, including claims processing or administration, data analysis, processing or administration, utilization review, quality assurance, billing, benefit management, practice management, and repricing; or

(II) any other function or activity regulated under parts 160 through 164 of title 45, Code of Federal Regulations; or

(ii) provides, other than in the capacity of a member of the workforce of such covered entity, legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services to or for such covered entity, or to or for an organized health care arrangement in which the covered entity participates, where the provision of the service involves the disclosure of individually identifiable health information from such covered entity or arrangement, or from another business associate of such covered entity or arrangement, to the person.

(B) LIMITATIONS.—

(i) IN GENERAL.—A covered entity participating in an organized health care arrangement that performs a function or activity as described by subparagraph (A)(i) for or on behalf of such organized health care arrangement, or that provides a service as described in subparagraph (A)(ii) to or for such organized health care arrangement, does not, simply through the performance of such function or activity or the provision of such service, become a business associate of other covered entities participating in such organized health care arrangement.

(ii) LIMITATION.—A covered entity may be a business associate of another covered entity.

(2) COVERED ENTITY.—The term ''covered entity'' means—

(A) a health plan;

(B) a health care clearinghouse; and

(C) a health care provider who transmits any health information in electronic form in connection with a transaction covered by parts 160 through 164 of title 45, Code of Federal Regulations.

(3) DISCLOSURE.—The term ''disclosure'' means the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.

(4) EMPLOYER.—The term ''employer'' means a person or organization for whom an individual performs or has performed any service, of whatever nature, as the employee of that person or organization, except that—

(A) if the person for whom the individual performs or has performed the service does not have control of the payment of wages for such service, the term ''employer'' means the person having control of the payment of those wages; and

(B) in the case of a person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not engaged in trade or business within the United States, the term ''employer'' means that person.

(5) GROUP HEALTH PLAN.—The term ''group health plan'' means an employee welfare benefit plan (as defined in section 3(1) of the Employee Retirement Income and Security Act of 1974 (29 U.S.C. 1002(1)), including insured and self-insured plans, to the extent that the plan provides medical care (as defined in section 2791(a)(2) of the Public Health Service Act, 42 U.S.C. 300gg–91(a)(2)), including items and services paid for as medical care, to employees or their dependents directly or through insurance, reimbursement, or otherwise, that—

(A) has 50 or more participants (as defined in section 3(7) of Employee Retirement Income and Security Act of 1974, 29 U.S.C. 1002(7)); or

(B) is administered by an entity other than the employer that established and maintains the plan.

(6) HEALTH CARE.—The term ''health care'' means care, services, or supplies related to the health of an individual, including—

(A) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care and counseling services, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body; and

(B) a sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.

(7) HEALTH CARE CLEARINGHOUSE.—The term ''health care clearinghouse'' means a public or private entity, including a billing service, repricing company, community health management information system or community health information system, and value-added networks and switches, that—

(A) processes or facilitates the processing of health information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction; or

(B) receives a standard transaction from another entity and processes or facilitates the processing of health information into nonstandard format or nonstandard data content for the receiving entity.

(8) HEALTH CARE PROVIDER.—The term ''health care provider'' has the same meaning given the terms ''provider of services'' and ''provider of medical or health services'' in subsections (u) and (s) of section 1861 of the Social Security Act (42 U.S.C. 1395x), and includes any other person or organization who furnishes, bills, or is paid for health care in the normal course of business.

(9) HEALTH INFORMATION.—The term ''health information'' means any information, whether oral or recorded in any form or medium, that—

(A) is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and

(B) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual.

(10) HEALTH INSURANCE ISSUER.—The term ''health insurance issuer'' means a health insurance issuer (as defined in section 2791(b)(2) of the Public Health Service Act, 42 U.S.C. 300gg–91(b)(2)) and used in the definition of health plan in this section and includes an insurance company, insurance service, or insurance organization (including an HMO) that is licensed to engage in the business of insurance in a State and is subject to State law that regulates insurance. Such term does not include a group health plan.

(11) HEALTH MAINTENANCE ORGANIZATION.—The term ''health maintenance organization'' (HMO) (as defined in section 2791(b)(3) of the Public Health Service Act, 42 U.S.C. 300gg–91 (b)(3)) and used in the definition of health plan in this section, means a federally qualified HMO, an organization recognized as an HMO under State law, or a similar organization regulated for solvency under State law in the same manner and to the same extent as such an HMO.

(12) HEALTH OVERSIGHT AGENCY.—The term ''health oversight agency'' means an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is authorized by law to oversee the health care system (whether public or private) or government programs in which health information is necessary to determine eligibility or compliance, or to enforce civil rights laws for which health information is relevant.

(13) HEALTH PLAN.—The term ''health plan'' means an individual or group plan that provides, or pays the cost of, medical care, as defined in section 2791(a)(2) of the Public Health Service Act (42 U.S.C. 300gg–91(a)(2))—

(A) including, singly or in combination—

(i) a group health plan;

(ii) a health insurance issuer;

(iii) an HMO;

(iv) part A or B of the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(v) the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(vi) an issuer of a medicare supplemental policy (as defined in section 1882(g)(1) of the Social Security Act, 42 U.S.C. 1395ss(g)(1));

(vii) an issuer of a long-term care policy, excluding a nursing home fixed-indemnity policy;

(viii) an employee welfare benefit plan or any other arrangement that is established or maintained for the purpose of offering or providing health benefits to the employees of 2 or more employers;

(ix) the health care program for active military personnel under title 10, United States Code;

(x) the veterans health care program under chapter 17 of title 38, United States Code;

(xi) the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) (as defined in section 1072(4) of title 10, United States Code);

(xii) the Indian Health Service program under the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.);

(xiii) the Federal Employees Health Benefits Program under chapter 89 of title 5, United States Code;

(xiv) an approved State child health plan under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.), providing benefits for child health assistance that meet the requirements of section 2103 of such Act (42 U.S.C. 1397cc);

(xv) the Medicare+Choice program under part C of title XVIII of the Social Security Act (42 U.S.C. 1395w–21 et seq.);

(xvi) a high risk pool that is a mechanism established under State law to provide health insurance coverage or comparable coverage to eligible individuals; and

(xvii) any other individual or group plan, or combination of individual or group plans, that provides or pays for the cost of medical care (as defined in section 2791(a)(2) of the Public Health Service Act (42 U.S.C. 300gg–91(a)(2)); and

(B) excluding—

(i) any policy, plan, or program to the extent that it provides, or pays for the cost of, excepted benefits that are listed in section 2791(c)(1) of the Public Health Service Act (42 U.S.C. 300gg–91(c)(1); and

(ii) a government-funded program (other than 1 listed in clause (i) through (xvi) of paragraph (1)), whose principal purpose is other than providing, or paying the cost of, health care, or whose principal activity is the direct provision of health care to persons, or the making of grants to fund the direct provision of health care to persons.

(14) INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.—The term ''individually identifiable health information'' means information that is a subset of health information, including demographic information collected from an individual, that—

(A) is created or received by a covered entity or employer; and

(B)(i) relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; and

(ii)(I) identifies an individual; or

(II) with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.

(15) LAW ENFORCEMENT OFFICIAL.—The term ''law enforcement official'' means an officer or employee of any agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, who is empowered by law to—

(A) investigate or conduct an official inquiry into a potential violation of law; or

(B) prosecute or otherwise conduct a criminal, civil, or administrative proceeding arising from an alleged violation of law.

(16) LIFE INSURER.—The term ''life insurer'' means a life insurance company (as defined in section 816 of the Internal Revenue Code of 1986), including the employees and agents of such company.

(17) MARKETING.—

(A) IN GENERAL.—The term ''marketing'' means to make a communication about a product or service a purpose of which is to encourage recipients of the communication to purchase or use the product or service.

(B) LIMITATION.—Such term does not include communications that meet the requirements of subparagraph (C) and that are made by a covered entity—

(i) for the purpose of describing the entities participating in a health care provider network or health plan network, or for the purpose of describing if and the extent to which a product or service (or payment for such product or service) is provided by a covered entity or included in a plan of benefits; or

(ii) that are tailored to the circumstances of a particular individual and the communications are—

(I) made by a health care provider to an individual as part of the treatment of the individual, and for the purpose of furthering the treatment of that individual; or

(II) made by a health care provider to an individual in the course of managing the treatment of that individual, or for the purpose of directing or recommending to that individual alternative treatments, therapies, health care providers, or settings of care.

(C) NOT INCLUDED.—A communication described in subparagraph (B) is not included in marketing if—

(i) the communication is made orally; or

(ii) the communication is in writing and the covered entity does not receive direct or indirect remuneration from a third party for making the communication.

(18) NONCOVERED ENTITY.—

(A) IN GENERAL.—The term ''noncovered entity'' means any person or public or private entity, including but not limited to a health researcher, school or university, life insurer, employer, public health authority, health oversight agency, or law enforcement official, or any person acting as an agent of such entities or persons, that is not a covered entity.

(B) LIMITATION.—The term ''noncovered entity'' includes a covered entity if such covered entity is acting as a business associate.

(19) ORGANIZED HEALTH CARE ARRANGEMENT.—The term ''organized health care arrangement'' means—

(A) a clinically integrated care setting in which individuals typically receive health care from more than 1 health care provider;

(B) an organized system of health care in which more than 1 covered entity participates, and in which the participating covered entities—

(i) hold themselves out to the public as participating in a joint arrangement; and

(ii) participate in joint activities including at least—

(I) utilization review, in which health care decisions by participating covered entities are reviewed by other participating covered entities or by a third party on their behalf;

(II) quality assessment and improvement activities, in which treatment provided by participating covered entities is assessed by other participating covered entities or by a third party on their behalf; or

(III) payment activities, if the financial risk for delivering health care is shared, in part or in whole, by participating covered entities through the joint arrangement and if protected health information created or received by a covered entity is reviewed by other participating covered entities or by a third party on their behalf for the purpose of administering the sharing of financial risk;

(C) a group health plan and a health insurance issuer or HMO with respect to such group health plan, but only with respect to protected health information created or received by such health insurance issuer or HMO that relates to individuals who are or who have been participants or beneficiaries in such group health plan;

(D) a group health plan and 1 or more other group health plans each of which are maintained by the same plan sponsor; or

(E) the group health plans described in subparagraph (D) and health insurance issuers or HMOs with respect to such group health plans, but only with respect to protected health information created or received by such health insurance issuers or HMOs that relates to individuals who are or have been participants or beneficiaries in any of such group health plans.

(20) PROTECTED HEALTH INFORMATION.—The term ''protected health information'' means individually identifiable health information that is in any form or medium. The term does not include individually identifiable health information in education records covered by section 444 of the General Education Provisions Act (20 U.S.C. 1232g).

(21) PUBLIC HEALTH AUTHORITY.—The term ''public health authority'' means an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate.

(22) SCHOOL OR UNIVERSITY.—The term ''school or university'' means an institution or place for instruction or education, including an elementary school, secondary school, or institution of higher learning, a college, or an assemblage of colleges united under 1 corporate organization or government.

(23) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(24) SALE; SELL; SOLD.—The terms ''sale'', ''sell'', and ''sold'', with respect to protected health information, mean the exchange of

such information for anything of value, directly or indirectly, including the licensing, bartering, or renting of such information.

(25) USE.—The term ''use'' means, with respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

(26) WRITING.—The term ''writing'' means writing in either a paper-based or computer-based form, including electronic and digital signatures.

SEC. 402. PROHIBITION AGAINST SELLING PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—A noncovered entity shall not sell the protected health information of an individual without an authorization that is valid under section 403. When a noncovered entity obtains or receives authorization to sell such information, such sale must be consistent with such authorization.

(b) SCOPE.—A sale of protected health information as described under subsection (a) shall be limited to the minimum amount of information necessary to accomplish the purpose for which the sale is made.

(c) PURPOSE.—A recipient of information sold pursuant to this title may use or disclose such information solely to carry out the purpose for which the information was sold.

(d) NOT REQUIRED.—Nothing in this title permitting the sale of protected health information shall be construed to require such sale.

(e) IDENTIFICATION OF INFORMATION AS PROTECTED HEALTH INFORMATION.—Information sold pursuant to this title shall be clearly identified as protected health information.

(f) NO WAIVER.—Except as provided in this title, an individual's authorization to sell protected health information shall not be construed as a waiver of any rights that the individual has under other Federal or State laws, the rules of evidence, or common law.

SEC. 403. AUTHORIZATION FOR SALE OF PROTECTED HEALTH INFORMATION.

(a) VALID AUTHORIZATION.—A valid authorization is a document that complies with all requirements of this section. Such authorization may include additional information not required under this section, provided that such information is not inconsistent with the requirements of this section.

(b) DEFECTIVE AUTHORIZATION.—An authorization is not valid, if the document submitted has any of the following defects:

(1) The expiration date has passed or the expiration event is known by the noncovered entity to have occurred.

(2) The authorization has not been filled out completely, with respect to an element described in subsections (e) and (f).

(3) The authorization is known by the noncovered entity to have been revoked.

(4) The authorization lacks an element required by subsections (e) and (f).

(5) Any material information in the authorization is known by the noncovered entity to be false.

(c) REVOCATION OF AUTHORIZATION.—An individual may revoke an authorization provided under this section at any time provided that the revocation is in writing, except to the extent that the noncovered entity has taken action in reliance thereon.

(d) DOCUMENTATION.—

(1) IN GENERAL.—A noncovered entity must document and retain any signed authorization under this section as required under paragraph (2).

(2) STANDARD.—A noncovered entity shall, if a communication is required by this title to be in writing, maintain such writing, or an electronic copy, as documentation.

(3) RETENTION PERIOD.—A noncovered entity shall retain the documentation required by this section for 6 years from the date of its creation or the date when it last was in effect, whichever is later.

(e) CONTENT OF AUTHORIZATION.—

(1) CONTENT.—An authorization described in subsection (a) shall—

(A) contain a description of the information to be sold that identifies such information in a specific and meaningful manner;

(B) contain the name or other specific identification of the person, or class of persons, authorized to sell the information;

(C) contain the name or other specific identification of the person, or class of persons, to whom the information is to be sold;

(D) include an expiration date or an expiration event relating to the selling of such information that signifies that the authorization is valid until such date or event;

(E) include a statement that the individual has a right to revoke the authorization in writing and the exceptions to the right to revoke, and a description of the procedure involved in such revocation;

(F) be in writing and include the signature of the individual and the date, or if the authorization is signed by a personal representative of the individual, a description of such representative's authority to act for the individual; and

(G) include a statement explaining the purpose for which such information is sold.

(2) PLAIN LANGUAGE.—The authorization shall be written in plain language.

(f) NOTICE.—

(1) IN GENERAL.—The authorization shall include a statement that the individual may—

(A) inspect or copy the protected health information to be sold; and

(B) refuse to sign the authorization.

(2) COPY TO THE INDIVIDUAL.—A noncovered entity shall provide the individual with a copy of the signed authorization.

(g) MODEL AUTHORIZATIONS.—The Secretary, after notice and opportunity for public comment, shall develop and disseminate model written authorizations of the type described in this section and model statements of the limitations on such authorizations. Any authorization obtained on a model authorization form developed by the Secretary pursuant to the preceding sentence shall be deemed to satisfy the requirements of this section.

(h) NONCOERCION.—A covered entity or noncovered entity shall not condition the purchase of a product or the provision of a service to an individual based on whether such individual provides an authorization to such entity as described in this section.

SEC. 404. PROHIBITION AGAINST RETALIATION.

A noncovered entity that collects protected health information, may not adversely affect another person, directly or indirectly, because such person has exercised a right under this title, disclosed information relating to a possible violation of this title, or associated with, or assisted, a person in the exercise of a right under this title.

SEC. 405. PROHIBITION AGAINST MARKETING PROTECTED HEALTH INFORMATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, a covered entity or noncovered entity shall not use, disclose, or sell protected health information for marketing without an authorization that is valid under subsection (c), except as provided in subsection (b).

(b) EXCEPTION.—A health care provider may use or disclose protected health information for marketing without an authorization when it uses or discloses such information to make a marketing communication to an individual if the communication occurs in a face-to-face encounter between the health care provider and the individual.

(c) AUTHORIZATION.—

(1) IN GENERAL.—An authorization under subsection (a) shall—

(A) contain a description of the information to be used, disclosed, or sold that identifies such information in a specific and meaningful manner;

(B) contain the name or other specific identification of the person, or class of persons, authorized to use, disclose, or sell the information;

(C) identify persons to whom the information is to be provided or sold;

(D) include an expiration date or an expiration event relating to the use, disclosure, or sale of such information that signifies that the authorization is valid until such date or event;

(E) include a statement that the individual has a right to revoke the authorization in writing and that there are exceptions to the right to revoke, and a description of the procedure involved in such revocation;

(F) be in writing and include the signature of the individual and the date, or if the authorization is signed by a personal representative of the individual, a description of such representative's authority to act for the individual; and

(G) include a statement explaining the purpose for which such information is used, disclosed, or sold.

(2) PLAIN LANGUAGE.—The authorization must be written in plain language.

(d) NOTICE.—The authorization shall include a statement that the individual may—

(1) inspect or copy the protected health information to be marketed as provided under section 164.524 of title 45, Code of Federal Regulations (or a successor regulation); and

(2) refuse to sign the authorization.

(e) DOCUMENTATION.—A covered entity shall retain such documentation as required for any use, disclosure, or sale, as described under section 403(d).

(f) RESCISSION OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION REGULATION.—Effective as of December 28, 2000—

(1) section 164.514(e) of title 45, Code of Federal Regulations (relating to standards for uses and disclosures of protected health information for marketing), promulgated by the Secretary of Health and Human Services in the final rule entitled ''Standards for Privacy of Individually Identifiable Health Information'' (65 Fed. Reg. 82462 (December 28, 2000)) is void; and

(2) section 164.514 shall take effect as if subsection (e) of such section had not been included in the promulgation of the final regulation.

(g) NONCOERCION.—A covered entity or noncovered entity shall not condition the purchase of a product or the provision of a service to an individual based on whether such individual provides an authorization to such entity as described in this section.

SEC. 406. RULE OF CONSTRUCTION.

Except for the provisions of section 405, all requirements of this title shall not be construed to impose any additional requirements or in any way alter the requirements imposed upon covered entities under parts 160 through 164 of title 45, Code of Federal Regulations.

SEC. 407. REGULATIONS.

(a) IN GENERAL.—The Secretary shall promulgate regulations implementing the provisions of this title.

(b) TIMEFRAME.—Not later than 1 year after the date of enactment of this Act, the Secretary shall publish proposed regulations in the Federal Register. With regard to such proposed regulations, the Secretary shall provide an opportunity for submission of comments by interested persons during a period of not less than 90 days. Not later than

2 years after the date of enactment of this Act, the Secretary shall publish final regulations in the Federal Register.

SEC. 408. ENFORCEMENT.

(a) IN GENERAL.—A covered entity or noncovered entity that knowingly violates section 402 or 405 shall be subject to a civil money penalty under this section.

(b) AMOUNT.—The civil money penalty described in subsection (a) shall not exceed $100,000. In determining the amount of any penalty to be assessed, the Secretary shall take into account the previous record of compliance of the entity being assessed with the applicable provisions of this title and the gravity of the violation.

(c) ADMINISTRATIVE REVIEW.—

(1) OPPORTUNITY FOR HEARING.—The entity assessed shall be afforded an opportunity for a hearing by the Secretary upon request made within 30 days after the date of the issuance of a notice of assessment. In such hearing the decision shall be made on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested, the assessment shall constitute a final and unappealable order.

