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## Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

### PRAYER

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

Almighty God, we thank You for politics and the political process. We live in a time in which there are suspicion and cynicism about politics and politicians. Today, we claim the primary etymology of politics as the science of government and not the denigrated definition of manipulated maneuvering. We praise You for the women and men of this Senate who have accepted politics as a high calling from You and use political process as a way to solve the perplexities of our time and ensure the full potential of Your plan for our beloved Nation. Help them to envision and enable Your very best for the spiritual and moral character of the United States. We believe that character does count. May the Nation be able to turn to this Senate for an example of God-centered character. With the same intentionality help the Senators to confront the soul-sized issues that hold progress at bay. Grant them courage and power for the facing of this hour. May they lead a movement and not just preserve a bureaucracy. We turn to You for Your wisdom to tackle perplexities great and small. Help us to do that with a sense of mission and conviction that politics is a ministry ordained by You. In the name of our Lord and Saviour. Amen.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, Senator ENZI, is recognized.

Mr. ENZI. Thank you, Mr. President.

### SCHEDULE

Mr. ENZI. Mr. President, for the information of all Senators, today there

will be a period for morning business to allow a number of Senators to speak until 11 a.m. It is hoped that following morning business, the Senate will be able to begin consideration of the IDEA legislation. As the majority leader previously announced, no rollcall votes will occur during today's session of the Senate. Any votes ordered with respect to the IDEA bill will be stacked to occur at a later date. As always, all Senators will be notified when any votes are ordered. It is also possible that the Senate could consider the CFE Treaty during today's session. Again, any votes ordered with respect to that treaty will be postponed to occur at a later date.

I thank my colleagues for their cooperation in both these matters.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak for up to 5 minutes each.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I ask unanimous consent to be able to speak for up to 10 minutes.

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

### FAMILY FRIENDLY WORKPLACE ACT

Mr. ASHCROFT. Mr. President, it is a delight to be able to come here on the day following Mother's Day to talk about the very best present for Mother's Day that the U.S. Senate could possibly give to the families of America.

I am talking about the need for families to be able to spend time together, and that need is reflected in the fact that families are composed differently than they used to be, that instead of having just one family member earning the living for the family, many family members work. As we have an increase in the number of family members that are in the work force, it becomes more and more important for us to have the capacity for those family members to adjust and arrange their schedules in ways that allow for the right kind of time that parents can spend with their children.

This is extremely important, because I think all of us know that the success of America depends far more on America's families and what happens there than depends on America's Government. The job of Government is to make it possible for families to do the job of families. And when people in families can do their jobs well, the jobs of those of us in Government will be much easier.

Who among us really does not think that the crime problem is in many respects a family problem? Who among us does not really understand that the welfare problem is really in many respects a family problem? Who among us does not understand that if we would really have and maximize and increase and enhance the capacity of families to work together as families that we would not elevate substantially the way in which we live in the United States?

That is why the Family Friendly Workplace Act, Senate bill 4, S. 4, is on the top of our agenda. That is why it is

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



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one of our priority measures. That is why we debated the bill substantially in the last several weeks. That is why on Friday we spent time talking about S. 4. And that is why S. 4 will be the topic of our debate tomorrow morning when we return to the bill.

It is an understanding that we need strong families and that the workplace competes with the home place. We need to make sure that the laws of this country do not keep people from spending the kind of high-quality time they need to spend with each other and their children.

It is a really big problem for families, now that two breadwinners are in the average family. But think of how much more important flexible working arrangements are when there is only one adult in the family? To be able to trade an hour on Friday afternoon or work an extra hour on Friday so you can take an hour off on Monday to see your child get an award at the school or to watch your daughter play in a soccer game or your son play in a football game in the afternoon during working times normally is a tremendous asset if we could just give people that kind of flexibility. And, you know, so many more of our children's activities are now in the afternoons.