(2) HEARING PROCEDURE.—If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within 30 days after the date of the decision of the judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subsection (d).

(d) JUDICIAL REVIEW.—

(1) FILING OF ACTION FOR REVIEW.—Any entity against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which such entity is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within 30 days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary.

(2) CERTIFICATION OF ADMINISTRATIVE RECORD.—The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed.

(3) STANDARD FOR REVIEW.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

(4) APPEAL.—Any final decision, order, or judgment of the district court concerning such review shall be subject to appeal as provided in chapter 83 of title 28 of such Code.

(e) FAILURE TO PAY ASSESSMENT; MAINTENANCE OF ACTION.—

(1) FAILURE TO PAY ASSESSMENT.—If any entity fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General who shall recover the amount assessed by action in the appropriate United States district court.

(2) NONREVIEWABILITY.—In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(f) PAYMENT OF PENALTIES.—Except as otherwise provided, penalties collected under this section shall be paid to the Secretary (or other officer) imposing the penalty and shall be available without appropriation and until expended for the purpose of enforcing the provisions with respect to which the penalty was imposed.

TITLE V—DRIVER'S LICENSE PRIVACY

SEC. 501. DRIVER'S LICENSE PRIVACY.

Section 2725 of title 18, United States Code, is amended by striking paragraphs (2) and (3) and adding the following:

''(2) 'person' means an individual, organization, or entity, but does not include a State or agency thereof;

''(3) 'personal information' means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, medical or disability information, any physical copy of a driver's license, birth date, information on physical characteristics, including height, weight, sex or eye color, or any biometric identifiers on a license, including a finger print, but not information on vehicular accidents, driving violations, and driver's status; and

''(4) 'highly restricted personal information' means an individual's photograph or image, social security number, medical or disability information, any physical copy of a driver's license, driver identification number, birth date, information on physical characteristics, including height, weight, sex, or eye color, or any biometric identifiers on a license, including a finger print.''.

TITLE VI—MISCELLANEOUS

SEC. 601. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that is prohibited under title I, II, or IV of this Act or under any amendment made by such a title, the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with such titles or such amendments;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Attorney General—

(i) written notice of the action; and

(ii) a copy of the complaint for the action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the State attorney general determines that it is not feasible to provide the notice described in such subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Attorney General at the same time as the State attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Attorney General shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Attorney General intervenes in an action under subsection (a), the Attorney General shall have the right to be heard with respect to any matter that arises in that action.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act shall be construed to prevent an attorney general of a State from exercising the powers conferred on such attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE ATTORNEY GENERAL OF THE UNITED STATES.—In any case in which an action is instituted by or on behalf of the Attorney General for violation of a practice that is prohibited under title I, II, IV, or V of this Act or under any amendment made by such a title, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that practice.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 602. FEDERAL INJUNCTIVE AUTHORITY.

In addition to any other enforcement authority conferred under this Act or under an amendment made by this Act, the Federal Government shall have injunctive authority with respect to any violation of any provision of title I, II, or IV of this Act or of any amendment made by such a title, without regard to whether a public or private entity violates such provision.

By Mrs. MURRAY (for herself, Mrs. BOXER, Ms. CANTWELL, Mr. KENNEDY, Ms. LANDRIEU, Mr. SCHUMER):

S. 1056. A bill to authorize grants for community telecommunications infrastructure planning, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mrs. MURRAY. Mr. President, I rise today to introduce legislation to help rural and underserved communities across the country get connected to the information economy.

Today I am introducing the Community Telecommunication Planning Act of 2001. I am proud to have Senators BOXER, LANDRIEU, KENNEDY, CANTWELL, and SCHUMER as original cosponsors. This bill will give small and rural communities a new tool to attract high speed services and economic development.

I am especially proud at how this legislation came about. Since last year, I've been working with a group of community leaders in Washington State to find ways to help communities get connected to advanced telecommunications services.

I want to take a moment to thank the members of my Rural Telecommunication Working Group for their hard work on this bill. The members include: Brent Bahrenburg, Gregg Caudell, Dee Christensen, Dave Danner, Louis Fox, Tami Garrow, Larry Hall, Rod Fleck, Ray King, Dale King, Terry Lawhead, Dick Llarman, Jim Miller, Joe Poire, Skye Richendrfer, Jim

Schmit, Fred Sexton, Ted Sprague, Barbara Tilly, Terry Vann, Ron Yenney.

We met as a working group, and we held forums around the State that attracted hundreds of people. We've tapped the ideas of experts, service providers and people from across the State who are working to get their communities connected. The result in this legislation, which I am proud to say is part of Washington State's contribution to our national effort to wire all parts of our country.

This bill addresses a real need in many communities. While urban and suburban areas have strong competition between telecommunications providers, many small and rural communities are far removed from the services they need. We must ensure that all communities have access to advanced telecommunications like high speed internet access. Just as yesterday's infrastructure was built of roads and bridges, today our infrastructure includes advanced telecom services. Advanced telecommunications can enrich our lives through activities like distance-learning, and they can even save lives through efforts like telemedicine. The key is access. Access to these services is already turning some small companies in rural communities into international marketers of goods and services.

Unfortunately, many small and rural communities are having trouble getting the access they need. Before areas can take advantage of some of the help and incentives that are out there, they need to work together and go through a community planning process. Community plans identify the needs and level of demand, create a vision for the future, and show what all the players must do to meet the telecom needs of their community for today and tomorrow. These plans take resources to develop. This bill would provide those funds.

Providers say they're more likely to invest in an area if it has a plan that makes a business case for the costly infrastructure investment. Communities want to provide them with that plan, but they need help developing it. Unfortunately, many communities get stuck on that first step. They don't have the resources to do the studies and planning required to attract service. So the members of my Working Group came up with a solution: have the federal government provide competitive grants that local communities can use to develop their plans. I took that idea and put it into this bill.

When you think about it, it just makes sense. Right now the federal government already provides money to help communities plan other infrastructure improvements—everything from roads and bridges to wastewater facilities. The bill would provide rural and underserved communities with grant money for creating community plans, technical assessments and other analytical work that needs to be done.

With these grants, communities will be able to turn their desire for access into real access that can improve their communities and strengthen their economies. This bill can open the door for thousands of small and rural areas across our state to tap the potential of the information economy. I urge the Senate to support this bill and I look forward to working with my colleagues to see it passed.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1067. A bill to authorize the addition of lands to Pu'uhonua o Honaunau National Historical Park in the State of Hawaii, and for other purposes; to the committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, I rise today along with my colleague Senator INOUYE to introduce legislation that is important for the people of Hawaii, for the National Park Service, and for the nation as a whole. I am offering legislation that would allow expansion of the boundaries of Pu'uhonua o Honaunau National Historical Park on the island of Hawaii by 238 acres. These lands are adjacent to and contiguous with the park's current boundaries.

Pu'uhonua o Honaunau National Historical Park preserves a site with great significance for Native Hawaiians, students of history, archaeologists, and the people of Hawaii in general. It is nestled along the coast of the island of Hawaii where, up until the early 19th century, Hawaiians who broke kapu or one of the ancient laws against the gods could avoid certain death by fleeing to this place of refuge or ''pu'uhonua.'' The offender would be absolved by a priest and freed to leave. Defeated warriors and non-combatants could also find refuge here during times of battle. The grounds just outside the wall that encloses the pu'uhonua were home to several generations of powerful chiefs. The 182-acre park was established in 1961 and includes the pu'uhonua and a complex of archeological areas including temple platforms, royal fishponds, holua (sledding tracks), and coastal village sites. The Haloe o Keawe temple and several other structures have been reconstructed to provide visitors an understanding of life during the early days of the royal families.

The park, on the famed Kona coast of the Big Island of Hawaii, is appreciated by Native Hawaiians and the general public as a place where the story and history of native culture are interpreted for all Americans. It is worth mentioning that the National Park Service oversees 384 units across the nation, including national parks, battlefields, military parks, memorials, monuments and historic trails. Of these nearly 400 sites, there are only a handful of national historic parks that celebrate interpretations of contemporary native cultures. I am pleased that two of these parks, Pu'uhonua o Honaunau and Kaloko-Honokohau, are in Hawaii on the Big Island. I invite you all to visit us for a truly remarkable immersion in Hawaiian cultural history, something very close to my heart.

The proposed expansion has national significance from an archaeological and historical perspective. The archeological resources are very important. They illustrate that the Ki'ilae village complex, with its numerous sites and features, represents one of the most complete assemblages of the coastal component of the ancient Kona field system. This system was not just an agricultural system utilized by the early Kona chiefs, it was a complex economic system that supported a dense population. Archaeological records have shown that this system allowed the Kona chiefs to become very powerful for a period of at least 200 years and most likely supported the growth and development of Kamehameha the Great's army and thereby contributed to his rise to power in the Hawaiian Islands. The cultural landscape here includes not only residential features, but also religious, agricultural and ceremonial sites. The unusually high number of heiau is believed to be an indication of the importance of this area to the Hawaiian ruling class.

Mr. President, the expansion of the park has widespread support from local communities and county officials. There is a long history of study and analysis of expansion possibilities for the park. The 1977 Master Plan for the Pu'uhonua o Honaunau National Historical Park originally proposed boundary expansions in four contiguous areas. Following the original master plan, in 1992 the National Park Service conducted a feasibility study for protecting adjacent lands through boundary expansions. Then in August of last year, given the notification of the recent land transaction between the McCandless Ranch and a private development corporation, the NPS prepared a special report on the proposed park expansion to include the Ki'ilae village parcel. The Service held three well-attended community meetings on the Big Island, with enthusiastic support for the expansion.

The 238-acre expansion authorized by this bill is the preferred option of the NPS, although additional acres could potentially be acquired. The Ki'ilae village property meets the criterion of national significance for historical and archaeological areas. The Trust for Public Land (TPL) is providing funds for the appraisal of the property, and has indicated an interest in helping facilitate the expansion of the park. The TPL financial assistance is a departure from their normal business practice, and they made the decision to commit the funds in recognition of the unique conservation values that this property presents for the National Park Service.

I submit for the RECORD a letter from Mayor Harry Kim of the County of Hawaii which shows the depth of public support and appreciation for the expansion, particularly from the Hawaiian

community. I ask unanimous consent that the letter 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. 1057

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Pu'uhonau o Hōnaunau National Historical Park Addition Act of 2001''.

SEC. 2. ADDITIONS TO PU'UONAU O HŌNAUNAU NATIONAL HISTORICAL PARK.

The first section of the Act of July 26, 1955 (69 Stat. 376, ch. 385; 16 U.S.C. 397) is amended—

(1) by striking ''That when'' and inserting ''SECTION 1. (s) When''; and

(2) by adding at the end thereof the following new subsections:

''(b) The boundaries of Pu'uhonua o Hōnaunau National Historical Park are hereby modified to include approximately 238 acres of lands and interests therein within the area identified as ''Parcel A'' on the map entitled ''Pu'uhonua o Hōnaunau National Historical Park Proposed Boundary Additions, Ki'ilae Village'', numbered PUHO–P 415/82,013 and dated May, 2001.

''(c) The Secretary of the Interior is authorized to acquire approximately 159 acres of lands and interests therein within the area identified as ''Parcel B'' on the map referenced in subsection (b). Upon the acquisition of such lands or interests therein, the Secretary shall modify the boundaries of Pu'uhonua o Hōnaunau National Historical Park to include such lands or interests therein.''.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

COUNTY OF HAWAII,
Hilo, HI, May 16, 2001.

Hon. DANIEL AKAKA,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR AKAKA: The purpose of this letter is to request that you seek Congressional authorization to expand the boundaries of Pu'u Honua O Hōnaunau National Park.

As I am sure you know, our local media have given a good deal of attention to a development proposed on 800 acres adjacent to Pu'u Honua O Hōnaunau. The community, particularly the Hawaiian community, has been outspoken in its desire to see this acreage preserved and the park enhanced. Numerous historic sites have been identified on this acreage, some or all related to the ancient Hawaiian village of Ki'ilae.

My staff has spoken with Ms. Geri Bell, Park Superintendent, and she has said that at least 238 acres (out of the 800) are closely linked to the park and associated with the village of Ki'ilae. Moreover, she has indicated that the owner of the land would willingly sell the 238 acres to the National Park. The next step is Congressional authorization.

The acquisition could be 238 acres, 800 acres, or something in between, and I would leave that determination to the experts to decide. However, your support for acquisition of at least the smaller portion would allow for a valuable addition to the park and assure preservation of an important part of our ancient Hawaiian heritage.

I fully support the expansion of the park by acquisition of this acreage, and hope you will let me know if there is any way in which I can be of assistance.

A similar letter has been sent to the other members of our Congressional delegation.

Aloha,

HARRY KIM,
Mayor.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 110—RELATING TO THE RETIREMENT OF SHARON ZELASKA, ASSISTANT SECRETARY OF THE SENATE

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 110

Whereas, on June 15, 2001, Sharon Zelaska will retire from service to the United States Senate as the Assistant Secretary of the Senate after 4½ years;

Whereas, previously Sharon rendered exemplary service to the federal government as a staff member in the House of Representatives for 11½ years and in the Executive Branch for 4 years;

Whereas, throughout these years, she has at all times discharged the difficult duties and responsibilities of her office with extraordinary grace, efficiency and devotion; and

Whereas, Sharon Zelaska's service to the Senate has been marked by her personal commitment to the highest standards of excellence to enable the Senate to function effectively: Now, therefore, be it

Resolved, That Sharon Zelaska be and hereby is commended for her outstanding service to her country and to the United States Senate.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Sharon A. Zelaska.

SENATE RESOLUTION 111—COMMENDING ROBERT ''BOB'' DOVE ON HIS SERVICE TO THE SENATE

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 111

Whereas Robert Britton Dove began his service to the United States Senate in 1966 as Second Assistant Parliamentarian;

Whereas ''Bob Dove'' continued his service to the United States Senate for 35 years culminating in his appointment as the Parliamentarian of the United States Senate;

Whereas throughout his tenure in the Senate Bob Dove faithfully discharged the difficult duties and responsibilities of Parliamentarian of the United States Senate with great dedication, integrity and professionalism;

Whereas Bob Dove always performed his duties with unfailing good humor;

Whereas throughout his service as Parliamentarian Bob Dove advised the President of the Senate, as well as all Senators and staff on all questions of procedure in the Senate;

Whereas Senators and staff on both sides of the aisle have been appreciative of the Institutional and Historical knowledge that Bob brought to the office of the Parliamentarian;

Whereas Bob has published a number of documents regarding Senate process that have been used as educational resources by many Senators and staff;

Whereas Bob has given parliamentary advice and guidance to numerous countries around the globe on behalf of the Senate including but not limited to the newly formed Russian Federation;

Whereas Bob Dove has been honored by the United States Senate with the title of Parliamentarian Emeritus;

Whereas Robert Britton Dove retired on May 18, 2001, after 35 years of service to the United States Senate: Now, therefore, be it

Resolved, That the United States Senate commends Robert B. Dove for his exemplary service to the United States Senate and the Nation, and wishes to express its deep appreciation and gratitude for his long, faithful, and outstanding service.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Robert Britton Dove.

SENATE RESOLUTION 112—HONORING THE UNITED STATES ARMY ON ITS 226TH BIRTHDAY

Mr. ALLARD (for himself, Mrs. HUTCHISON, Mr. HAGEL, Mr. CLELAND, Mr. BOND, Mr. INHOFE, Mr. HUTCHINSON, Mr. JEFFORDS, Mr. ROBERTS, Mr. REED, Mr. SMITH of New Hampshire, Mr. WARNER, Mr. LEVIN, Ms. COLLINS, Mr. BUNNING, Mr. DAYTON, Mr. KENNEDY, Mr. MCCAIN, Mr. ALLEN, Mr. THURMOND, Mr. SANTORUM, Mr. SESSIONS, Ms. LANDRIEU, and Mr. DURBIN) submitted the following resolution; which was considered and agreed to:

S. RES. 112

Whereas 226 years ago, the Continental Army was formed with the goals of ending tyranny and winning freedom for the colonists in what has become the United States of America;

Whereas since the end of the American Revolution, our Nation's soldiers, imbued with the spirit of the original patriots, have pledged their allegiance to our Nation through their sacrifices in uniform;

Whereas all of the United States Army units, Active, Guard, and Reserve, share the heritage of the Continental Army, and our Nation's soldiers represent the finest men and women our Nation has to offer;

Whereas thousands of our Nation's soldiers stand guard around the globe ensuring our freedom and doing the tough jobs that maintain our way of life;

Whereas the United States Army is steeped in a proud tradition that dates back to June 14, 1775, but is ever flexible and capable of responding to a dynamic world;

Whereas the United States Army is transforming to meet the new demands of the 21st century;

Whereas the United States Army will ensure that the President, as Commander in Chief of the Armed Forces, continues to have capable land forces to quickly and efficiently deploy throughout the world to meet the national security interests of the United States;

Whereas both in times of peace and war, throughout more than 2 centuries, our Nation's soldiers have been poised and ready to answer the call of duty to defend our great Nation; and

Whereas the United States Army remains the best fighting force in the world: unchallenged, unparalleled, respected by their allies, feared by their opponents, and esteemed by the people of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) honors the United States Army on its 226th birthday;

(2) reflects on the great legacy the United States Army has given our Nation; and

(3) expresses pride in our Nation's soldiers' courage, dedication to duty, and selfless service to our Nation.

SENATE CONCURRENT RESOLUTION 49—URGING THE RETURN OF PORTRAITS PAINTED BY DINA BABBITT DURING HER INTERNMENT AT AUSCHWITZ THAT ARE NOW IN THE POSSESSION OF THE AUSCHWITZ-BIRKENAU STATE MUSEUM.

Mrs. BOXER (for herself and Mr. SMITH of Oregon) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations.

S. CON. RES. 49

Whereas Dina Babbitt (formerly known as Dinah Gottliebova), a United States citizen now in her late 70's, has requested the return of watercolor portraits she painted while suffering a 1½-year-long internment at the Auschwitz death camp during World War II;

Whereas Dina Babbitt was ordered to paint the portraits by the infamous war criminal Dr. Josef Mengele;

Whereas Dina Babbitt's life, and her mother's life, were spared only because she painted portraits of doomed inmates of Auschwitz-Birkenau, under orders from Dr. Josef Mengele;

Whereas these paintings are currently in the possession of the Auschwitz-Birkenau State Museum;

Whereas Dina Babbitt is unquestionably the rightful owner of the artwork, since the paintings were produced by her own talented hands as she endured the unspeakable conditions that existed at the Auschwitz death camp;

Whereas the artwork is not available for the public to view at the Auschwitz-Birkenau State Museum and therefore this unique and important body of work is essentially lost to history; and

Whereas this continued injustice can be righted through cooperation between agencies of the United States and Poland: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the moral right of Dina Babbitt to obtain the artwork she created, and recognizes her courage in the face of the evils perpetrated by the Nazi command of the Auschwitz-Birkenau death camp, including the atrocities committed by Dr. Josef Mengele;

(2) urges the President to make all efforts necessary to retrieve the 7 watercolor portraits Dina Babbitt painted, while suffering a 1½-year-long internment at the Auschwitz death camp, and return them to her;

(3) urges the Secretary of State to make immediate diplomatic efforts to facilitate the transfer of the 7 original watercolors painted by Dina Babbitt from the Auschwitz-Birkenau State Museum to Dina Babbitt, their rightful owner;

(4) urges the Government of Poland to immediately facilitate the return to Dina Babbitt of the artwork painted by her that is now in the possession of the Auschwitz-Birkenau State Museum; and

(5) urges the officials of the Auschwitz-Birkenau State Museum to transfer the 7 original paintings to Dina Babbitt as expeditiously as possible.

Mrs. BOXER. Mr. President, I rise today to submit a resolution regarding the artwork of a woman named Dina Babbitt. Mrs. Babbitt, who was born Dinah Gottliebova, was an inmate at Auschwitz during the Holocaust. During her internment, she was forced by the notorious Dr. Joseph Mengele to paint pictures of doomed inmates. Because of her paintings, Ms. Babbitt and her mother were two of only 22 inmates who survived their internment at Auschwitz.

Seven of the paintings were found at Auschwitz after the camp was liberated and were sold to the Polish State Museum in Osweicim. The museum contacted Mrs. Babbitt in 1973 to inform her that they had the pieces, but refused to relinquish them to her. She has been fighting with the museum since then to get her paintings back.

Mrs. Babbitt has a simple motivation for retrieving her paintings. The people in the portraits became her friends, and they perished in the gas chambers. The paintings are the only reminder she has of them and the internment camp, as she has said, ''everything else was taken from me.''

Mrs. Babbitt, who now resides in the United States, is in her late 70s. She has fought for too long to have these paintings returned. There is no doubt that she painted these works and has a moral right to have them in her possession. This resolution urges the President and the Secretary of State to work with the Polish government and the Auschwitz-Birkenau museum to see that the seven watercolors in question are returned to their rightful owner.

I hope that my colleagues will support his resolution.

SENATE CONCURRENT RESOLUTION 50—RECOGNIZING THE IMPORTANT CONTRIBUTION THAT LOCAL GOVERNMENTS MAKE TO SUSTAINABLE DEVELOPMENT AND ENSURING A VIABLE FUTURE FOR OUR PLANET

Mr. LEVIN (for himself and Ms. STABENOW) submitted the following concurrent resolution; which was referred to the Committee on Environment and Public Works.

S. CON. RES. 50

Whereas the city of Ann Arbor, Michigan was chosen by the International Council for Local Environmental Initiatives (in this concurrent resolution referred to as the ''ICLEI'') to host the U.S. and Canadian Municipal Leaders Rio+10 Preparatory Meeting for the United Nations-sponsored 2002 World Summit on Sustainable Development (in this concurrent resolution referred to as the ''2002 World Summit'');

Whereas the ICLEI strives to build and serve a worldwide movement of local governments to achieve tangible improvements in global environmental and sustainable development conditions through cumulative local actions;

Whereas the goals of the 2002 World Summit are to generate momentum toward sustainable development and ensure a viable future for our planet;

Whereas the predecessor of the 2002 World Summit was the United Nations Conference on Environment and Development, known as the Earth Summit;

Whereas local governments play a central role in the development of communities that respect ecological integrity, promote social well-being, and create economic vitality by developing and maintaining economic, social, and environmental infrastructures, overseeing local planning processes, establishing local environmental policies and regulations, and assisting in implementing national environmental policies;

Whereas the city of Ann Arbor, Michigan is a member of the ICLEI's Cities for Climate Protection, an association of over 300 local governments from around the world dedicated to developing sustainable community-based solutions to local and global environmental problems;

Whereas the city of Ann Arbor, Michigan is a designated Department of Energy Clean City in recognition of the city's efforts to purchase alternative fuel vehicles, build alternative fuel infrastructure, and educate the community about the use of alternative fuel vehicles in order to enhance energy security and environmental quality;

Whereas the city of Ann Arbor, Michigan is a member of the Environmental Protection Agency's Green Lights Program and has retrofitted over 20 city buildings with energy efficient lighting;

Whereas the city of Ann Arbor, Michigan developed an innovative Municipal Energy Fund to improve the energy efficiency of city facilities and provide community demonstrations of energy saving and renewable energy technologies that result in environmental stewardship and fiscal responsibility;

Whereas the city of Ann Arbor, Michigan has an Energy Plan that reduces energy use and encourages renewable energy, a Solid Waste Plan that encourages recycling, composting, and source reduction, and a Transportation Plan that reduces traffic congestion and vehicle miles traveled through the implementation of mass transit and alternate transportation programs;

Whereas the Environmental Management Team of the city of Ann Arbor, Michigan has a comprehensive program addressing environmental cleanup, environmental restoration, park and greenway development, energy efficiency, transportation alternatives, parks, infill development, and waste water management;

Whereas the city of Ann Arbor, Michigan was chosen from among 35 cities in North America to host the ICLEI's U.S. and Canadian Municipal Leaders Rio+10 Preparatory Meeting;

Whereas the city of Ann Arbor, Michigan is 1 of 6 cities worldwide selected to host a preparatory meeting for the 2002 World Summit; and

Whereas the University of Michigan and the residents of the city of Ann Arbor, Michigan are committed to communitywide initiatives to support sustainable development: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress recognizes the city of Ann Arbor, Michigan and its residents for their dedication to building a community that respects ecological integrity, promotes social well-being, and creates economic vitality.

Mr. LEVIN. Mr. President, I and my colleague from Michigan, Senator STABENOW, are submitting a resolution recognizing the City of Ann Arbor, Michigan and its residents for their dedication to building a community that respects the environment, promotes social well-being and creates economic vitality. The City of Ann

Arbor is hosting the U.S. and Canadian Municipal Leaders Rio+10 Preparatory Meeting for United Nations-sponsored 2002 World Summit on Sustainable Development. The 2002 World Summit marks the ten-year anniversary of the United Nation's Conference on Environment and Development, better known as the Earth Summit. The Earth Summit, held in 1992 in Rio de Janeiro, Brazil, built wide political and popular support for environmental protection and sustainable development. Local leaders from across the world will gather at the 2002 World Summit to assess progress and examine barriers to the implementation of the Rio agreements. The Summit and preparatory meetings will generate new momentum for and renew our commitment to ensuring a viable future for our planet.

In preparation for the 2002 World Summit, the International Council for Local Environmental Initiatives (ICLEI) is convening regional meetings to bring together local government leaders, technical experts and representatives of local government associations to evaluate local implementation of the Earth Summit's Agenda 21 and the Rio Conventions. The City of Ann Arbor was one of six cities worldwide chosen to host a preparatory meeting to assess opportunities and recommend strategies for accelerated action for sustainable development at the local level. Ann Arbor serves as a model for the important contributions that local governments make to sustainable development. Committed to protecting the environment while promoting social well-being and economic vitality, the city is purchasing alternative fuel vehicles, building alternative fuel infrastructure and educating residents about the use of alternative fuel vehicles in order to enhance energy security and environmental quality. The city is also developing an innovative Municipal Energy Fund to improve the energy efficiency of city facilities and provide community demonstrations of energy saving and renewable energy technologies that result in environmental stewardship and fiscal responsibility. For these reasons, the city is designated an ICLEI's City for Climate Protection and a Department of Energy Clean City. Protecting precious land resources and ensuring clean air and water for residents are also important priorities of the city. Ann Arbor has a comprehensive program addressing environmental cleanup and restoration, park and greenway development, energy efficiency, transportation alternatives, infill development and wastewater management.

I congratulate all the local leaders who will be attending the U.S. and Canadian Municipal Leaders Rio+10 Preparatory Meeting. Their cumulative local actions will improve our global environment. And, I commend the City of Ann Arbor, its residents and the University of Michigan for building a community that strives to protect our environment for future generations.

Ms. STABENOW. Mr. President, I am proud to join my colleague from Michigan, Senator LEVIN, in submitting a resolution recognizing the City of Ann Arbor, Michigan and its residents for their dedication to building a community that respects ecological integrity, promotes social well-being, and creates economic vitality.

On June 20, 2001, the City of Ann Arbor, Michigan will be hosting the U.S. and Canadian Municipal Leaders Rio+10 Preparatory Meeting for the United Nations-sponsored 2002 World Summit on Sustainable Development. The 2002 World Summit marks the ten-year anniversary of the 1992 Earth Summit, which helped build worldwide political and popular support for environmental protection and sustainable development. The 2002 World Summit will help assess the progress made since the Earth Summit, and renew our commitment to providing a bright future for our planet.

The City of Ann Arbor was chosen from among 35 cities in North America to host the U.S. and Canadian Municipal Leaders Rio+10 Preparatory Meeting, and is one of six cities worldwide selected to host a preparatory meeting for the 2002 World Summit. The preparatory meeting will bring together local government leaders, technical experts and representatives of local government associations to examine opportunities and recommend strategies for environmental protection and sustainable development at the local level.

The City of Ann Arbor has had numerous environmental accomplishments, and serves as a shining example of how local government can make tremendous contributions to solving local and global environmental problems. The City of Ann Arbor has developed an Energy Plan that reduces energy use and encourages renewable energy, a Solid Waste Plan that encourages recycling, composting, and source reduction, and a Transportation Plan that promotes mass transit and alternate transportation programs. Ann Arbor is also a Department of Energy Clean City, in recognition of its efforts to build alternative fuel infrastructure, purchase alternative fuel vehicles and educate the community about their uses. The city is also developing an innovative Municipal Energy Fund to improve the energy efficiency of city facilities and provide community demonstrations of energy saving and renewable energy technologies that result in environmental stewardship and fiscal responsibility. The City of Ann Arbor has made protecting the environment a community priority, and serves as a model of how local governments can play a critical role in sustainable development.

I congratulate the City of Ann Arbor for the honor of being chosen as one of six cities worldwide to host a preparatory meeting for the 2002 World Summit, and I congratulate all the local leaders who will be attending this preparatory meeting to help solve our environmental problems. I also commend the city and its residents for building a community that works hard to protect the environment, while at the same time creating economic vitality and promoting social well-being.

AMENDMENTS SUBMITTED AND PROPOSED

SA 803. Mrs. BOXER proposed an amendment to amendment No. 562 submitted by Mrs. BOXER and intended to be proposed to the amendment No. 358 proposed by Mr. JEFFORDS to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965.

SA 804. Mr. KENNEDY (for himself and Mr. GREGG) proposed an amendment to amendment No. 358 submitted by Mr. JEFFORDS and intended to be proposed to the bill (S. 1) supra.

TEXT OF AMENDMENTS

SA 803. Mrs. BOXER proposed an amendment to amendment No. 562 submitted by Mrs. BOXER and intended to be proposed to the amendment No. 358 proposed by Mr. JEFFORDS to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965; as follows:

In lieu of the matter proposed to be inserted insert the following:

SEC. 1. SHORT TITLE.

This title may be cited as the ''Equal Access to Public School Facilities Act.''

SEC. 2. EQUAL ACCESS.

IN GENERAL.—No public elementary school, public secondary school, local educational agency, or State educational agency, may deny equal access or a fair opportunity to meet after school in a designated open forum to any youth group, including the Boy Scouts of America, based on that group's favorable or unfavorable position concerning sexual orientation.

SA 804. Mr. KENNEDY (for himself and Mr. GREGG) proposed an amendment to amendment No. 358 submitted by Mr. JEFFORDS and intended to be proposed to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965; as follows:

On page 18, line 14, strike '', provide'' and all that follows through page 18, line 17, and insert ''provide, on an equitable basis, such children special educational services or other benefits under such program, and provide their teachers and other education personnel serving such children training and professional development services under such program.''.

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

''(A) subpart 2 of part B of title I;

On page 19, line 20, strike ''(A)'' and insert ''(B)''.

On page 19, line 21, strike ''(B)'' after ''A''.

On page 19, line 21, strike ''(B)'' and insert ''(C)''.

On page 19, line 22, strike ''(C)'' and insert ''(D)''.

On page 19, line 23, strike ''(D)'' and insert ''(E)''.

On page 69, line 18, strike the end quotation marks and the second period.

On page 69, between lines 18 and 19, insert the following:

''(m) VOLUNTARY PARTNERSHIPS.—A State may enter into a voluntary partnership with another State to develop and implement the assessments and standards required under this section.''.

On page 300, line 24, strike ''(2) and (3)'' and insert ''(3) and (4)''.

On page 300, line 24, strike ''and'' after the semicolon.

On page 301, line 1, strike ''paragraph (2)'' and insert ''paragraph (3)''.

On page 301, between lines 2 and 3, insert the following:

''(1) the term 'homeless children and youth'—

''(A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 103(a)(1)); and

''(B) includes—

''(i) children and youth who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason, are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations, are living in emergency or transitional shelters, are abandoned in hospitals, or are awaiting foster care placement;

''(ii) children and youth who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 103(a)(2)(C)); and

''(iii) children and youth who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

''(C) migratory children (as such term is defined in section 1309(2) of the Elementary and Secondary Education Act of 1965) who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in this paragraph;

(2) The terms enroll and enrollment include attending classes and participating fully in school activities.

On page 301, line 3, strike ''(1)'' and insert ''(2)''.

On page 301, line 6, strike the period and insert a semicolon.

On page 301, between lines 6 and 7, insert the following:

(3) in paragraph (3) (as so redesignated), by striking ''and'' after the semicolon;

(4) in paragraph (4) (as so redesignated), by striking the period and inserting ''; and''; and

(5) by adding at the end the following:

''(5) the term 'unaccompanied youth' includes a youth not in the physical custody of a parent or guardian.''.

On page 315, line 15, insert ''principals,'' after ''teachers,''.

On page 316, between lines 20 and 21, insert the following:

''(12) An assurance that the State educational agency will comply with section 6 (regarding participation by private school children and teachers).

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

''(12) Fulfilling the State's responsibilities concerning proper and efficient administration of the program carried out under this part.

On page 323, line 16, insert ''and principals'' after ''teachers''.

On page 324, lines 7 and 8, insert '', principals,'' after ''teachers''.

On page 324, between lines 10 and 11, insert the following:

''(11) An assurance that the local educational agency will comply with section 6 (regarding participation by private school children and teachers).

On page 325, line 20, insert ''and principals'' after ''teachers''.

On page 325, line 23, insert ''and principals'' after ''teachers''.

On page 348, line 8, strike ''and'' after the semicolon.

On page 348, line 15, strike the period and insert ''; and''.

On page 348, between lines 15 and 16, insert the following:

''(5) a description of how the State educational agency and local educational agency in the eligible partnership will comply with section 6 (regarding participation by private school children and teachers).

On page 369, line 13, strike ''and'' after the semicolon.

On page 369, between lines 13 and 14, insert the following:

''(3) contains an assurance that the State educational agency will comply with section 6 (regarding participation by private school children and teachers).

On page 369, line 14, strike ''(3)'' and insert ''(4)''.

On page 373, line 10, strike ''and''.

On page 373, between lines 10 and 11, insert the following:

''(10) a description of how the local educational agency will comply with section 6 (regarding participation by private school children and teachers).

On page 373, line 11, strike ''(10)'' and insert ''(11)''.

On page 708, line 3, insert ''(including assurances of compliance with applicable provisions regarding participation by private school children and teachers)'' before the comma.

On page 764, line 25, strike ''and'' after the semicolon;

On page 765, line 6, strike the period and insert ''; and''.

On page 765, between lines 6 and 7, insert the following:

''(D) parents of children from birth through age 5.

On page 765, between lines 10 and 11, insert the following:

''(c) CONSTRUCTION.—Nothing in this section shall be construed to prohibit a parental information and resource center from—

''(1) having its employees or agents meet with a parent at a site that is not on school grounds; or

''(2) working with another agency that serves children.

On page 766, line 6, insert '', who shall constitute a majority of the members of the special advisory committee'' after ''6101(b)(1)(A)''.

Amendment to SA505, Page 6: Delete lines 12 through 18 and insert: ''each school shall be determined by the tribal governing body, or the school board, if authorized by the tribal governing body''.

On page 774, line 14, strike from 6201(a)(2)(A)(i) the phrase: ''economically disadvantaged students and of students who are racial and ethnic minorities'' and replace it with ''any of the categories of students listed in section 1111(b)(2)(B)(v)(II)''.

On page 777, line 15, strike from 6202(a)(2)(B) the phrase: ''students who are racial and ethnic minorities, and economically disadvantaged students,'' and replace it with: ''any of the categories of students listed in section 1111(b)(2)(B)(v)(II)''.

On page 9 of SA#484, line 15, strike ''365'' and insert ''1 of SA#545'' and delete ''10'' and insert ''7''.

On page 10 of SA#484, line 20, strike ''and''.

On page 11 of SA#484, line 15, strike the period after ''ance''.

On page 11 of SA#484, line 15, add ''; and'' after ''ance''.

On page 11 of SA#484, add the following between lines 15 and 16:

''(6) outlines how the plan incorporates—

(A) teacher education and professional development;

(B) curricular development; and

(C) technology resources and systems for the purpose of establishing best practices that can be widely implemented by the State and local educational agencies.''.

On page 13 of SA#484, strike ''and'' on line 6 and strike the period after ''students'' on line 9.

On page 13 of SA#484, add ''; and'' after ''students''.

On page 13 of SA#484, insert the following between lines 9 and 10:

''(8) 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.''.

On page 6 of SA#441, line 12, add ''approaches'' after ''available''.

On page 579, line 25, insert after ''person'', ''receiving funds pursuant to this Act,''.

On page 580, line 8, after ''person'', insert ''receiving funds pursuant to this Act.''.

On page 582, line 25, after ''exceed'', insert ''fifty percent''.

On page 582, line 1, after ''received'', insert ''under the Better Education for Students and Teachers Act''.

On page 138, line 9, strike ''according to'' and insert ''taking into consideration''.

On page 4 of amendment No. 370, line 1, strike ''1,500'' and insert ''1,000''.

On page 521, between lines 18 and 19, insert the following:

SEC. 405. AMENDMENT TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Part D of the Individuals with Disabilities Education Act (20 U.S.C. 1451 et seq.) is amended by adding at the end the following:

''Chapter 3—Improving Early Intervention, Educational, and Transitional Services and Results for Children with Disabilities Through the Provision of Certain Services

''SEC. 691. FINDINGS.

''Congress makes the following findings:

''(1) Approximately 1,000,000 children and youth in the United States have low-incidence disabilities which affects the hearing, vision, movement, emotional, and intellectual capabilities of such children and youth.

''(2) There are 15 States that do not offer or maintain teacher training programs for any of the 3 categories of low-incidence disabilities. The 3 categories are deafness, blindness, and severe disabilities.

''(3) There are 38 States in which teacher training programs are not offered or maintained for 1 or more of the 3 categories of low-incidence disabilities.

''(4) The University of Northern Colorado is in a unique position to provide expertise, materials, and equipment to other schools and educators across the nation to train current and future teachers to educate individuals that are challenged by low-incidence disabilities.

''SEC. 692. NATIONAL CENTER FOR LOW-INCIDENCE DISABILITIES.

''In order to fill the national need for teachers trained to educate children who are challenged with low-incidence disabilities, the University of Northern Colorado shall be designated as a National Center for Low-Incidence Disabilities.

''SEC. 693. SPECIAL EDUCATION TEACHER TRAINING PROGRAMS.

''(a) GRANT.—The Secretary shall award a grant to the University of Northern Colorado to enable such University to provide to institutions of higher education across the nation

such services that are offered under the special education teacher training program carried out by such University, such as providing educational materials or other information necessary in order to aid in such teacher training.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000 for fiscal year 2002, and $1,000,000 for each of the fiscal years 2003 through 2005.''.

At the end, add the following:

SEC. ___. FEDERAL INCOME TAX INCENTIVE STUDY.