Arlyce Robinson, one of the individuals who testified before our committee, said she had four grandchildren and many of their activities are now scheduled, in the Washington, DC, area, in the afternoon because it is much safer to have activities during daylight hours. She cannot see them. She wants to see them. She wants to support them. She wants to reinforce their positive behavior. She needs to be able to have the flexible working arrangements to do it.

The family has changed. This chart shows just how things have almost totally flipped. Back in 1938, when we developed our labor laws—1938—only 2 out of every dozen—only 2 out of 12—women with school-aged children were working outside the home. Now only three such women are inside the home. So that instead of having two outside the home, we have nine outside the home. So we have had a real change. This has been a sea change. And the stresses that have come to families have really been substantial.

Let us take a look at how times have changed. Only 2 out of 12 women worked outside the home with school-aged children; today, 9 out of 12 women with school-aged children work outside the home.

Families are stressed. A recent poll taken in the week before Mother's Day: 91 percent of the mothers said flexible working arrangements would be very important to them. They understand, basically, on a close to 10-to-1 ratio, how important it would be.

Interestingly enough, Federal workers have flextime. Federal workers, the ratio of their response to a study conducted about flextime in the Federal Government, at a 10-to-1 rate, they

said this is a good thing. Federal workers have had this since 1978.

As a matter of fact, it is the hourly workers of America that do not have this. The guys in the walnut boardroom, you know, the guys who take time off to play golf on Friday afternoon, they have flexible working arrangements, believe me. They do not get their pay docked every time they need to do something or want to do something. Neither does the president, the CEO, the treasurer or the manager or the supervisor. They are salaried employees, and all salaried employees have flexibility in this country.

Of course, all of the Government workers, even the Government workers for the Federal Government who work by the hour, they have flextime and flexible working arrangements.

State government workers all have comptime, as was granted to them by the U.S. Congress, the ability to say instead of taking overtime pay, when we want to, we should have the option to take some time off.

We have left the hard-working, laboring people of the United States as a group of second-class citizens who do not have the capacity for flextime and comptime. They ought to have it. They are in a minority. They are the only ones left. And, frankly, it is not fair, because they have the responsibilities of being at home. Their families are stressed, just like other families are stressed. Federal workers already have it. It is time that the stressed families of hourly paid workers have it as well.

We enacted laws making it illegal to add an hour to one week in return for taking an hour off the next week in 1938. The Fair Labor Standards Act was a great step forward for protecting workers. However, that protection now has become a real hindrance. As a matter of fact, it has been more difficult in recent times for families to meet their own needs. They are endorsing the idea of flexibility in work schedules in overwhelming numbers.

Now, there are some things that we do in order to give people the ability to accommodate their families. We have, for most hourly workers, this ability to take what is called family and medical leave. That came from the Family and Medical Leave Act, referred to as FMLA. It is the ability to take time off for a sick child, but you have to do that without pay, so that when you take time off you have a pay cut.

Now, most people find that to be very discomforting. They are working and taking time away from their families because they need the money to support their families. They have a lot of tension financially which drives them into the work force. That elevates the tension socially. And yet in order to accommodate this social tension, when your family has a need, the current law says you have to take a pay cut. That means you help resolve one tension but you increase another tension. It is like jumping out of the proverbial frying pan into the fire.

What flextime, what the Family Friendly Workplace Act would do, basically it would say if you worked a few extra hours from time to time that you and your employer agreed on, you could put those in a bank, in an account of hours, so that if you needed to take time off you would not have to have your paycheck cut for taking time off. If your child gets sick, you can say, "OK, I have an hour in the savings bank," and instead of being stressed financially by helping your child, you can take the time off without taking a pay cut. I think when we have an opportunity to do that, we ought to make that available. Someone might say, well, that is pretty risky, tampering with the laws of the 1930's. The truth of the matter is we would not impose this on anyone. We would give people this opportunity to ask for this and to choose this.

Second, if you put the hours in the bank and later decided you wanted the money under the law, you could ask for the money and the employer would have to give you the money.