(a) IN GENERAL.—The Secretary of Education shall provide for the conduct of a study to examine whether Federal income tax incentives that provide education assistance affect higher education tuition rates.

(b) DATE.—The study described in subsection (a) shall be conducted not later than 6 months after the date of enactment of this Act and every 4 years thereafter.

(c) REPORT.—The Secretary shall report to Congress the results of each study conducted under this section.

At the appropriate place insert the following:

SEC. ___. CARL D. PERKINS VOCATIONAL AND TECHNICAL EDUCATION ACT OF 1998.

(a) IN GENERAL.—Section 117 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2327) is amended—

(1) in subsection (a), by inserting ''that are not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.)'' after ''institutions'';

(2) in subsection (b), by adding ''institutional support of'' after ''for'';

(3) in subsection (d), by inserting ''that is not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.)'' after ''institution''; and

(4) in subsection (e)(1)—

(A) by striking ''and'' at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

(C) by adding at the end the following:

''(D) institutional support of vocational and technical education.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect on the date of enactment of this Act.

(2) APPLICATION.—The amendments made by subsection (a) shall apply to grants made for fiscal year 2001 only if this Act is enacted before September 30, 2001.

At the end, add the following:

SEC. 902. SENSE OF CONGRESS ON ENHANCING AWARENESS OF THE CONTRIBUTIONS OF VETERANS TO THE NATION.

(a) FINDINGS.—Congress makes the following findings

(1) Tens of millions of Americans have served in the Armed Forces of the United States during the past century.

(2) Hundreds of thousands of Americans have given their lives while serving in the Armed Forces during the past century.

(3) The contributions and sacrifices of the men and women who served in the Armed Forces have been vital in maintaining our freedoms and way of life.

(4) The advent of the all-volunteer Armed Forces has resulted in a sharp decline in the number of individuals and families who have had any personal connection with the Armed Forces.

(5) This reduction in familiarity with the Armed Forces has resulted in a marked decrease in the awareness by young people of the nature and importance of the accomplishments of those who have served in our Armed Forces, despite the current educational efforts of the Department of Veterans Affairs and the veterans service organizations.

(6) Our system of civilian control of the Armed Forces makes it essential that the Nation's future leaders understand the history of military action and the contributions and sacrifices of those who conduct such actions.

(7) Senate Resolution 304 of the 106th Congress, adopted on September 25, 2000, designated the week that includes Veterans Day as ''National Veterans Awareness Week'' to focus attention on educating elementary and secondary school students about the contributions of veterans to the Nation.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

the Secretary of Education should work with the Secretary of Veterans Affairs, the Veterans Day National Committee, and the veterans service organizations to encourage, prepare, and disseminate educational materials and activities for elementary and secondary school students aimed at increasing awareness of the contributions of veterans to the prosperity and freedoms enjoyed by United States citizens.

On page 893, after line 14, add the following:

SEC. ___. TECHNICAL AMENDMENT TO THE KIDS 2000 ACT.

Amounts appropriated pursuant to section 112(f)(1) of the Kids 2000 Act (42 U.S.C. 13751 note) and the initiative to be carried out under such Act shall be administered by the Secretary of Education.

At the appropriate place, insert:

SECTION 1. SHORT TITLE.

(a) THIS ACT.—This Act may be cited as the ''John H. Chafee Environmental Education Act of 2001''.

(b) NATIONAL ENVIRONMENTAL EDUCATION ACT.—Section 1(a) of the National Environmental Education Act (20 U.S.C. 5501 note) is amended by striking ''National Environmental Education Act'' and inserting ''John H. Chafee Environmental Education Act''.

SEC. 2. OFFICE OF ENVIRONMENTAL EDUCATION.

Section 4 of the John H. Chafee Environmental Education Act (20 U.S.C. 5503) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting ''objective and scientifically sound'' after ''support'';

(B) by striking paragraph (6);

(C) by redesignating paragraphs (7) through (13) as paragraphs (6) through (12), respectively; and

(D) in paragraph (12) (as so redesignated), by inserting before the period at the end the following: ''through the headquarters and the regional offices of the Agency''; and

(2) by striking subsection (c) and inserting the following:

''(c) STAFF.—The Office of Environmental Education shall—

''(1) include a headquarters staff of not more than 10 full-time equivalent employees; and

''(2) be supported by 1 full-time equivalent employee in each regional office of the Agency.

''(d) ACTIVITIES.—The Administrator may carry out the activities described in subsection (b) directly or through awards of grants, cooperative agreements, or contracts.''.

SEC. 3. ENVIRONMENTAL EDUCATION GRANTS.

Section 6 of the John H. Chafee Environmental Education Act (20 U.S.C. 5505) is amended—

(1) in the second sentence of subsection (i), by striking ''25 percent'' and inserting ''15 percent''; and

(2) by adding at the end the following:

''(j) LOBBYING ACTIVITIES.—A grant under this section may not be used to support a lobbying activity (as described in the documents issued by the Office of Management and Budget and designated as OMB Circulars No. A–21 and No. A–122).

''(k) GUIDANCE REVIEW.—Before the Administrator issues any guidance to grant applicants, the guidance shall be reviewed and approved by the Science Advisory Board of the Agency established by section 8 of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (42 U.S.C. 4365).''.

SEC. 4. JOHN H. CHAFEE MEMORIAL FELLOWSHIP PROGRAM.

(a) IN GENERAL.—Section 7 of the John H. Chafee Environmental Education Act (20 U.S.C. 5506) is amended to read as follows:

''SEC. 7. JOHN H. CHAFEE MEMORIAL FELLOWSHIP PROGRAM.

''(a) ESTABLISHMENT.—There is established the John H. Chafee Memorial Fellowship Program for the award and administration of 5 annual 1-year higher education fellowships in environmental sciences and public policy, to be known as 'John H. Chafee Fellowships'.

''(b) PURPOSE.—The purpose of the John H. Chafee Memorial Fellowship Program is to stimulate innovative graduate level study and the development of expertise in complex, relevant, and important environmental issues and effective approaches to addressing those issues through organized programs of guided independent study and environmental research.

''(c) AWARD.—Each John H. Chafee Fellowship shall—

''(1) be made available to individual candidates through a sponsoring institution and in accordance with an annual competitive selection process established under subsection (f)(3); and

''(2) be in the amount of $25,000.

''(d) FOCUS.—Each John H. Chafee Fellowship shall focus on an environmental, natural resource, or public health protection issue that a sponsoring institution determines to be appropriate.

''(e) SPONSORING INSTITUTIONS.—The John H. Chafee Fellowships may be applied for through any sponsoring institution.

''(f) PANEL.—

''(1) IN GENERAL.—The National Environmental Education Advisory Council established by section 9(a) shall administer the John H. Chafee Fellowship Panel.

''(2) MEMBERSHIP.—The Panel shall consist of 5 members, appointed by a majority vote of members of the National Environmental Education Advisory Council, of whom—

''(A) 2 members shall be professional educators in higher education;

''(B) 2 members shall be environmental scientists; and

''(C) 1 member shall be a public environmental policy analyst.

''(3) DUTIES.—The Panel shall—

''(A) establish criteria for a competitive selection process for recipients of John H. Chafee Fellowships;

''(B) receive applications for John H. Chafee Fellowships; and

''(C) annually review applications and select recipients of John H. Chafee Fellowships.

''(g) DISTRIBUTION OF FUNDS.—The amount of each John H. Chafee Fellowship shall be provided directly to each recipient selected by the Panel upon receipt of a certification from the recipient that the recipient will adhere to a specific and detailed plan of study and research.

''(h) FUNDING.—From amounts made available under section 13(b)(1)(C) for each fiscal year, the Office of Environmental Education shall make available—

''(1) $125,000 for John H. Chafee Memorial Fellowships; and

''(2) $12,500 to pay administrative expenses incurred in carrying out the John H. Chafee Memorial Fellowship Program.''.

(b) DEFINITIONS.—Section 3 of the John H. Chafee Environmental Education Act (20 U.S.C. 5502) is amended—

(1) in paragraph (12), by striking ''and'' at the end;

(2) in paragraph (13), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(14) 'Panel' means the John H. Chafee Fellowship Panel established under section 7(f);

''(15) 'sponsoring institution' means an institution of higher education;''.

(c) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the John H. Chafee Environmental Education Act (20 U.S.C. prec. 5501) is amended by striking the item relating to section 7 and inserting the following:

''Sec. 7. John H. Chafee Memorial Fellowship Program.''.

SEC. 5. NATIONAL ENVIRONMENTAL EDUCATION AWARDS.

(a) IN GENERAL.—Section 8 of the John H. Chafee Environmental Education Act (20 U.S.C. 5507) is amended to read as follows:

''SEC. 8. NATIONAL ENVIRONMENTAL EDUCATION AWARDS.

''(a) PRESIDENT'S ENVIRONMENTAL YOUTH AWARDS.—The Administrator may establish a program for the granting and administration of awards, to be known as 'President's Environmental Youth Awards', to young people in grades kindergarten through 12 to recognize outstanding projects to promote local environmental awareness.

''(b) TEACHERS' AWARDS.—

''(1) IN GENERAL.—The Chairman of the Council on Environmental Quality, on behalf of the President, may establish a program for the granting and administration of awards to recognize—

''(A) teachers in elementary schools and secondary schools who demonstrate excellence in advancing objective and scientifically sound environmental education through innovative approaches; and

''(B) the local educational agencies of the recognized teachers.

''(2) ELIGIBILITY.—One teacher, and the local education agency employing the teacher, from each State, the District of Columbia, and the Commonwealth of Puerto Rico, shall be eligible to be selected for an award under this subsection.''.

(b) DEFINITIONS.—Section 3 of the John H. Chafee Environmental Education Act (20 U.S.C. 5502) (as amended by section 4(b)) is amended by adding at the end the following:

''(16) 'elementary school' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801);

''(17) 'secondary school' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801);''.

(c) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the John H. Chafee Environmental Education Act (20 U.S.C. prec. 5501) is amended by striking the item relating to section 8 and inserting the following:

''Sec. 8. National environmental education awards.''.

SEC. 6. ENVIRONMENTAL EDUCATION ADVISORY COUNCIL AND TASK FORCE.

Section 9 of the John H. Chafee Environmental Education Act (20 U.S.C. 5508) is amended—

(1) in subsection (b)(2)—

(A) by striking ''(2) The'' and all that follows through the end of the second sentence and inserting the following:

''(2) MEMBERSHIP.—

''(A) IN GENERAL.—The Advisory Council shall consist of not more than 11 members appointed by the Administrator after consultation with the Secretary.

''(B) REPRESENTATIVES OF SECTORS.—To the maximum extent practicable, the Administrator shall appoint to the Advisory Council at least 2 members to represent each of—

''(i) elementary schools and secondary schools;

''(ii) colleges and universities;

''(iii) not-for-profit organizations involved in environmental education;

''(iv) State departments of education and natural resources; and

''(v) business and industry.'';

(B) in the third sentence, by striking ''A representative'' and inserting the following:

''(C) REPRESENTATIVE OF THE SECRETARY.—A representative''; and

(C) in the last sentence, by striking ''The conflict'' and inserting the following:

''(D) CONFLICTS OF INTEREST.—The conflict'';

(2) in subsection (c), by striking paragraph (2) and inserting the following:

''(2) MEMBERSHIP.—Membership on the Task Force shall be open to representatives of any Federal agency actively engaged in environmental education.''; and

(3) in subsection (d), by striking ''(d)(1)'' and all that follows through ''(2) The'' and inserting the following:

''(d) MEETINGS AND REPORTS.—

''(1) IN GENERAL.—The Advisory Council shall—

''(A) hold biennial meetings on timely issues regarding environmental education; and

''(B) issue a report describing the proceedings of each meeting and recommendations resulting from the meeting.

''(2) REVIEW AND COMMENT ON DRAFT REPORTS.—The''.

SEC. 7. NATIONAL ENVIRONMENTAL LEARNING FOUNDATION.

(a) CHANGE IN NAME.—

(1) IN GENERAL.—Section 10 of the John H. Chafee Environmental Education Act (20 U.S.C. 5509) is amended—

(A) by striking the section heading and inserting the following:

''SEC. 10. NATIONAL ENVIRONMENTAL LEARNING FOUNDATION.'';

and

(B) in the first sentence of subsection (a)(1)(A), by striking ''National Environmental Education and Training Foundation'' and inserting ''National Environmental Learning Foundation''.

(2) CONFORMING AMENDMENTS.—

(A) The table of contents in section 1(b) of the John H. Chafee Environmental Education Act (20 U.S.C. prec. 5501) is amended by striking the item relating to section 10 and inserting the following:

''Sec. 10. National Environmental Learning Foundation.''.

(B) Section 3 of the John H. Chafee Environmental Education Act (20 U.S.C. 5502) (as amended by section 4(b)) is amended—

(i) by striking paragraph (12) and inserting the following:

''(12) 'Foundation' means the National Environmental Learning Foundation established by section 10;''; and

(ii) in paragraph (13), by striking ''National Environmental Education and Training Foundation'' and inserting ''Foundation''.

(b) NUMBER OF DIRECTORS.—Section 10(b)(1)(A) of the John H. Chafee Environmental Education Act (20 U.S.C. 5509(b)(1)(A)) is amended in the first sentence by striking ''13'' and inserting ''19''.

(c) ACKNOWLEDGMENT OF DONORS.—Section 10(d) of the John H. Chafee Environmental Education Act (20 U.S.C. 5509(d)) is amended by striking paragraph (3) and inserting the following:

''(3) ACKNOWLEDGMENT OF DONORS.—The Foundation may acknowledge receipt of donations by means of a listing of the names of donors in materials distributed by the Foundation, except that any such acknowledgment—

''(A) shall not appear in educational material presented to students; and

''(B) shall not identify a donor by means of a logo, letterhead, or other corporate commercial symbol, slogan, or product.''.

(d) ADMINISTRATIVE SERVICES AND SUPPORT.—Section 10(e) of the John H. Chafee Environmental Education Act (20 U.S.C. 5509(e)) is amended in the first sentence by striking ''for a period of up to 4 years from the date of enactment of this Act,''.

SEC. 8. THEODORE ROOSEVELT ENVIRONMENTAL STEWARDSHIP GRANT PROGRAM.

(a) IN GENERAL.—The John H. Chafee Environmental Education Act is amended—

(1) by redesignating section 11 (20 U.S.C. 5510) as section 13; and

(2) by inserting after section 10 the following:

''SEC. 11. THEODORE ROOSEVELT ENVIRONMENTAL STEWARDSHIP GRANT PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established a grant program to be known as the 'Theodore Roosevelt Environmental Stewardship Grant Program' (referred to in this section as the 'Program') for the award and administration of grants to consortia of institutions of higher education to pay the Federal share of the cost of carrying out collaborative student, campus, and community-based environmental stewardship activities.

''(2) FEDERAL SHARE.—The Federal share shall be 75 percent.

''(b) PURPOSE.—The purpose of the Program is to build awareness of, encourage commitment to, and promote participation in environmental stewardship—

''(1) among students at institutions of higher education; and

''(2) in the relationship between—

''(A) such students and campuses; and

''(B) the communities in which the students and campuses are located.

''(c) AWARD.—Grants under the Program shall be made available to consortia of institutions of higher education in accordance with an annual competitive selection process established under subsection (d)(2)(A).

''(d) ADMINISTRATION.—

''(1) IN GENERAL.—The Office of Environmental Education established under section 4 shall administer the Program.

''(2) DUTIES.—The Office of Environmental Education shall—

''(A) establish criteria for a competitive selection process for recipients of grants under the Program;

''(B) receive applications for grants under the Program; and

''(C) annually review applications and select recipients of grants under the Program.

''(3) CRITERIA.—In establishing criteria for a competitive selection process for recipients of grants under the Program, the Office of Environmental Education shall include, at a minimum, as criteria, the extent to which a grant will—

''(A) directly facilitate environmental stewardship activities, including environmental protection, preservation, or improvement activities; and

''(B) stimulate the availability of other funds for those activities.

''(e) CONDITIONS ON USE OF FUNDS.—With respect to the funds made available to carry out this section under section 13(a)(1)—

''(1) not fewer than 6 grants each year shall be awarded using those funds; and

''(2) no grant made using those funds shall be in an amount that exceeds $500,000.''.

(b) DEFINITIONS.—Section 3 of the John H. Chafee Environmental Education Act (20 U.S.C. 5502) (as amended by section 5(b)) is amended by adding at the end the following:

''(18) 'consortium of institutions of higher education' means a cooperative arrangement among 2 or more institutions of higher education; and

''(19) 'institution of higher education' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).''.

SEC. 9. INFORMATION STANDARDS.

(a) IN GENERAL.—The John H. Chafee Environmental Education Act is amended by inserting after section 11 (as added by section 8(a)(2)) the following:

''SEC. 12. INFORMATION STANDARDS.

''In disseminating information under this Act, the Office of Environmental Education shall comply with the guidelines issued by the Administrator under section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note; 114 Stat. 2763A–153).''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the John H. Chafee Environmental Education Act (20 U.S.C. prec. 5501) is amended by striking the item relating to section 11 and inserting the following:

''Sec. 11. Theodore Roosevelt Environmental Stewardship Grant Program.
''Sec. 12. Information standards.
''Sec. 13. Authorization of appropriations.''.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Section 13 of the John H. Chafee Environmental Education Act (20 U.S.C. 5510) (as redesignated by section 8(a)(1)) is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by striking the section heading and subsections (a) and (b) and inserting the following:

''SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There is authorized to be appropriated to the Environmental Protection Agency to carry out this Act $13,000,000 for each of fiscal years 2002 through 2007, of which—

''(1) $3,000,000 for each fiscal year shall be used to carry out section 11; and

''(2) $10,000,000 for each fiscal year shall be allocated in accordance with subsection (b).

''(b) LIMITATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), of the amounts made available under subsection (a)(2) for each fiscal year—

''(A) not more than 25 percent may be used for the activities of the Office of Environmental Education established under section 4;

''(B) not more than 25 percent may be used for the operation of the environmental education and training program under section 5;

''(C) not less than 40 percent shall be used for environmental education grants under section 6 and for the John H. Chafee Memorial Fellowship Program under section 7; and

''(D) 10 percent shall be used for the activities of the Foundation under section 10.

''(2) ADMINISTRATIVE EXPENSES.—Of the amounts made available under paragraph (1)(A) for each fiscal year, not more than 10 percent may be used for administrative expenses of the Office of Environmental Education.

''(c) EXPENSE REPORT.—As soon as practicable after the end of each fiscal year, the Administrator shall submit to Congress a report describing in detail the activities for which funds appropriated for the fiscal year were expended.''; and

(3) in subsection (d) (as redesignated by paragraph (1))—

(A) by striking ''National Environmental Education and Training Foundation'' and inserting ''Foundation''; and

(B) in paragraph (2), by striking ''section 10(d) of this Act'' and inserting ''section 10(e)''.

In the Inhofe amendment, page 8, line 16 after ''.'', insert:

''(3) The Chairman is authorized to provide a cash award of up to $2,500 to each teacher selected to receive an award pursuant to this section, which shall be used to further the recipient's professional development in environmental education. The Chairman is also authorized to provide a cash award of up to $2,500 to the local education agency employing any teacher selected to receive an award pursuant to this section, which shall be used to fund environmental educational activities and programs. Such awards may not be used for construction costs, general expenses, salaries, bonuses, or other administrative expenses.

''(4) The Chairman of the Council on Environmental Quality may administer this awards program through a cooperative agreement with the National Environmental Learning Foundation.''