Third, Federal employees have had this for the last 19 years. We know how this system works. It works extremely well to meet the needs of families. When interviewed by the General Accounting Office—which is not a political arm of Government; it is a bunch of accountants—they said, "How do you like this?" At a rate of better than 10 to 1, the Federal employees said, "This is great, the best thing since sliced bread. This works." It is something that the boardroom folks have, the boss has, the managers have it, the supervisors have, all the Government workers in Federal Government have, all the State workers have comptime provisions in their legal framework, but it is against the law to give hourly working people that kind of benefit. That is a law that, really, is against the hourly working people, not for them. We need to make sure we have the right safeguards in the law to make sure employers do not abuse that. We have done that. We have doubled the penalties for normal overtime violations so that if there are coercive activities—either direct or indirect—as specified in the bill, then serious penalties are occasioned.

I believe this bill, which we will be back discussing and debating, will be the official agenda of the Senate. We will be on the bill tomorrow morning. It is a bill in favor of the American people. It is a bill that is in favor of the 59 million hourly wage people in the country. We have about 130 million employees in the country, and a majority of them, the vast majority of them, have the capacity for flextime. It is that hourly wage group that does not. It is time they had the same kind of flexibility. Their families are just as important to the future of America as the families of the boardroom folks are, as the families of the managers, the owners, as families of Government workers. It is time we allowed them to do that.

I believe we will provide a bill that the President will want to sign. The President of the United States campaigned on flextime. He understands this need. Mrs. Clinton has spoken clearly on the need for flextime and the importance of having time with children. The President mentioned it in his State of the Union Message, specifically calling for flextime, the ability to have flexible working arrangements and schedules. The President, when he found that there was a narrow niche, a narrow sliver, a small group of Federal employees that did not have it when he took the Office of President, he extended it by Executive order. So there is no question in my mind that he really knows the value, the Clinton family understands the need of other families in this situation. Although the President does know that the only organized opposition, really, the only opposition to this whole proposal, has been through labor leaders of organized labor. I do not say organized labor generally, because so many working people want this. If you talk to the working mothers, it is almost a 10 to 1 ratio in favor of this. I believe we will have an opportunity to send to the President of the United States a bill which he will want to sign.

My question is whether or not somehow his sense of indebtedness to the labor leaders in Washington, DC, organized labor leaders, will in some measure inhibit his capacity to sign something that would be good for the American people. I hope it will not. He should understand, and I think he does, there are 28.9 million hourly paid working women in America. They need the relief of flexible working arrangements so they can spend time with their families, as well as accommodate the demand of the workplace.

I close with this point. One of the reasons we have prosperity in America, the standard of living we enjoy, is so many women are working and doing such a great job. I do not think there is a culture anywhere in the world that can match the United States in terms of the contribution that working women make to the way we live and the way we want to live, the way we aspire to live. We need these women to be productive and contributors to the marketplace as we are competing against the rest of the world, but while we need them, we owe them, and we owe them the opportunity to spend time with their family. That could be achieved if we had a reasonable approach to directing work arrangements and allowing them to make choices.

Never in this bill is there an opportunity for an employer to impose upon a worker the requirement to work in return for time off, instead of working in return for pay. Whenever a person says, "I would like to work for comptime," that means they will be able to take time off and still get pay, and if they decide they want to take time off and still get pay and before they take the time off they change

their mind and they want the time-and-a-half pay, they get the time-and-a-half pay. This is a measure that is designed to give workers choice and to give them the opportunity to do what we need for them to do the most, which is to be the kind of parents they ought to be.

It is not like the Family and Medical Leave Act, which says when you take time off it is without pay. This is the capacity of Americans to be good parents and not take a pay cut. We should not, as a Government, say to people that in order to be a good parent you have to take a pay cut. We should develop a capacity for flexible working arrangements in this country which allows parents to be what they need to be and what we need them to be, and that is good parents, and to do so in the context of providing for their families.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to use the time allotted to me during morning business at this time.

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

#### THE MINING LAW OF 1872

Mr. BUMPERS. Mr. President, on this beautiful Monday morning when there is absolutely nothing going on in the Senate or in the entire Congress, it is an ideal time to remind the Members of Congress and the American people that 125 years ago this past Saturday, Ulysses Grant, who was President of the United States, signed a bill called the mining law of 1872. This is now my ninth year of trying to get this law repealed. It is probably the biggest single scam that continues in effect in America today.

In the past several years I have brought up numerous amendments to try to modify or repeal the mining law. Each time some of my colleagues, who do not have any hard-rock mining in their State, voted with western Senators to oppose my amendment. The western Senators always argue the reason they do not want to require the mining companies to pay a royalty for mining on public land and the reason they want the mining companies to buy this land for \$2.50 an acre is because it creates jobs. That is absurd Mr. President. We do not tolerate that in the private sector. We do not tolerate it anywhere else in the public sector. We should not tolerate it here.

Let me just refresh people's memory on how the mining law works. Under the law that Ulysses Grant signed,

which was designed primarily to encourage people to move west, anybody who wanted to could go out on Federal lands and drive four stakes in the ground and claim 20 acres for the purpose of extracting hard-rock minerals.

I never will forget when I described what an outrage this was to one of my former colleagues. I was trying to get him to cosponsor the bill with me. When I got through explaining it to him, I said, "Well, will you help me with this?" He said, "No, I am going out west and start staking claims. I didn't know you could do that."

If you drive four stakes in the ground you own 20 acres of minerals as long as you want to hold that claim. And you can file as many of them as you want. If at some point you find that there is gold, silver, platinum, palladium, copper—you name it, under that 20 acres, you go to the Department of the Interior, to the BLM.

Let's say you have 100 acres, five claims, and you want to mine it because you think it has gold under it. If you can convince BLM that, yes, indeed, there is gold under it, they are obligated by law, and have been for 125 years, to give you a deed to that 100 acres for \$250 or \$500. Some claims go for \$2.50 per acre and others go for \$5.00 an acre. I will come back to that in a moment.

The big mining companies usually approach these people that have staked claims and they say, "You know, we think this is a good claim. We will buy that claim from you and we will give you a royalty." So the farmer in Arizona or Wyoming or Idaho or Montana says, "Here, take it." The mining companies will usually pay him a substantial royalty. What do they pay the United States, who gave it to him for \$5 or for \$2.50 an acre? Absolutely nothing.

Nothing has changed since 1872. The United States has not collected one dime of royalty on the more than 3 million acres that it has deeded away for either \$2.50 an acre or \$5 an acre.

Mr. President, I cannot believe I am standing here for the ninth year trying to educate my colleagues on this. But I will say this. The news magazines, from "60 Minutes" to "Prime Time Live" to "20/20", they have all done it. And NBC just as recently as 2 months ago, did a segment on this.

Is it not strange that we have no compunction about cutting \$55 billion out of welfare, \$16 billion out of Medicaid for the poorest children's health care in America and \$115 billion from Medicare—you can say you are going to take it out of providers. If you take it out of providers, the beneficiaries are going to suffer. An assault, literally, on the most vulnerable people in America—the elderly, the poor, and the children—and allow the biggest mining companies on Earth to buy Federal land with billions of dollars worth of gold under it for \$2.50 an acre. The Mineral Policy Center estimates that over the past 125 years we have

deeded land containing \$243 billion worth of minerals for which we received not one red cent.

Anybody who thinks this is all conjured up, just check the facts, check with anybody you want to. I have heard every argument under the shining Sun to keep from doing something about this. So, we now have 600 patent applications pending. I have had some partial success in the last 3 years in my efforts to do something about this. We have put a moratorium on the issuance of any additional patents. But we have been doing it on a yearly basis. We first imposed the moratorium in 1995. This moratorium has been renewed the last 2 years. GEORGE MILLER and I have a bill pending in both the House and Senate that would make that permanent—no more giveaway of the public domain.

There is not a Senator in this body who has not gone home and told the chamber of commerce and the Rotary Club what a magnificent steward he is of their money, their tax money. And when they run, what do they say? "I'll treat your money like it was my own." Really? Do they?