Strike ''40'' in subsection 13(b)(1)(C) and insert ''38'';

Strike the period at the end of subsection 13(b)(1)(D) and insert: ''; and (E) not less than 2 percent shall be available to support Teachers' Awards under subsection 8(b).''

On page 893, after line 14, insert the following:

''PART B—TRANSITION PROVISION

''SEC. 9201. CERTAIN MULTIYEAR GRANTS AND CONTRACTS.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, from funds appropriated under subsection (b) the Secretary shall continue to fund any multiyear grant or contract awarded under section 3141 or part A or C of title XIII (as such section or part was in effect on the day preceding the date of the enactment of the Better Education for Students and Teachers Act) for the duration of the multiyear award.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out subsection (a).

''(c) REPEAL.—This section is repealed on the date of enactment of a law that—

''(1) reauthorizes a provision of the Educational Research, Development, Dissemination, and Improvement Act of 1994; and

''(2) is enacted after the date of enactment of the Better Education for Students and Teachers Act.''.

On page 764, line 10, strike ''and''

On page 764, line 13, strike the period and insert: ''; and''

On page 764, between lines 13 and 14, insert the following:

''(6) to provide a comprehensive approach to improving student learning through coordination and integration of Federal, State, and local services and programs.''

On page 764, line 20, before ''training'' insert: ''comprehensive''

On page 768, line 6, strike ''and''

On page 768, line 9, strike the period and insert ''; ''

On page 768, between lines 9 and 10, insert the following:

''(M) identify and coordinate Federal, State, and local services and programs that support improved student learning, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, and job training; and

(N) work with and foster partnerships with other agencies that provide programs and deliver services described in subparagraph (M) to make such programs and services more accessible to children and families.''

On page 770, line 7, after ''Federal'' insert: '', State, and local services and''.

On page 77, line 10, strike ''and'' after the semicolon.

On page 77, between lines 17 and 18, insert the following:

(iii) by adding at the end the following:

''(I) Coordination and integration of Federal, State, and local services and programs, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, and job training.''; and

On page 77, line 24, strike ''and''.

On page 78, line 4, strike ''and''.

On page 78, between lines 4 and 5, insert the following:

(III) in clause (vi), by striking ''and'' after the semicolon;

(IV) in clause (vii), by striking the period and inserting ''; and''; and

(V) by adding at the end the following:

''(viii) describes how the school will coordinate and collaborate with other agencies providing services to children and families, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, and job training.''; and

On page 79, line 11, strike ''and'' both places it appears.

On page 79, strike line 18, and insert the following: teams; and''; and

On page 79, between lines 18 and 19, insert the following:

(C) by adding at the end the following:

''(I) coordinate and integrate Federal, State, and local services and programs, including programs supported under this Act, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, and job training.''.

On page 572, line 2, insert '', or to have possessed a weapon at a school,'' after ''to a school''.

On page 572, line 7, insert before the period the following: ''if such modification is in writing''.

On page 573, line 3, strike ''and''.

On page 573, line 9, strike ''and''.

On page 573, line 10, strike the period and insert ''; and''.

On page 573, between line 13 and 14, insert the following:

''(f) DEFINITION.—In this section, the term 'school' means any setting that is under the control and supervision of the local education agency for the purpose of student activities approved and authorized by the local education agency.

''(g) EXCEPTION.—Nothing in this section shall apply to a weapon that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the local educational agency and the local educational agency adopts appropriate safeguards to ensure student safety.''.

On page 573, line 20, strike ''brings a firearm or weapon to a school'' and insert ''brings a weapon to a school, or is found to have possessed a weapon at a school,''.

On page 573, strike lines 22 through 25, and insert the following:

''(b) DEFINITIONS.—For the purpose of this section:

''(1) SCHOOL.—The term 'school' has the meaning given to such term by section 921(a) of title 18, United States Code.

''(2) WEAPON.—The term 'weapon' has the meaning given such term in section 4101(b)(3).''.

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 21, at 9:30 a.m. in SD–106 of the Dirksen Senate Office Building.

The purpose of the hearing is to consider national energy policy with respect to fuel specifications and infrastructure constraints and their impacts on energy supply and price, (Part II).

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.

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 the hearing previously scheduled for Tuesday, June 19, 15 9:30 a.m., in room SD–106 of the Dirksen Senate Office Building will now start at 9 a.m.

The purpose of the hearing is to receive testimony on S. 764, a bill to direct the Federal Energy Regulatory Commission to impose just and reasonable load-differentiated demand rates or cost-of-service based rates on sales by public utilities of electric energy at wholesale in the western energy market, and for other purposes; and sections 508–510 (relating to wholesale electricity rates in the western energy market, natural gas rates in California, and the sale price of bundled natural gas transactions) of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001.

For further information please contact Leon Lowery or Jonathan Black at 202/224–4103.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON VETERANS' AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to hold a markup on the nomination of Gordon H. Mansfield to be Assistant Secretary for Congressional Affairs in the Department of Veterans Affairs, followed by a hearing on ''The Looming Nurse Shortage: Impact on the Department of Veterans Affairs.''

The Committee will meet on Thursday, June 14, 2001, at 10 a.m., in room 418 of the Russell Senate Office Building.

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

SPECIAL COMMITTEE ON AGING

Mr. REID. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet on Thursday, June 14, 2001, from 9:30 a.m.–12 p.m., in Dirksen 562 for the purpose of conducting a hearing.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Governmental Affairs Committee be authorized to meet during the session of the Senate on Thursday, June 14, 2001, at 9:30 a.m., for a hearing entitled ''Cross Border Fraud: Scams Know No Boundaries.''

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

PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent to allow Lisa Ekman, my policy fellow, floor privileges for the duration of the debate on S. 1.

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

Mr. BROWNBACK. Mr. President, I ask unanimous consent that Spencer Stelljes, an intern in my office, be granted floor privileges during the remainder of the debate.

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

Mrs. BOXER. Mr. President, I ask unanimous consent that Beth Cameron, a fellow on Senator KENNEDY's staff, be granted floor privileges.

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

Mr. KYL. Madam President, I ask unanimous consent for Rebecca Papoff of my staff to be given the privilege of the floor for the duration of the Helms amendment on the Boy Scouts of America.

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

ANNOUNCEMENT BY THE MAJORITY LEADER

Mr. DASCHLE. Madam President, before I begin with the wrap-up items, I announce that all the matters that I am about to propose have been cleared on the Republican side.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DASCHLE. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 72, 97, and 107; that the nominations be confirmed, the motions to reconsider be laid on the table, that any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

Before the Chair rules on this request, I want to add that we are prepared to clear four Treasury Department nominations on the calendar, as well as one military promotion. The remaining two nominations will require floor time and rollcall votes. We are working on those agreements. I simply note that because I have said from the very beginning of my tenure as majority leader that I am prepared to move nominations forward. We would have been prepared to move virtually all but two nominations.

As I understand it, there are objections to the four Treasury Department nominations on the Republican side, as well as an objection to one military promotion. Given those objections, clearly we are not prepared to move to them today. It is not as a result of any particular objection on our side. We are prepared to move to them just as soon as the Republican matters can be resolved. I ask for their consideration.

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

The nominations were considered and confirmed as follows:

DEPARTMENT OF JUSTICE

Charles A. James, Jr., of Virginia, to be an Assistant Attorney General.

EXECUTIVE OFFICE OF THE PRESIDENT

James Laurence Connaughton, of the District of Columbia, to be a Member of the Council on Environmental Quality.

ENVIRONMENTAL PROTECTION AGENCY

Stephen L. Johnson, of Maryland, to be Assistant Administrator for Toxic Substances of the Environmental Protection Agency.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

COMMENDING ASSISTANT SECRETARY SHARON ZELASKA

Mr. DASCHLE. Madam President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 110 submitted by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 110) relating to the retirement of Sharon A. Zelaska, Assistant Secretary of the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Madam President, today I rise to pay tribute to Sharon Zelaska, who is retiring after serving for over 4 years in the demanding position of Assistant Secretary of the Senate, and who has contributed so much to the efficient operations of the Senate over those years.

She arrived in 1997, a stranger to the Senate but not to Capitol Hill, having worked for a dozen years previously as executive assistant to then Representative Jack Kemp. As Assistant Secretary she has been responsible for the day-to-day operations of the office of

Secretary of the Senate, no small task given that 24 departments report to the Secretary. Working closely with Secretary of the Senate Gary Sisco, she helped provide the best possible service to all one hundred senators individually, and to the Senate as an institution.

Since the post of Assistant Secretary was historically that of Chief Clerk, Sharon Zelaska had a chair on the rostrum specifically designated for her. She took that chair on ceremonial occasions, but on most days her real work was behind-the-scenes, managing the many departments within the Secretary's office.

As Assistant Secretary she spent countless hours working with senators and staff. Her door was open to every one to stop in for a cup of coffee and an opportunity to talk about important issues of the day. When department heads retired, new candidates needed to be interviewed and selected. Vouchers required signing, payrolls had to be adjusted, e-mail answered, and no end of paperwork completed. She did all that with a poise and sense of fairness that all who worked with her admired and will miss with her retirement.

I want to take this opportunity to thank Sharon Zelaska for all her contributions to the Senate over the past 4 years and to wish her Godspeed for a happy future in a well-earned retirement.

Mr. DASCHLE. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 110) was agreed to.

The preamble was agreed to.

(The text of the resolution is located in today's RECORD under ''Statements on Submitted Resolutions.'')

COMMENDING BOB DOVE ON HIS RETIREMENT AS PARLIAMENTARIAN

Mr. DASCHLE. Madam President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 111 submitted by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 111) commending Robert ''Bob'' Dove on his service to the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 111) was agreed to.

The preamble was agreed to.

(The text of the resolution is located in today's RECORD under ''Statements on Submitted Resolutions.'')

HONORING THE ARMY ON ITS 226TH BIRTHDAY

Mr. DASCHLE. Madam President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 112 submitted earlier by Senators ALLARD and HUTCHISON.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 112) honoring the United States Army on its 226th birthday.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ALLARD. Madam President, 226 years ago, the Continental Army was formed with the goal of ending tyranny and winning our freedom. Since the end of the Revolution, American soldiers, imbued with the spirit of the original patriots, have pledged their allegiance to our nation through their sacrifices in uniform.

All of our Army units, Active, Guard, and Reserve share the heritage of the Continental Army and their soldiers represent the finest men and women our Nation has to offer. Thousands of soldiers stand guard around the globe ensuring our freedom and doing the tough jobs that maintain our American way of life.

The proud tradition of the Army, dating back to 1775, has always stood tall. They are steeped in tradition, but ever flexible and capable of responding to a dynamic world. Now, the Army is transforming to meet the new demands of the 21st century. This new force will ensure that our national Command Authorities continue to have the ability to quickly and efficiently deploy land forces throughout the world.

Both in times of peace, and times of war, throughout more than two centuries, the soldiers of the Army have been poised and ready to answer the call of duty to defend this great Nation. The Army remains the best fighting force in the world: unchallenged and unparalleled. They are respected by their allies, feared by their opponents, and esteemed by the American people. Today, June 14, 2001, as the U.S. Army celebrates their 226th birthday, I ask that we reflect on the great legacy the Army has given this Nation and recognize our pride in our American soldiers' courage, dedication to duty, and selfless service to the Nation.

Mr. DASCHLE. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 112) was agreed to.

The preamble was agreed to.

(The text of the resolution is located in today's RECORD under ''Statements on Submitted Resolutions.'')

MEASURE READ THE FIRST TIME—S. 1052

Mr. DASCHLE. Madam President, I understand that S. 1052, introduced earlier today by Senators MCCAIN, EDWARDS, and KENNEDY, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1052) to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

Mr. DASCHLE. Madam President, I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read a second time on the next legislative day.

TECHNICAL AND CONFORMING CHANGES

Mr. DASCHLE. Madam President, I ask unanimous consent that the previous consent with respect to technical and conforming changes be vitiated.

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

AUTHORIZATION TO INCLUDE AMENDMENTS IN H.R. 1

Mr. DASCHLE. Madam President, I ask unanimous consent, notwithstanding passage of H.R. 1, on previously agreed-upon amendments where language was affected by amendments agreed upon later, that it be in order for these amendments to be included in the bill as previously was the intent of the two managers.

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

THIRD READING OF S. 1

Mr. DASCHLE. Madam President, I ask unanimous consent that S. 1 be considered as having been read the third time.

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

ORDERS FOR MONDAY, JUNE 18, 2001

Mr. DASCHLE. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 1 p.m. Monday, June 18. I further ask that on Monday, immediately following the prayer and the pledge, the Journal of the proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

PROGRAM

Mr. DASCHLE. Madam President, with this request having now been agreed to, the Senate will not be in session on Friday, as I have announced. On Monday, the Senate will convene at 1 p.m. with a period for morning business. There will be no rollcall votes on Monday. Rollcall votes will occur on Tuesday afternoon and throughout the remainder of the week as the Senate begins consideration of the Patients' Bill of Rights.

ORDER FOR ADJOURNMENT

Mr. DASCHLE. Madam President, I now ask unanimous consent that following the remarks of Senators BYRD, AKAKA, and WELLSTONE, the Senate stand in adjournment as under the previous order.

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

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

THE ELEMENTARY AND SECONDARY EDUCATION ACT

Mr. WELLSTONE. Madam President, reauthorization of the Elementary and Secondary Education Act may be the most important step we will take during this Congress to affect what is surely one of the most crucial interests of the country—childrens' education. I have tried to devote appropriate attention and effort toward improving this bill. That is because I have believed since Committee consideration that it contains significant flaws. At the same time, we have improved the bill in important ways, and we have added substantial new commitments of federal funds for education. In my view, these improvements, plus the prospects for further improvement in Conference, outweigh my remaining serious reservations about policy contained in the bill at the present time. Therefore, while I pledge to continue in Conference to try to improve the policy and to assure funding, I have voted in favor of the bill today.

A number of weeks ago, I opposed bringing this bill to the floor in the absence of some assurance that sufficient resources would be provided to federal education programs. That issue remains among my deepest concerns and considerations. Along with other improvements we have made since that time, we have very substantially bolstered needed funding for federal education—especially by including mandatory, full funding for the Individuals with Disabilities Education Act, IDEA. This provision alone will mean over $3 billion for my state of Minnesota in IDEA funds during the coming 10 years. It will mean $153 million in IDEA funds for Minnesota in fiscal year 2001.

The improvements must be balanced against policy deficiencies—primarily in the area of mandated tests and the bill's so-called ''straight-A's,'' or ''performance agreement,'' provisions. My view is that if we at the federal level are going to insist on ''accountability'' from states, districts, schools and students, then we must be accountable to the principle that every student should have an equal opportunity to succeed. That means we must sufficiently fund the federal programs, such as Title I, IDEA and others, that attempt to give all students an equal chance. We all know that not every student arrives to school equally ready to learn. That is why it really is impossible to separate our presumption of holding schools and students accountable on one hand, from our own accountability to an obligation to sufficiently fund housing, nutrition and Head Start efforts on the other hand. We have not held ourselves accountable on that measure. We have avoided even debating this bill in that context. But if we will not meet that measure, and we have not, then we must at minimum ensure that federal education programs provide schools and students an equal chance at succeeding before we impose accountability and tests whose stakes can be very high.

My colleagues and anyone who has listened to much of the debate on this bill know that I have grave reservations about its annual testing provisions. Indeed, I oppose those provisions. I offered one amendment to remove the mandate for the tests if full Title I funding is not provided. I then cosponsored an amendment to allow states not to implement the tests so that they could utilize those funds instead for other means of boosting student achievement in the lowest performing schools .

I continue to believe that federally mandated annual testing of every student is a mistake. If it is implemented, I believe we will regret it. I say ''if'' because I hope the Senate will realize its mistake before the year 2005, which is when the first of these new tests would be required. I still intend to attempt at least to allow states to utilize the newly mandated tests for ''diagnostic'' purposes, rather than for the purpose of meeting adequate yearly progress targets. I hope that change can be made in Conference. If I do not succeed at that, I believe that we in Congress, the states and the public may very well reject these tests before they occur. I think they are unneeded, unwanted and most likely detrimental. The debate on what is becoming a mania for testing is just beginning.

We are making a significant mistake in mandating these new tests on every child, in every school, in every district and in every state. In the current context, it makes little sense. We have not even begun fully to implement the assessments we approved in 1994 with the last ESEA reauthorization. Yet we are moving to double those requirements and to expand their scope to cover every child in the country. We have not had a chance to look at the effect of those 1994 changes. Only 11 states have brought themselves into full compliance with that law. From what we have been able to look at, the evidence seems to indicate we should be very concerned about how these tests are being implemented and what their effect is on student learning.

I would like to cite a few reports that should send us a clear warning about what we are about to do. The Independent Review Panel on Title I which was mandated in the 1994 Reauthorization issued its report ''Improving the Odds'' this January. The report concluded that ''Many States use assessment results from a single test—often traditional multiple choice tests. Although these tests may have an important place in state assessment systems, they rarely capture the depth and breadth of knowledge reflected in state content standards.'' The Panel went on to make a strong recommendation. It said, ''Better Assessments for instructional and accountability purposes are urgently needed.''

I would also like to quote from the National Research Council, as cited in the Report ''Measuring What Matters.'' This report was developed by the strongly pro-testing Committee for Economic Development. The report says: ''policy and public expectations of testing generally exceed the technical capacity of the tests themselves.''

Everybody wants to find a way to address the critical challenge of closing the achievement gap. In people's genuine desire to do something about our schools, I believe they have created expectations from these tests, that far exceed what the tests can ever do. In fact, Robert Schwartz, the President of Achieve, Inc., the nonprofit arm of the standards-based reform movement recently said: ''Tests have taken on too prominent of a role in these reforms and that's in part because of people rushing to attach consequences to them before, in a lot of places, we have really gotten the tests right.''

In this rush for answers, the tests have ceased their useful function of measuring the reform and have become synonymous with it. That is exactly where this bill goes wrong and I believe that the consequences will be destructive. I believe that in the not so distant future, we will regret ever having done this. In fact, I believe that by the time these new tests are to go into effect, many if not most of the Senators in this body will have changed their mind on this issue.

My concerns are many and I have been over them before, but in summary, I am extremely concerned about how too much testing can subvert real learning. A Stateline News article from last week reported that:

> A yet to be released RAND study conducted in North Carolina found that between 50 and 80 percent of the improvements in student performance measured by tests are temporary and fail to predict any real gains in student learning.

RAND, which is one of the most respected research institutions in the

country, is not alone. A recent survey of Texas teachers indicates that only 27 percent of teachers believe that increases in TAAS scores reflect an increase in the quality of learning and teaching.

Much of this is due to the phenomenon of teaching to the test. The Committee for Economic Development, a strongly pro-testing coalition of business leaders, warns against test based accountability systems that ''lead to narrow test based coaching rather than rich instruction.'' Test preparation is not necessarily bad—but if it comes at the expense of real learning, it becomes a major problem. There is no question, at this point, that teaching to the test has become a problem. As an example, the recent Education Week/Pew Charitable Trust study, Quality Counts found that ''Nearly 7/10 teachers said instruction stresses tests 'far' or 'somewhat' too much. 66 percent also said that state assessments were forcing them to concentrate too much on what is tested to the detriment of other important topics.''

Beyond this detrimental phenomenon, which has proven to be more prevalent in low income communities, there is significant evidence that, at the very time we are trying to bring more teachers into low income schools and address a teacher shortage generally, the need to teach to the test and to provide education based on rote memorization and is driving people out of the field.