You know, Barrick Resources, which is the biggest gold company in the world pays private landowners substantial royalties. But suggest they pay poor old Uncle Sam, who literally gave them the minerals in the land, suggest they pay him cent farthing, and they come unglued.

No, we can't do that.

How about the State of Nevada? Do you pay them anything?

Oh, yes, we pay Nevada. We pay a severance tax. But Uncle Sugar? Just can't do it. It will cost jobs.

You think about 260 million people in this country who own those minerals and Congress insisting that they be kept in the dark about what has been going on. Of the 600 patents now pending, we have literally stopped 235 of those. There may be no way legally that we can stop the others. Sooner or later those patents will probably be issued—hopefully for not a lot of gold. If my and GEORGE MILLER's bill passes this year, there will be no more patents without royalties and reclamation fees mining companies will no longer be able to take a depletion allowance deduction on their tax returns.

You think about these people getting depletion allowances. The very nature of depletion is to recover your cost of a depleting mineral. Your cost? They do not have any cost. They did not pay anything for it. How can you deplete something you did not pay for? So GEORGE MILLER and I say, yes, in the future we are going to take this depletion allowance away from you.

Mr. President, think about this, as we have gone home and told the people, "My No. 1 priority is to balance the budget. I will spend your money like it was my own." On December 1, 1995, ASARCO received a deed to 349 acres in Arizona.

Did you know Bruce Babbitt has no choice? It is not up to him. This is the

law. He has to comply with the law. So he gives ASARCO a deed, for \$1,745—\$1,745, that is about how much a Senator makes in a week. For 349 acres they pay \$1,745. Do you know the rest of the story? Underneath that 347 acres is \$3 billion worth of copper and silver. Do you know what the United States will get in royalties, reclamation fees? Zip, zero, not a dime.

And then on September 6, 1995, Fax Kalk, a Danish corporation—incidentally, many of the biggest mining companies including Barrick are foreign. I do not have any objection to that. Barrick is a Canadian company. How would you like to be a miner and go up to Canada and say, "I want to buy a couple of acres of land with billions of dollars worth of minerals. I will give you \$10,000 for it." They would probably put you in jail for being insane. And yet that is what we do. And here is a Danish corporation called Fax Kalk. They only wanted 110 acres. And Bruce Babbitt had no choice. The law required him to give this Danish corporation a deed for that land for \$275, about 1 day's pay for a U.S. Senator. And what do you think it had under it? One billion dollars worth of travertine. So for \$275 we gave them \$1 billion, and what did we get in return in for the \$1 billion? Zip, zero, nothing.

On May 10, 1994, American Barrick, as I said the biggest gold mining operation probably in the world, received 1,800 acres of land in Nevada. They paid \$9,000—\$5 an acre—for that 1,800 acres and they got \$11 billion worth of gold.

The Stillwater Mining Co. in Montana has not received a full patent yet. They have what is called a first half certificate, but they are one of the companies that had to be grandfathered in the moratorium, and Stillwater wants about 2,000 acres in Montana.

But Stillwater Mining Co.—and this is in their prospectus. These are not my figures. This is what they say—for 2,000 acres, for which they will pay \$10,000—\$5 an acre—they get \$38 billion worth of palladium and platinum—their figures—and the U.S. taxpayer gets nothing.

Mr. President, these things are literally unbelievable. I have made this speech here for 9 years, and I must say that while for a long, long time it fell on deaf ears, it is now getting to the point where Senators—and I do not want to make this a partisan issue, but Senators on that side of the aisle with the exception of six or seven have stood fast to continue this, and the time is coming because of all these news magazine stories where you are going to see 30-second spots next fall on how people voted to give away the public domain. I can see a spot now saying, did you know so and so voted to continue the giveaway of gold and minerals? Did you know we have given away \$243 billion worth of gold, silver, platinum, and so on, in the past 125 years, and he votes to continue that. They haul out all the votes that we have had on amendments

that I have offered on this floor just in the last 3 years. The Mineral Policy Center said of the \$243 billion worth of gold, silver, et cetera, that we have given away in the past 125 years, if we had the kind of royalty which GEORGE MILLER and I have in our bill the taxpayers would have received \$12 billion.