This is tragic at a time when we face an acute teacher shortage and we know that the single most important factor in closing the achievement gap between students is the quality of the teacher the students have. Both Linda Darling Hammond and Jonothan Kozol have addressed this issue when speaking to the Democratic Caucus. As Kozol said: ''Hundreds of the most exciting and beautifully educated teachers are already fleeing from inner-city schools in order to escape what one brilliant young teacher calls ''Examination Hell.'' I would like to quote from an article from today's New York Times that addresses this specific issue. The article explained: ''In interviews over the last month many fourth grade teachers questioned why they should stay in a job that revolves around preparation for new state exams . . . Principals say that they cannot keep experienced teachers in fourth grade or transfer them there.''

It would be remiss to talk about this issue without also addressing the fact that these tests are not perfect instruments. No one put it better than the strongly pro-testing Committee for Economic Development. These business leaders concluded that ''tests that are not valid, reliable and fair will obviously be inaccurate indicators of the academic achievement of students and can lead to wrong decisions being made about students and schools.''

For example, a study by David Rogosa of California's Stanford 9 National Percentile Rank Scores for individual students showed that the chances that a student whose true score is in the 50th percentile will receive a reported score that is within 5 percentage points of his true score is only 30 percent in reading and 42 percent on ninth grade math tests.

Rogosa also showed that on the Stanford 9 test ''the chances, . . . that two students with identical 'real achievement' will score more than 10 percentile points apart on the same test'' is 57 percent for 9th graders and 42 percent on the fourth grade reading test.

We have to take such error very seriously if we are attaching consequences to the test results for students and schools. If we do not, and we continue to over rely on a single, less than accurate test, our ability to fairly implement any type of accountability is in jeopardy.

When we rush to get them done and rush to attach stakes to them, we are ignoring the admonition of the National Academy of Sciences that our expectations for tests should not exceed their technical capacity. One of the most troubling quotations I have read in this regard is a quote from Maureen di Marco, Vice President of Houghton Mifflin company whose subsidiary, Riverside Publishing, is one of the major test publishers. She was cited in the Washington Post as saying that the Industry can only handle the Bush proposal as long as states make up the difference with off the shelf, national achievement tests that are mostly multiple choice and can be scored electronically. This would be destructive and take us in the opposite direction from where we must be going in terms of accurate, quality testing. Such tests are usually not aligned with standards and most often do not measure the depth of student knowledge or student reasoning. In fact, the Stanford-9, the test studied by Rogosa, is just this kind of test, that the companies are telling us we will have to rely on.

H. D. Hoover, one of the authors of the Iowa Test of Basic Skills and incoming president of the National Council on Measurement in Education said in a recent article that ''there is one heck of a capacity problem'' when it comes to meeting the testing requirements in this bill. So again, in this context, I fail to understand why we are rushing ahead with these new requirements. Why can we not at least wait until states have the knowledge and the opportunity to get the tests they have right before we move on to doing so many more. The Committee for Economic Development report clearly states ''there is more work to do in designing assessment instruments that can measure a rich array of knowledge and skills embedded in rigorous and substantive standards.'' Before we rush ahead, let's meet that challenge.

But I would not be being intellectually or personally honest if I did not say that even if we had the most perfect assessments, I still would have significant concerns with the use of tests to compare all students and to punish schools because we have still done so little to ensure that every student has the same opportunity to do well on those tests. That concern runs as deep as any I have. It is a fairness question. There are few bills we will face this year where the policy proposals and the funding that must back up the proposals are so inextricably linked. Without giving more resources to low income schools so they can develop the capacity to help their children do well, we will only set up children to fail. In punishing these students and these schools for their poor performance, I am afraid that we are too blindly confusing their failure with our own. It is in fact, a failure for policy makers to close our eyes to the resource starved schools in our urban and rural areas. It is a failure to think that by testing alone we can reverse years of neglect and deprivation.

A study of the Florida accountability system proves this point starkly. The study found that ''for every percent that poverty increases, the school's 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! Not one of my colleagues should be surprised by this.

Tests have their place, but they also have their limits. They can not give a kindergartener the early childhood education that his or her parents could not afford to provide. They can not hire a good teacher, they can not reduce class size, they cannot buy students' books and they cannot fix the heater in a school in Minnesota in the winter. Until we give every child these critical tools to do well, the tests will measure less a child's potential and more the accident of his birth.

My concerns with this bill are many, and they remain deep. But I also recognize that there is room for improvement and that the bill as it stands has many strengths. I very much appreciate the work that I and my colleagues have had the opportunity to do to improve this bill. I would like to highlight just a few of those improvements.

In the area of testing, I want to thank my colleagues for their support for three amendments that I worked very hard on and that I think will go far to ensure that we have high quality tests that are not abused. In ensuring the proper use of tests, we move to ensure that tests most accurately measure how students learn, not what they have memorized. We can more accurately see what it is that students have actually been taught. We can get a better picture of what students need and how they can best be helped.

The first is the amendment I introduced that would ensure that states show that their assessments are in

compliance with the National Standards on Educational and Psychological Testing and that their assessments are of adequate technical quality for each purpose for which they are used. The amendment also would provide $200 million in grants for states to improve their assessments so that they are of the highest quality and are state of the art in terms of most accurately measuring the range and depth of student knowledge.

These higher quality tests and fairer uses of tests are needed because low quality tests can lead to inaccurate assessments which do not serve, but rather subvert, efforts at true accountability and high standards. Further, if we want to avoid the negative outcomes that the wrong kind of testing can bring, such as teaching to the test and teachers leaving the field, we have to be sure that assessments measure students' depth and creativity. We have to measure what students have actually been taught and we have to measure student progress not just in a single point in time, but over time and in multiple dimensions. In doing so, teachers will not futilely train their students but rather will engage their students, and challenge them and explore with them their diverse talents. That way students will gain a deeper more enduring knowledge that translates to all different contexts and is useful when confronting all different challenges. This amendment will move us strongly in the right direction.

The second amendment would achieve the same effect as the first. This amendment took the incentive bonus grants that the bill included, which would have rewarded states for completing their assessments as fast as possible, and instead awarded the bonuses to states that develop the most high quality assessments. This way we will be able to incentivize states to move in the direction of developing the most effective assessments that lead to better teacher and learning.

The third was an amendment that I offered and which passed in the Committee that authorized an in depth study, conducted by the National Research Council, to address the impact of high stakes tests on individual students. I do not think there is a greater abuse of a test than to use it as the sole determinant of whether a student will be promoted or graduated. The Professional Standards on Educational and Psychological Testing, the National Research Council and virtually every major education and civil rights group agrees with this, yet states and districts persist in this practice. This amendment would look at this practice to determine what are its affects on students, teachers and curriculum. This study would serve as a guide for policy makers so they can understand better how tests can be used as a positive tool in children's education.

But beyond the testing provisions, other key improvements were included. None may be more important than the inclusion of the Harkin amendment which would provide full mandatory funding for IDEA.

The fact that we have finally decided to live up to the commitment we made too many years ago to fully fund the federal share of the Individuals with Disabilities Education Act is perhaps the greatest improvement of all. For too long we have shirked this responsibility and for too long children with disabilities have not received the services they need. We assume the responsibility to educate children with disabilities because it is their constitutional right and it is their moral right. But we must never forget that we also educate these children because we know that if given the right opportunities, the vast majority of them can succeed. Passage of this amendment helps make sure that children with disabilities are not pushed aside, that they get the services they need and that they have the opportunities to do well. With those opportunities, so many children can do well they do better than well. They excel.

Beyond this most important, most deeply rooted issue is that the program has created a significant, debilitating burden on states and districts when it is our responsibility, not theirs, to provide a large portion of the funding for these critical services to children with disabilities. While states have a constitutional mandate to provide equivalent educations to students with special needs, they do not have the financial resources to do so. It is shameful that for so long, the federal government has not lived up to its promise to provide its share of that funding. And it is with great relief and happiness that this funding, which so many of us have pushed for for years, is one step closer to being realized. This amendment will bring more than $3 billion in IDEA spending to Minnesota. This would make a real difference for children with disabilities and all children in the state. I am grateful to Senator HARKIN for his leadership on this issue and I believe that mandatory full funding for IDEA will make a world of difference for so many of our nation's children. I very much support this part of the bill.

Another critical area is the area of teacher quality. I am particularly pleased that the Senate has adopted an amendment that I introduced with Senators HUTCHISON, CLINTON, DEWINE and KENNEDY to establish a national Teacher Corps program to help states and districts recruit teachers into the nation's highest need schools. The teacher shortage we face amounts to a crisis and the problem is most acute in high need urban and rural schools. Even though research shows that the most important factor in student achievement is the quality of the teacher, the rates of underlicensed teachers in urban schools is twice that of the nation as a whole and in low income areas, 50,000 under-prepared teachers are hired each year. The passage of this amendment represents a national commitment to address this very severe barrier to learning.

I want to particularly applaud the work of Senator KENNEDY, who has fought more than anyone in the area of teacher quality. Senator KENNEDY included key provisions that would ensure that within five years, only highly qualified teachers are hired in high poverty schools. No one has worked harder on the issue of high quality teachers than Senator KENNEDY. When we think about closing the achievement gap between low and high income schools, this provision is essential. Several studies have shown that if poor and minority students are taught by high quality teachers at the same rate as other students, a large part of the gap between poor and minority students and their more affluent white counterparts would disappear. For example, one Alabama study shows that an increase of one standard deviation in teacher test scores leads to a two-thirds reduction in the gap between black-white test scores.

Finally, parent involvement is an area in which I believe the bill has seen substantial improvement. Parent involvement is one of the most important parts of any child's education. When families are fully engaged in the educational process, students have: higher grades and test scores; better attendance and more homework done; fewer placements in special education; more positive attitudes and behavior; higher graduation rates; and, greater enrollment in post-secondary education. For this reason, I am grateful for the inclusion of my amendment to establish local, community based parent involvement centers to help the lowest income communities and the communities like the Hmong community in Minneapolis and St. Paul where parents, because of language and cultural barriers, are most isolated from their children's educational experience. Senator REED's leadership on parent involvement has brought the issue to the forefront and his work has helped ensure that the benefits brought by greater family involvement in education would extend to all families.

In conclusion, there are many important issues with which we grapple in the U.S. Senate. But, my colleagues, I truly feel that there is nothing more important than the education of America's children. The opportunity to improve America's public education was one of the key factors that drove me to become a public servant and to run for election to this body nearly a dozen years ago. I am proud of the work I have done with many in this body on education at all levels in this country.

It is that passion to improve public education that is the reason that at many points during the last several months, as we moved to this point on the reauthorization of ESEA, I have been deeply frustrated. And, it is the reason that I am frustrated with this bill today. For all the reasons that I

have laid out earlier, I truly feel that in many ways we are missing a tremendous opportunity to take a significant step forward in bettering America's education system.

At the time of the final vote in our committee mark-up, I voted to send the bill forward to the full Senate. I was deeply conflicted about my vote at that point. However, along with several of my colleagues on that committee, I did so with the message that, as the process continued, the expansion of resources committed to education must come to match the elevation in our expectations about our schools' performances. On the Senate floor we have made a huge step forward in achieving that goal with the mandatory funding for the IDEA program. The inclusion of mandatory IDEA funding has gotten us part of the way there on the commitment of resources that was vital, in my mind to match the dramatic increase in testing required by an act that confuses educational accountability with standardized testing.

But, beyond this, we still have to make sure, that along with the passage of the Dodd-Collins Amendment on Title I, the Kennedy Amendment on Teacher Quality and the Boxer amendment on after school—there will be an adequate appropriation to match the authorization levels so we can truly help those students who are already so far behind where they should be. Without that, this bill will not work.

While this is a vote on the final passage of this bill in the Senate, we all know that much work remains to be done on this bill. Whether it is in testing or funding or defining adequate yearly progress, I think that most people on this side of the aisle know that this bill has a long way to go. I am committed to remain deeply involved in that important work that must be done in the weeks ahead. Therefore, I will vote ''yes'' today with perhaps the deepest ambivalence I have ever felt on a vote during my years in the United States Senate and with a message similar to the one I laid out when I voted to send this bill out of committee.

In particular, in the weeks ahead, as the Conference Committee does its work, I will continue to fight to strengthen the fairness and quality of the assessments that will be a part of the final bill. Specifically, I will continue to work toward an effective compromise. That compromise was included in an amendment which I filed and was prepared to put forward today. I decided that it would be more productive for me to wait until another day to offer that proposal. That amendment would keep in place the assessment system used for determining whether schools are achieving adequate yearly progress that was included in the 1994 reauthorization but has yet to be fully implemented. And, it would allow the annual testing to move forward. But, it would allow states and schools to use those additional annual tests only for the diagnostic purposes for which experts in the field of educational assessment say is their most appropriate use. That is, rather than being attached to sanctions for schools or individuals, assessments are best used to diagnose the academic strengths and weaknesses of individual students and to help them improve. Testing has a role in the educational system, but it should be used primarily to achieve what should be our ultimate goal: Helping our students live up to their true intellectual potential.

I will also do everything I can to fight for the retention of the IDEA amendment in the Conference Report and for other funding increases for Title I, Teacher Quality, after school and other key programs.

It is because of this desire to fight and because I see so much room for improvement that I am choosing to stay engaged in this process and I am voting yes. I believe we can do much, much more.

After today, however, there will be one remaining vote on this bill—on the bill that comes out of the Conference between the Senate and the House. My vote at that time will be based on the considerations I have outlined above. It is my sincere hope that the provisions in the bill related to the quality, fairness and appropriate use of tests will be stronger in the conference report than in this bill. There must also be an iron-clad commitment of resources to assist disadvantaged students in their educational opportunities. Finally, the bill must ensure full funding for the federal government's commitment to its share of our special education students' education. But, today, with deep ambivalence, I have voted ''yes'' on this bill with hope that we can continue to improve it and the education of America's students.

Again, I want to congratulate the Senators who supported this bill. I voted for it with a considerable amount of ambivalence. Making the IDEA program mandatory is hugely important to Minnesota and other people in the country. There were amendments on testing, and on recruitment of teachers, and dealing with parental involvement that I am proud of, which I worked on along with others who were a part of this bill.

When it goes to conference, I get to be in the conference committee. I am going to fight to make the testing diagnostic, without high-stakes consequences. The money needs to be there in appropriations. If we don't get the money for title I, if we are not able to make some of those changes, I may well vote against the conference report when it comes back to the floor. For right now, I want to keep on fighting.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

IN DEFENSE OF FATHERS

Mr. BYRD. Madam President, recently there has been a spate of articles regarding the increase in the number of single parent homes, based upon the latest census data. Last month, Newsweek's cover story was ''The New Single Mom: Why the Traditional Family is Fading Fast, What It Means for Our Kids.'' The number of families headed by single mothers has increased 25 percent since 1990, to more than 7.5 million households. Although divorce and widowhood certainly contribute to this figure, the number of out-of-wedlock births has run at about one third of all births for the last decade, compared to 3.8 percent of all births in 1940.

Let me say that again. The number of out-of-wedlock births has run at about one-third of all births for the last decade, compared to 3.8 percent of all births in 1940.

Not all single parent households are headed by women. The number of single fathers has also increased, to just over 2 million families. Nevertheless, what I found most striking about the articles I read was the apparently growing trend of women who choose for whatever reason to put off marriage, but who still decide to go ahead and have children, whether by birth or adoption. The thinking seems to be: Don't settle for less than Mr. Perfect, but if the biological alarm is ringing, don't put off having children, either. As Father's Day approaches, I do wish to say a few words in defense of men, particularly men in the role of father.

Men are not perfect. I found that out at the beginning of the human race. Most will never be ''Mr. Perfect.'' I will be the first to admit that. Many men squeeze toothpaste from the middle of the tube and many men do not always put the cap back on the toothpast tube. Men have been known to drink from the milk carton before putting it back in the refrigerator. Some men cannot seem to find the dirty clothes basket for love nor money, and a few miscreants leave their dirty clothes tangled in inside-out knots. Men commonly are assigned the once-a-week 'glory' jobs like taking out the trash and mowing the lawn, leaving the daily burden of cooking, cleaning, laundry, and getting kids ready for school to their wives. This I hear from women on my staff, and it can be readily verified by asking any married woman within earshot. Fathers do not do their fair share of changing diapers, getting up in the middle of the night, reading bedtime stories, helping with homework, driving kids to sports practices and games, or shopping for school clothes. From this litany, one might suppose that women who elect to have children without the burden of also caring for a

husband are the smart ones. I do not advocate that, but in a sense they may be the smart ones.

But in defense of fathers—and that is why I take the floor at this time—we are not simply a drag on the family. Of course, it is a little late for me to be referring to myself as a father, except I am one. I am a father and past that stage now. I am a grandfather, and beyond that I am a great grandfather, great in the other sense, the true sense of the term. I am a ''great'' grandfather.

We are not as fathers simply a drag on the family, good only for bringing in our share of the family net worth.

Fathers add a different dimension to child-rearing that, historically at least, has proven its value. Fathers are often forced to be the ''bad cop'' to mother's ''good cop'' routine. Mother gets to be understanding and sympathetic, leaving the tough calls to dad, as in ''you'll have to ask your father,'' or ''just wait until your father comes home.'' It is dad who must say ''no.'' It is dad who leads the miscreant to the figurative woodshed. Fathers are often accused of being demanding, but they are no more demanding than one's future boss or coach will be. And it is dads who come to the rescue, dads who arrive with toolboxes at the scene of the automotive failure or at the scene of a plumbing crisis. Dads investigate the noises in the night.

Some fathers are overbearing, some are obnoxious sideline coaches, to be sure, but many more dads are patient teachers of baseball pitches and football catches. Some dads teach other skills, too, such as carpentry or plumbing, or working on the family car. Tiger Woods thanks his dad for encouraging him to play golf. Countless 16-year-olds have learned to drive with their father in the passenger seat, calmly saying, ''no, not this one but the other right turn'' while inwardly suppressing the desire to grab the wheel to make the turn.

It was the man who reared me, that old coal miner dad. He was the only father I ever knew, really, having been left without the tender love of a mother at the age of barely 1-year-old. The man who then took me to raise was my uncle by marriage. I did not know the difference until I was 16 years old. So to me he was dad, really dad.

It was he who nurtured me in a love of art and music. He didn't buy me a cowboy suit or a cap buster. As a matter of fact, he wasn't able to buy me very much of anything, but he bought for me watercolors; he bought drawing tablets; he bought pencils; he bought books—good books. He could hardly read himself, but as a coal miner he knew the worth of an education. He didn't want me to be a coal miner. He wanted me to have a better life. So he bought me a fiddle, a violin.

It was my old dad. He was the best dad I ever knew. He was the best dad, as far as I was concerned, in the world. I never heard him use God's name in vain, never, in all the years I knew him. I never heard him speak ill of his neighbor. I never saw him sit down at the table and grumble at the fare that was on the table. Not once, never. I never heard him speak ill to the good woman who raised me—his wife, my aunt.

When he died, he didn't owe any man a penny. He was as honest as the day is long; Humble, hard working, one of the truly few great men, in my opinion, that I ever knew.

It was that man who used to meet me on his walk home from the coal mines. In the evening I would look up the railroad tracks. We used to refer to directions as up or down—up the railroad tracks. They were really up because there was a little incline on the railroad track. So I always, late in the afternoons, looked up the railroad track as far as I could see to watch for him, the greatest man in my life. I watched for him. I could see him coming from a long way off. I can see him now: tall, black hair, red mustache, slender, carrying a watch in his pocket on a watch chain.