Mr. President, I would like to summarize the legislation that I and Congressman MILLER have introduced. Mining companies would have to pay a 5-percent net smelter return royalty for operations on public land. Now, this is another dimension that I have not mentioned, and that is a lot of people in this country are mining claims on Federal lands that have not been patented. Once you patent it, they give you a deed for it and it is yours. But there are a lot of minerals being mined in this country on unpatented lands though they are Federal lands. They do not pay any royalty either. So that net smelter return is on unpatented lands and it is predicted to save \$175 million over the next 5 years.

A second part of the legislation is a claim maintenance fee. Until about 5 years ago, when you filed a claim, you had to submit some proof to BLM that you had done some work on it. You could go out there with a pick and shovel and work for about an hour, and then you sent it into the BLM and said I worked hard on my claim and I still haven't found anything. That was enough to renew it.

About 4 years ago I finally got this body and the Congress to put a \$100 annual fee on these claims, 20-acre claims. That is \$5 an acre a year to hold the claim. We had 800,000 claims at that time. We now have 330,000, which shows you that people were just willy-nilly filing claims hoping that Barrick or some other big gold mining company would come by and make an offer for it. Isn't it interesting that very seldom does a major mining company ever find this stuff. They buy the claim from some old nester who has had it for 50 or 100 years. They do not go out and explore for it until after they buy the claim. Now, they have a pretty good idea of what is there, but what they do is they buy claims from a guy who has owned it for the last 20 to 50 years and give him a royalty and yet they say they cannot give us one.

But in any event, our bill continues the \$100 annual fee on existing claims, and we make it \$125 on new claims. So if anybody goes out and files a claim under this bill for 20 acres, the new fee will be \$125. And that is only on unpatented lands, of course. Then we have a reclamation fee that ranges on a sliding scale from 2 percent to 5 percent of net income depending on the profitability of the company. Mr. President, you cannot charge a royalty to somebody who already owns the land even though we gave it to them. You take American Barrick that just in 1994 got \$11 billion worth of gold. It is theirs. You cannot charge somebody for mining on their own property. But

you can charge a reclamation fee, and we calculate that is worth \$750 million over the next 5 years. Do we need a reclamation fee? The Bureau of Mines says there are 250,000—listen to this—sites on BLM land that have been abandoned and need to be reclaimed, 2,000 claims in national parks, if you can believe it—abandoned, and the Mineral Policy Center says there are 557,000 mines that have been abandoned in this country on both public and private lands—557,000 mine sites that need to be cleaned up. Do you know what they estimate the cost of cleaning them up to be? Somewhere between \$32.7 billion and \$71.5 billion.

So here we have given away 3 million acres that had \$243 billion worth of gold, silver, platinum, and palladium under it, and what have we gotten in return? We have gotten 250,000 sites that we have to clean up on BLM sites and 2,000 in the national parks. Sometimes I have a hard time believing my own words. If I did not do so much research on this all the time, I would not believe it. So why not charge a reclamation fee and say we are at least going to start cleaning up these sites.

Now, these people not only get the land for \$2.50 per acre, they not only get \$1 billion worth of gold for which they pay the U.S. Government not one cent, they also leave an unmitigated environmental disaster. Listen to this; 59 of the sites on the Superfund National Priority List are directly related to hardrock mining. Who could argue that we need to charge a reclamation fee to help reclaim the hundreds of thousands of acres that have been abandoned by the mining companies.

And finally, Mr. President, I have already alluded to the fact that our bill contains a fourth provision and that is a depletion allowance repeal. I forget exactly what it is. I think it is 15 percent for gold, for silver and copper, and 22 percent for palladium and platinum. We have always allowed depletion on oil because it was a depleting resource, gas because it was a depleting resource, and, yes, a depletion allowance on private land would make some sense