I would run to meet him. I knew that he had saved a cake for me. And so running along the railroad tracks, three or four crossties at a time, each time I would be running fast to meet him. He would set down that dinner bucket, he would lift off the lid, and then he would reach down and bring out a cake that he had put into his lunch pail. Here he had worked all day long in the black bowels of the Earth and the black dust of the coal mine heavy labor, but he had not eaten the cake; he kept it for me.

So he reached down into that pail, pulled out that cake, a real 5-cent cake back in those days, a 5-cent cake—usually two little cakes, perhaps with coconut icing, wrapped in a piece of wax paper, two little cakes for 5 cents.

How do I know? Because mother sent me to the store to purchase the groceries. She would tell me: Bring home the cake. I knew that cake was going into his dinner pail, but I knew he would save it for me.

So he would greet me with the tired hello of a man who had spent his day in the mines and he would give me the cake that he had saved from his lunch.

His work was demanding and physically draining. He probably could have used those extra calories, and the extra energy from that cake, but he always saved the cake for me.

He wanted better for me than he had had. He encouraged me in school. He demanded my best work. I know he would have helped me to go to college if he could have helped me. He certainly didn't want me to go to work in the mines. I never heard him complain about going there day after day and coming home tired with coal dust still in his eyebrows, perhaps in his eyelashes.

Dads like mine teach important values. They teach their sons to respect their mothers. They teach their sons to read the Biblical admonition, honor thy father and thy mother. They teach their daughters to expect and to demand that kind of respect from men.

They teach the value of work, and of giving one's best effort at whatever task is at hand. Like the Bible admonishes us: ''Whatsoever thy hand findeth to do, do it with thy might. . . .'' They reinforce the importance of family, and of teamwork. They push their children to achieve more than they did, and show their pride in their children's accomplishments. Dads like mine may not be flashy, as mine was not. They may not be demonstrative. But they are the solid backbone of the family, a refuge in times of trouble. They are enduring, much more so than networks of friends. They are enduring, meaning lasting, ever always the pillar of strength and refuge, much more so than networks of friends.

And, finally, fathers kill bugs, which alone is reason enough to keep us around, I think.

So, women, please, I urge you to reconsider. Most men make pretty good fathers. They love their children and they add value to their children's lives. Come Sunday, this Sunday, they will be delighted with the loud ties and cheap cologne—maybe cheap cologne—that are their due on Father's Day.

Madam President, I close with a bit of poetry that always brings to mind the kind man who raised me, who always set a fine example for me. I often think, if I were the man that he was, I could really feel good about myself. The bit of poetry is called, ''The Little Chap Who Follows Me.'' Most Senators, I am sure, have already heard it.

A careful man I ought to be;
A little fellow follows me;
I do not dare to go astray
For fear he'll go the self-same way.

I cannot once escape his eyes;
Whatever he sees me do he tries—
Like me, he says, he's going to be;
The little chap who follows me.

He thinks that I am good and fine,
Believes in every word of mine;
The base in me he must not see,
The little chap who follows me.

I must remember as I go,
Through summer's sun and winter's snow,
I'm preparing for that man to be,
A little fellow follows me.

Madam President, this former little chap salutes his old Dad, who is watching from the diamond towers and the golden streets of Heaven, and all the other fellows who rise to the challenge of setting a good example for the children who look up to them.

SENATE HISTORICAL EDITOR WENDY WOLFF

Mr. BYRD. Madam President, this week, the attractions of retirement will claim another highly valued Senate staff member. With deeply mixed feelings, I note the departure of Wendy Wolff.

Since 1987, Wendy Wolff has served the Senate as Historical Editor in the

Office of the Secretary. Viewers on C–SPAN will not observe Wendy in the Senate chamber or at committee hearings. She fulfills her professional responsibilities away from public view in the offices of the Senate Historian. Yet, it would be accurate to conclude that she has significantly left her mark on Senate history; she has even shaped Senate history.

I first met Wendy as she began to prepare the lengthy and complex index to Volume One of my four-volume history, The Senate, 1789–1989. Anyone who has consulted that first volume's index is likely to agree that it is most user-friendly. In 1989, Wendy assumed editorial responsibilities—as well as the indexing chores—for the remaining three volumes in that series. Over the next five years, she handled the countless tasks—many of them deeply challenging—that fall to editors and publishers of encyclopedia-length reference volumes.

Ten years ago, in the preface to Volume Two, I offered the following assessment of Wendy's contributions to that project.

Her strong editorial hand has skillfully shaped this work from a disparate collection of speeches to what I believe is a carefully balanced and finely coordinated reference book. Tirelessly dedicated to this project from its inception, Wendy Wolff has maintained herein the editorial standards of Volume One and has convincingly guided the author away from tempting side roads. Her indexes to both volumes display a rich and impressively detailed knowledge of the Senate's historical structure.

Wendy's editorial hand and critical judgment have also shaped other Senate historical volumes. Among them are Senator Bob Dole's Historical Almanac of the United States Senate (1989); United States Senate Election, Expulsion and Censure Cases, 1793–1990 (1995); Senator Mark Hatfield's Vice Presidents of the United States, 1789–1993 (1997); Minutes of the U.S. Senate Republican Conference, 1911–1964 (1999); and Capitol Builder: The Shorthand Journals of Captain Montgomery C. Meigs, 1853–1861 (2001).

I know that I speak for Wendy Wolff's colleagues and other admirers in wishing Wendy Wolff a most enjoyable retirement. We won't ever forget her.

(Mr. BAYH assumed the chair.)

STATE OF PUBLIC EDUCATION

Mr. BYRD. Mr. President, not long ago, I came across a letter from Thomas Jefferson to his nephew, Peter Carr, which discussed the elements of a good education. In his letter dated August 19, 1789, Jefferson advised his nephew to divide his studies into three main areas: Give the principal to History, the other two, which should be shorter, to Philosophy and Poetry.

''Begin [with] a course of ancient history,'' Jefferson wrote, ''First read Goldsmith's history of Greece. . . . Then take up ancient history in the detail, reading the following books, in the following order: Herodotus, Thucydides, Xenophontis Anabasis, Arrian, Quintus Curtius, Diodorus Siculus, Justin.'' This, Jefferson wrote, would form his ''first stage of historical reading.'' Next, Jefferson wrote, he should read Roman history.

I remind Senators, this is Thomas Jefferson speaking. He then recommended reading ''Greek and Latin poetry.'' He advised reading Virgil, Terence, Horace, Anacreon, Theocritus, Homer, Euripides, Sophocles, Milton's ''Paradise Lost,'' Shakespeare, Pope and Swift.

Regarding the subject of morality, Jefferson advised, ''read Epictetus, Xenophontis Memorabilia, Plato's Socratic dialogues, Cicero's philosophies, Antoninus—I don't know whether he meant Pius Antoninus or Marcus Aurelius Antoninus; it could well have been both—and ''Seneca.''

I was pleased to see what Jefferson found to constitute a quality education. Those of my colleagues who have heard me speak to any degree over the years are probably a bit amused by at least some of the readings suggested by Jefferson. I suppose, to some extent, it sounds like a list of books that might be in my own personal collection. But, lest anyone get the wrong impression, I do not consider myself to be on par with that master thinker, Thomas Jefferson. But I have these, and more.

Although Jefferson did not have a degree as an educator, given his vast accomplishments, it seems foolhardy to argue with the merit of his advice to his nephew. As a contemporary wrote of the young Thomas Jefferson, he was ''a gentleman of 32 who could calculate an eclipse, survey an estate, tie an artery, plan an edifice, try a cause, break a horse, dance a minuet, and play the violin.'' May I also add, that he was the author of the Declaration of Independence and ''Notes on Virginia,'' the founder of the University of Virginia, an ambassador to France, a Secretary of State, a Vice President, and President of the United States.

In his closing lines to his nephew, Jefferson said, ''I have nothing further to add for the present, but husband well your time, cherish your instructors, strive to make everybody your friend; and be assured that nothing will be so pleasing as your success.''

Do you hear what he said? ''Cherish your instructors, strive to make everybody your friend.'' These simple but fundamental guidelines are as appropriate today as they were when Jefferson wrote them.

There is great wisdom in that letter. Wise council that I think we would do well to follow today. Jefferson obviously knew that a good education can make the difference in the life course of any individual. He knew the value of good teachers.

I have spoken on this floor, many times before, about my early years as a student in a two-room schoolhouse. I imagine that to those much younger than I, the pictures I paint with my remarks about my school, my teachers, and what I think makes for a good, sound education must seem distant and archaic. Sadly my experiences are a world away from the usual classroom climate of today.

Yet, I caution the skeptics to consider that there may be some advantages to accumulated years. I believe, for example, that our nation's experiences and experiments with education have taught at least one essential truth: the basic underpinnings of a solid education have been essentially the same throughout the history of civilized men and women.

I readily concede that the environment in my old two-room schoolhouse was a good deal different from the environment of the overcrowded schools of today. But I believe that those things which made for a good education then, those things which contributed most to learning, are the same today as they were when I spent my weekdays in a tin-roofed wooden building, overheated by the pot-bellied stove, reading Muzzy's history, in the 1920's.

In the school of my youth, we did not have computers, but we were plugged into our own imaginations. I had no television set.

Parenthetically, I doubt that I am better off. I probably would have been much worse off by having a television set.

But I had no television set with which to watch videos about distant, faraway lands, but I had the vision of my own mind's eye to see life beyond my own little corner of the world. Air conditioning? We opened the windows. Water fountains? We had waters from a nearby spring.

I used to go out in the summertime and lie down in the old springhouse—lie down on my belly, let the damp, cool ground touch my breasts, put my face, as it were, into that spring, and drink that cool water that bubbled from the white sands of the spring. And in school, I was always hoping I would be one of the two boys who would be sent by the schoolteacher over the hill to the spring to bring back water in a bucket for all of the children in the room. We drank out of one dipper—all of us. We didn't think anything about sanitation so much in those days, although we did read ''Hygiene.'' That was one of the books we read in school.

But I can remember in later years when my mom kept boarders in the coal camp, and we got our drinking water from a pump, one pump for every half dozen houses in a row of coal miners' homes. We would go out to the pump and bring up the water, pumping it up and down, and bring the water to the house. And the boarders, those coal miners who boarded at my mom's house, and I all drank from the same dipper.

We didn't have hard drives, but we were driven hard, to work, to learn, to succeed.

We had only two rooms in the little schoolhouses that I first attended, beginning in 1923, but those rooms were filled with students respectfully seeking to learn. We had dedicated teachers who expected the best from their students and they did not tolerate mediocrity nor did they tolerate bad behavior.

There was a category on that report card that had a designation spelled D-E-P-O-R-T-M-E-N-T: Deportment. I always knew that in taking that grade card home to my coal miner dad, he would look it over carefully, and he would look at that designation: Deportment. It had better be good.

In those modest two rooms, we were close to one another and we were close to our dear, dear teachers who loved us, who inspired us to learn, who inspired us to seek excellence. We sometimes had to share desks and rub elbows and actually touch—which meant that, whether we liked our classmates or not, we were forced to be civil to one another and to recognize our human bonds.

Teachers got to know their students. And, my, how I swelled with pride when my teacher would pat me on the top of the head and say: ROBERT, you did a good job. You did well on your test.

Teachers got to know their students, got to recognize their moods and individual needs. Teachers could see in the twinkle of their charges' eyes what motivated their charges, and they could hear in the collective groans of frustration what bewildered their charges. I had teachers who inspired me to learn.

I wanted that pat on the head. I wanted that pat on the back.

I wanted the other students to hear the teacher compliment me on having passed a hard test in spelling, doing a good job: 100 percent. ROBERT, you got 100 percent on your spelling test, and so on. And other boys and girls were likewise inspired.

I had teachers who seemed to be truly fulfilling a calling. Teachers in my youth could give hugs, and did. Teachers in my youth could enforce the rules, and they did.

Today, though crowded, distance seems to be the norm. Don't touch. Don't get too close. Don't get too involved. Don't spend too much time with one student.

After school, students walk out of the schoolhouse door and into an apathetic culture where passers-by don't bother to say hello, where neighbors often don't bother to learn other neighbors' names. Young people are growing up in our society lacking respect for their elders, lacking respect for their peers, and lacking respect, all to often, even for themselves. And, in our world of two-parent working families and single mothers, it is harder than ever for parents to provide the discipline, the guidance, and the moral compass that our children so desperately need.

Teachers are being led to feel that their place in a student's life ends at the last bell of the day. A well-meaning teacher, in our society today, can rarely take a real interest in a student's life beyond the schoolyard, without fear of being reprimanded by the school, without fear of being accused of some transgression, without fear even of being the subject of some lawsuit. There are plenty of well-meaning, talented, inspiring teachers in our schools today. But, they are up against a lot. Too often today, parents resent a teacher who disciplines their child. They put pressure on teachers to pass children who should fail, and they put pressure on principals to bestow honors on students who do not earn them. As a result, achievement is downgraded. Excellence is not encouraged. Expectations are lowered.

In my youth, we were less sheltered from the responsibilities and the realities of life than are the children of today. I know that may seem hard to believe. But I think it is true. Particularly in the coal camps where I grew up, we saw, up close, the consequences of our actions. Chores left undone, meant hardships for the entire family. Death was always lingering around the entrance to the coal mines. Hunger was a regular visitor. Money was scarce and it had real value. We saw what it was to work hard for a day's wages, only to have those wages eaten up paying for the most basic of life's necessities.

May I say to the youth of the country, and to the youth who sit in these Chambers on each side of the Presiding Officer's chair, my first job was in a gas station. They were not service stations in those days, they were gas stations. I remember the cold mornings of January and February 1935—my first job in a gas station. My pay? Fifty dollars a month. That is $600 a year. I walked 4 miles to work and 4 miles home, if I wasn't fortunate enough to be able to catch a ride on a milk truck or a bread truck.

My parents demanded a lot of me. They did not accept excuses. I knew that if I got a whipping at school, another was waiting for me when I got home or as soon as my parents heard about the whipping at school. As much as my mom and dad may have wanted me to have a better life than they had known, they seemed to know that the path to a better life was also a rocky one. They didn't try to pave my way. They told me the truth. They taught me to cut through the brush, to work hard to push barriers out of my way, and to climb over the hurdles that circumstances erected.

This is where I think we have failed, in many instances, our young people today. We shower them with material goods. We buy them a car to drive just around the corner to the schoolyard. We protect their egos like fine china. We encourage them to take the easy route. Books are dumbed down to make studies easier. Tests are abandoned or graded on a curve because too many students can't pass them. Our history books, so-called history books, are bland and inaccurate because we have changed the story, left out the heroes, and glossed over the ugly realities of our past.

Make no mistake about it, this country has made its fair share of mistakes. We have had more than a helping or two of ugliness. But to pick up a history book today and read of the politically correct Shangri-La portrayed within, you would hardly know it. How can we possibly expect our children to learn from our mistakes if we hide the realities of our mistakes from them? Sugar-coated history cannot teach.

My experiences have led me to conclude that for the sake of our children and for the future of our Nation we must insist upon a return to excellence. We need to teach the value of hard work. We ought not be afraid of it. I never knew anyone who died from hard work, except John Henry, the steel-driving man.

We need to honor and reward real achievement. We need to temper reward with reality. We need to insist on civility. We could do a lot of that right here in this Chamber. We need to encourage understanding, not deny differences. We need less high tech and more high standards. Above all—we have heard it so many times, I will say it again because it is true—we need to get back to basics.

We need to ensure that our children are provided a firm foundation in reading, in writing, in arithmetic, in science, in history. We need to ensure that our schools are places in which our students can learn. That is much of what we have been talking about for the last 8 weeks in this Chamber. That is much of what this legislation we passed today is about.

We need to ensure that the schoolhouse is a place of study, of hard work, not revelry. We need more, not less, discipline. It is time for a return to the days when traditional values like respect, loyalty, honor, and integrity meant something. A lot of us could also learn these things anew.

I truly believe that in our desire to find the cure to our educational problems, we have gone far afield. We have neglected perhaps the most important ingredient. High-tech gadgets, glossy textbooks filled with pictures but little narrative, costly frills, and bigger buildings are not the answer. The innate desire to learn that resides in the human spirit is the commodity that we are wasting. It is a precious commodity, indeed, and it will flow abundantly if given the attention, the direction, the encouragement that it needs to take firm root.

Challenge is the component which we seem to fear: Let's don't have challenge; Let's don't have too much competition.

Challenge a child to learn something difficult. Challenge a child to be the best in his class. I say that almost to every young person with whom I stop to talk: Be the best in your class; be the best. Make that child know that hard work pays off. Ask him for more,

not less. Encourage him to find his unique talents. Then work with those youngsters who have a tougher time; don't lower the standards, lift the sights. Encourage our children to reach as high as they can. Don't tolerate less. Reward them, then, for achievement.

Yet instead of challenging our children to do their best, I believe that all too often the focus of today's education system has become quite different. We have all been told that new theories and creative methods would bring new life to our failing public schools. We have put billions into almost every trendy remedy offered. We have tried everything from audio language labs to personal computers to team teaching to new math to teacher empowerment, and still we flounder.

According to the testing, we still suffer from a pervasive inability to pass on the accumulated knowledge of civilization from one generation to the next.

What is the problem? Well, the problems are legion. But the major problem, I suspect, is the systematic discarding of traditional scholarship as an agreed-upon goal. Instead many in the education establishment have opted for a strange form of psychological and social experiments in our schools and often with disastrous results that shortchange and even denigrate true academic achievement and excellence.

The goals, the ideals, the practices, and curricula have been altered over the past three decades, usually without the clear awareness of parents. The result is inferior standards both for the teaching of students and for the training of teachers.

The usual answer to such complaints is ''we need more money.'' Surely if we pour enough money into our education coffers, something of value will be produced. I used to firmly believe this golden rule of educational cause and effect. I am a little skeptical of it now.

In 1959–60, we were spending, on average, $375 per student in our public elementary and secondary schools. That amounts to $2,065 per student adjusted for inflation. In 1997–98, we were spending $6,662 for every child, roughly three times the amount we spent in 1959–60.

In inflation adjusted dollars, we are now spending three times more per child than in 1960, when in 1960 performance was generally higher than it is today.

According to the U.S. Department of Education's National Center for Education Statistics, in the fall of 1959, there were a total of 35 million students enrolled in America's public elementary and secondary schools.

In the fall of 1999, 40 years later, there were 46,800,000 students, an increase of 11 million students in 40 years. The pupil-to-teacher ratio in 1959–1960 was roughly 26 students for every teacher. In 1999, again, 40 years later, the student-to-teacher ratio had improved to roughly 16 students for every teacher. I am talking about full-time teachers. In other words, the data shows that there were fewer students for each teacher in 1999 than there were in 1959–1960.

I remember in my high school graduation class, there were 28 students who ended up with diplomas. That was in 1934. We had 28 students in my class, not 90 or 100. But there was discipline. We paid attention. We had teachers who demanded that of us, teachers who could teach, teachers who loved us, teachers who were dedicated, and we learned from them.

The growth of support personnel in the education area has mushroomed. Such things as reading specialists, guidance counselors, special ed teachers, clerical assistants, teacher's aides, have grown from 700,000 in 1960 to 2.5 million in 1999—almost a fourfold increase. And although America has one of the highest costs of education per student, it is not first in teacher salaries.

What do our dollars buy? We had 2,826,146 teachers in our elementary and secondary schools in 1998, as opposed to 1,353,372 teachers in 1959–1960. So we have roughly doubled the number of teachers we had 40 years ago. But we had 93,058 guidance counselors in 1998 compared to 14,643 in 1959–1960, or more than 5 times the number of guidance counselors.

We have poured money—and I have voted for it—we have poured money into title I funding. Yet we skimp on funding for the gifted and the talented. I got in on the ground floor when it comes to Federal education programs and funding for education. I was in the House of Representatives when there was a great debate as to whether or not we should spend Federal moneys on Federal programs for education. I have no problem with helping truly disadvantaged children gain good skills, but I fear that the definition of ''disadvantaged'' has been broadened to cover a variety of learning problems, and a good solid education is becoming less of a priority than identifying children for counseling or special help so that more title I funds will flow.

Our children's failure to learn is not, I suspect, the fault of poverty always. In some of the most poverty-stricken families I have seen in my lifetime, many of the best students were nurtured. So our children's failure to learn is not, I suspect, the fault of poverty always, or of being emotionally damaged by their environment, as much as it is due, in many instances, to faddism, political correctness, and a general failure to teach with tried and true methods.

I may be a bit vain—we are all vain—but I believe I could teach students. I don't know anything about the modern methods of teaching. I don't care about that. As far as I am concerned, I could teach those children. I am not a teacher, nor is every Senator in this body. A few Senators here have been schoolteachers. But I think most, if not all, of the Senators on both sides of the aisle could be good teachers—certainly in some subjects. I am not saying I would be a good teacher in chemistry or physics. But put me in a classroom with children, give me a good text book, and I could teach history, reading, spelling, and so on. So perhaps we spend too much time on methodology. I speak as a layman today, but I have some perception of what is going on in this country and some opinion as to what ought to be done.

One of my perceptions is that many teachers would have to spend a great deal of time on methodology, the newest method of teaching this or that subject. Just give me Muzzy's American History, and I am vain enough to think that I could teach. What I am saying is we probably expect too much of our teachers in many ways—teaching this new method and that new method—but not enough of substance, which has been here from the beginning. H2O was H2O when Adam and Eve were in the garden, you see. CO2 was CO2 way back yonder. So H2O hasn't changed since Adam and Eve were driven from the garden. It is still plain old water, drinking water; it tastes the same. It has not changed, much like human nature. That hasn't changed from the beginning, since Cane slew Abel. Men and women are still slaying one another.

So, in my view, we need to take an entirely new look at the way we fund education, at the way we train teachers, and at the curricula and the methods used on our children.

Our public school system has become top heavy with a whole host of people who are not directly involved with getting our kids to learn. We have more teachers, but fewer of them have degrees in the subjects they teach, and fewer of them see teaching as a lifelong career. We are turning our kids loose on the job market with too few tools and little or no appreciation for what a good education means for their futures.

Children who fail to achieve a college education will lose some $20,000 a year in income as adults. The former CEO of Xerox, David Kearns, estimates that poor schooling costs businesses some $50 billion a year in remedial work.

We are failing our kids and we are failing our kids in the most fundamental responsibility that we have to them—the responsibility to provide them with a good education.

Children need to know what is expected of them. Then they need to be given the tools with which to achieve their goals. They need to be told that it is a tough old world out there—a tough old world—and that the competition is global—not just in Sophia, my hometown of 1,160 souls. The competition is global. There will be no dumbing down of standards out there in that world. There will be no grade inflation out there in the real world. There will be no social promotion out there in the real world of global competition. It is going to be rough.

The consequences for a poor education will be lifelong, and the consequences will be harsh. And that is another thing that we should be teaching our children, namely, that there are consequences for one's actions and inactions. I do not view this bill through rose colored glasses as the definitive cure to what ails our educational system, but I think that bill that passed a little earlier today is at least a departure from the status quo. That legislation looks at education from new angles, and offers the chance—the chance—to get a better handle on the challenge before us.

The public school choice provisions offer some degree of hope, though limited, to parents who are fighting failing schools and trying desperately to give their children a solid education.

These are the most important people in the world: their children. These are the parents' most priceless possession: their children. No wonder people are searching for some other way. No wonder. They want their children to have the best. They want their children to have good teachers.

Furthermore, this legislation we passed today puts our public schools on notice that they must improve. So we are saying to the public school system, we are saying to the administrators in that system, we are saying to the principals and the teachers in that system, we are saying to the teachers union they must improve.

The bill also creates consequences if schools do not improve. So the time of reckoning is at hand. The legislation requires annual testing to track our children's progress in the areas of mathematics, science, reading, and history.

Moreover, the legislation insists upon a national gauge to more accurately measure public schools and to help compare what works and what does not work.

This bill also places an emphasis on teacher quality. When will we come to know in this country that no pricetag can be placed upon teacher quality? No pricetag. An emphasis is put on recruiting qualified teachers. When are we going to learn that a qualified, dedicated, conscientious teacher is worth far more than the finest athlete in this country, far more than the most clever, sharpest, most attractive network anchor man or woman? The teacher is worth far more—the teacher.

The teacher holds in his or her hands that most priceless resource possessed by this Nation. That teacher molds that child, its outlook, its attitude.

I took a piece of plastic clay
And idly fashioned it one day,
And as my fingers pressed it still
It moved and yielded to my will.
I came again when days were past,
The bit of clay was hard at last.
The form I gave it, it still bore,
And I could change that form no more.
I took a piece of living clay
And gently formed it day by day,
And molded with my power and art
A young child's soft and yielding heart.
I came again when years were gone,
He was a man I looked upon.
He still that early impress wore,
And I could change him nevermore.

That is the teacher. The responsibilities placed on a good teacher are heavy in today's world certainly.

How can we expect as a nation to continue to be a world leader with a population that is ignorant of the worth of a good teacher, a population that is ignorant of the basics in math, science, and history?

I understand that in some States history is not a required course in the curricula of public schools. What a shame. What a mistake. Cicero said: To be ignorant of what occurred before you were born is to remain always a child.

I am not talking about social studies. Social studies are all right in their place. I am talking about history. It has been considerably garbled these days. We try to change the facts of history, but the facts are there, and they ought to be taught. We ought to be plain about it, upfront about it, and try to profit by our mistakes.

Provisions that I supported in this bill are aimed at addressing the lack of qualified math and science teachers in this Nation.

At this point, I should also say that whatever dollar figure emerges from the House-Senate conference on this bill will place a burden on the appropriators to fund, given the tight budget constraints under which we will be laboring and the behemoth tax cuts which siphoned off many of the dollars which could have been used to pay for this bill, but if the President signs the bill that emanates from the conference, then I will assume—and I think I will have a right to assume—that the Appropriations Committee will have the help of the White House and the help on both sides of the aisle to provide the money to fund the bill.

I hope some of the new approaches contained in the bill will foster increased excellence among our Nation's schools, but I believe we are going to need further reform. While I can agree with the ''leave no child behind'' slogan which has characterized the President's education initiative and much of the debate on this legislation, I hope we also will endeavor to slow no child down if that child has extraordinary abilities. And the child does not have to come out of an affluent home to have extraordinary abilities.

I fear that sometimes in our approach to education we concentrate so much on bringing the slower students up to speed that we fail the child who can and should race ahead. And while testing for achievement is a good idea, it will mean little if the focus is on manipulating scores in order to make parents feel good or in order to capture more education dollars from the Federal Government for the school.

I don't believe in bumper sticker politics. I don't believe in bumper sticker education policy. It is time to look afresh at why we are failing our kids, regardless of whose flaws that fresh look may reveal. More money won't help if it is not properly used. More teachers won't help much if they are not properly trained. Our society has changed. There are more single-parent families and more families where both parents work today. Simple changes such as a 9-to-5 schoolday might do more to address some of the problems in our schools than all the counselors and afterschool programs we can fund.

Look at the other industrial countries of this world. They don't make life quite so easy as we like to do here in this country, apparently. We spend gobs of money, train loads of money—and I have voted for it for more than 50 years, 49 years to be exact—yet today we are not turning out the quality of students with quality education that many of our industrial competitors are turning out. They go to school longer in those countries and so the work is harder.

School uniforms might make students focus more on their heads and less on their bodies. The longer schoolday might do more to address some of the problems in our schools than all of the counselor and afterschool programs we can find. Better textbooks that utilize the tried and true methods of teaching could certainly go a long way toward shoring up basic skills. It might not be a bad idea to bring back the old McGuffy readers. An emphasis on classic literature and poetry could provide our youngsters with a glimpse of beauty and a sense of the spiritual side of human nature so absent in our empty, vulgar, popular culture. Clearly, there is much more to do in education than can be done in one single piece of legislation.

We cannot afford to lose another generation of children to fads. James A. Garfield, a President of the United States, who was assassinated, said: Give me my old teacher, Mark Hopkins, on one end of the log and me, myself, on the other end, and there will be a university.

So, it is the teacher, the child, and the attitude that count.

We cannot afford to deafen our ears to all views except those in the education establishment. We must strive again for excellence in learning and to return to proven methods, no matter whose toes it may step on. The public is outraged. The survival of the public school system is at stake, not to mention the future of our children and our Nation. I think the education establishment—meaning the administrators, the principals, the teachers, the teachers unions, and all—had better read the handwriting on the wall. A good public school system is what this Nation needs. It is what we want. That is what we have been spending millions of dollars for. But it is time to wake up, time for an accounting, time to understand that all things are not well in this public school system. And if we don't shape up—you talk about vouchers,

talk about private schools—you better be watching the handwriting on the wall.

Some years ago I traveled down to the old Biblical city of Babylon by the side of the Euphrates River and I visited a place where it was said that Belshazzar feasted with 1,000 of his lords. And as he feasted, blind and dying, there appeared on the wall near the candlestick, a hand. That hand wrote on the wall. And Belshazzar summoned all of his magicians and his wise men and asked them to interpret the handwriting that appeared on the wall. It seems to me the handwriting said: mene, mene, tekel, upharsin. I hope that is right. It has been a while since I read it: Mene, mene, tekel, upharsin. And the queen said, this young man who can interpret that writing, his name is Daniel. And so the king who was trembling, his knees were shaking, summoned Daniel.

Daniel was asked to interpret the writing. And he interpreted the writing to mean: God, thou art weighed in the balances and art found wanting. God hath numbered thy kingdom and finished it.

That night, Belshazzar was slain and his kingdom was taken over by the Medes and Persians. So we should see the handwriting on the wall. We better learn that the public school system needs to shape up. We spend billions on it. Parents need to back up their teachers and participate in the PTAs, and we should pay teachers, good teachers, salaries that are commensurate with their worth.

No football player was ever equal to the worth of a good teacher. No television anchorperson was ever worth more than a good teacher. That may sound like an extremist talking, but there is something to what I am saying. You better believe it. And I might say this, too. There is no politician who is ever worth more than a good teacher.

When American students do so poorly in international mathematics assessments that they score 19th out of 21 nations, the handwriting should be on the wall. It is clear that it is not vouchers that threaten our public schools. It is the inadequate education that our public schools offer and parental frustration that threaten to undermine confidence in public education. And it is high time that we realize that.

There are many public schools that are great schools. There are a lot of good schools in this country, and a lot of good teachers. But we need to lift the level of all the boats.

According to the U.S. Department of Education, nearly 1 million children have been pulled out of public schools and are being educated at home by their parents. That number is sure to grow.

Yes, parents are concerned by the violence that is occurring in the schools, concerned by the falling grades of their children, concerned by the lack of discipline in the public schools, concerned that for the money spent we are turning out worse students, generally speaking, than it used to be when we were spending far less money.

It is up to us who do believe in public schooling to see what is happening and to do whatever it takes to restore confidence in public education. We owe that to our kids. We owe that to their parents. And we owe it to the country we all claim to love.

FLAG DAY

Mr. BYRD. Mr. President:

Hats off!
Along the street there comes
A blare of bugles, a ruffle of drums,
A flash of color beneath the sky:
Hats off!
The flag is passing by!

Blue and crimson and white it shines,
Over the steel-tipped, ordered lines.
Hats off!
The colors before us fly;
But more than the flag is passing by.

Sea-fights and land-fights, grim and great,
Fought to make and save the State:
Weary marches and sinking ships;
Cheers of victory on dying lips;

Days of plenty and years of peace;
March of a strong land's swift increase;
Equal justice, right and law,
Stately honor and reverend awe;

Sign of a nation, great and strong
To ward her people from foreign wrong;
Pride and glory and honor, all
Live in the colors to stand or fall.

Hats off!
Along the street there comes
A blare of bugles, a ruffle of drums;
And loyal hearts are beating high:
Hats off!
The flag is passing by!

Mr. President, today is Flag Day. It is the birthday of our Stars and Stripes. It was on June 14, 1777, that the Second Continental Congress passed the resolution authorizing the creation of a flag to symbolize the new Nation, the United States of America.

This is not a federal holiday, but to me it is one of the most important days of the year. Flag day is our nation's way of honoring, celebrating, and paying our respects to the very symbol of our nation. As the poem says: ''more than the flag is passing by.''

Henry Ward Beecher explained that ''a thoughtful mind when it sees our nation's flag, sees not the flag, but the nation itself.''

More than this, Old Glory represents the values and principles of our nation. It commemorates our nation's glorious past, and it offers hope for an even more glorious future.

Born at the beginning of the American Revolution, the Stars and Stripes is a celebration of our independence and our freedom as well as our strength and our security. It was there, being raised and saluted during some of the proudest moments in our nation's history as in Iwo Jima in 1945 and on the Moon in 1969. And it has been there in every major conflict in American history as millions of young Americans have marched off to battle under the flag. It was at Fort McHenry during the War of 1812. It was there at Gettysburg, at San Juan Hill, and at Normandy.

But more than soldiers have been inspired and guided by our Nation's colors.

I can't begin to explain what a thrill it is for me to visit a school and see young children putting their chubby hands on their hearts and pledging allegiance to ''the flag of the United States of America and to the republic for which it stands.'' When I see such a sight, I feel confident for the future of our great land. Whatever our current troubles might be, I somehow know that everything will be all right. Our flag, as it has throughout our history, continues to transcend our differences, and affirm our common bond as a people and our solemn unity as a great Nation.

The United States Senate now begins each morning by pledging allegiance to the flag. Speaking those few, but stirring, words, while looking at Old Glory, still inspires me and reminds me of how fortunate I am to be an American, to be a West Virginian, and to be a United States Senator.

On Flag Day, 1917, President Woodrow Wilson noted: ''though silent it [our flag] speaks to us'' and indeed it does.

It speaks to us of great events—of our liberty; of our history; of our future. It speaks to us of the freedom that is the basis, and the enduring promise, of our Republic.

''Hats off,'' Mr President, ''the colors before us fly; But more than the flag is passing by.''

I close by citing those memorable, moving lines from the second stanza of our national anthem:

Tis the Star-Spangled Banner. O long may it wave
O'er the land of the free and the home of the brave.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with, and that I be allowed to proceed in morning business for 4 minutes.

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

IN MEMORY OF VERNA ''SUZY'' JOYCE, DEDICATED PUBLIC SERVANT, WIFE AND MOTHER

Mr. LEVIN. Mr. President, I rise tonight to pay tribute to Suzy Joyce who passed away today Thursday, June 14, 2001. Her sudden and untimely death leaves a void that for those who knew and loved Suzy will never be filled.

Born Verna Joyce, but called Suzy by those knew her, in North Carolina on

September 15, 1957, Suzy began work in the United States Senate over two decades ago as a cashier in the Senate Restaurants. Since 1986, I had the privilege of having Suzy on my staff. During her tenure on my staff, she was a model employee whose expertise, dedication, diligence and attention to detail enabled my office to respond to constituents efficiently and effectively.

Suzy played a vital role in advancing and modernizing our office's mail system. She arrived in the era of carbon copies and mimeograph machines, but she helped implement a new mail system that responds to the needs of the computer era when letters are as likely to arrive by email as they are by the US Postal Service. While my constituents may have never had the opportunity to personally meet Suzy, tens of thousands of them received constituent services, United States flags flown over the Capital and heard from me by mail because of her organization and efforts.

Suzy was more than a dedicated employee. She was a warm and friendly woman whose infectious smile, sense of humor and love for the Pittsburgh Steelers filled our office, and earned her friends throughout the Senate. It seems as if everyone knew Suzy. She was the one who welcomed interns and told my staffers, who are prone to working long days, to remember to call their parents. When members of my staff went to the Senate Printing Office or the Architect of the Capitol, they were often admonished with orders to say ''Hello to Suzy.''

I wish that more of my constituents had the opportunity to meet Suzy and her husband Rick. The two of them worked together in the United States Senate, and this is a better place because of them.

Suzy and Rick's dedication extended far beyond work. They were dedicated to each other, their three children, their family and their God. Together, they embodied the American values of hard-work, faith and loyalty. Suzy and Rick, both natives of North Carolina, recently celebrated another anniversary together. Their love for each other was evident to all. Rick works as the Facilities Supervisor under the Office of the Superintendent, and Suzy would come into work with him, hours before our office opened so that she could ride to and from work with him. After work, Suzy frequently volunteered at her church where she was a regular attendee and an important contributor. She is survived by three wonderful daughters: Andrea, Candice and Dawn of whom she was extremely proud and talked about frequently.

One never is able to prepare for the death of a friend or loved one. However, I trust that the friends, family and faith that were so important to Suzy in her life will continue to sustain her family in the days, months and years ahead. I and my staff will keep Suzy Joyce and her family in our thoughts and prayers. I know that the Senate family joins me in offering their condolences to the family of Verna ''Suzy'' Joyce on the occasion of their great loss.

I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ADJOURNMENT UNTIL 1 P.M. MONDAY, JUNE 18, 2001

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 1 p.m. Monday, June 18, 2001.

Thereupon, the Senate, at 8:30 p.m., adjourned until Monday, June 18, 2000, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate June 14, 2001:

DEPARTMENT OF THE INTERIOR

FRANCES P. MAINELLA, OF FLORIDA, TO BE DIRECTOR OF THE NATIONAL PARK SERVICE, VICE ROBERT G. STANTON, RESIGNED.

JOHN W. KEYS, III, OF UTAH, TO BE COMMISSIONER OF RECLAMATION, VICE ELUID LEVI MARTINEZ, RESIGNED.

DEPARTMENT OF STATE

DANIEL C. KURTZER, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ISRAEL.

RUSSELL F. FREEMAN, OF NORTH DAKOTA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BELIZE.

CLARK KENT ERVIN, OF TEXAS, TO BE INSPECTOR GENERAL, DEPARTMENT OF STATE, VICE JACQUELYN L. WILLIAMS-BRIDGES, RESIGNED.

RICHARD J. EGAN, OF MASSACHUSETTS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO IRELAND.

VINCENT MARTIN BATTLE, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LEBANON.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JAMES C. RILEY, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. WILLIAM S. WALLACE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. LARRY R. JORDAN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. BENJAMIN S. GRIFFIN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. LEON J. LAPORTE, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate June 14, 2001:

EXECUTIVE OFFICE OF THE PRESIDENT

JAMES LAURENCE CONNAUGHTON, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE COUNCIL ON ENVIRONMENTAL QUALITY.

ENVIRONMENTAL PROTECTION AGENCY

STEPHEN L. JOHNSON, OF MARYLAND, TO BE ASSISTANT ADMINISTRATOR FOR TOXIC SUBSTANCES OF THE ENVIRONMENTAL PROTECTION AGENCY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

CHARLES A. JAMES, JR., OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL.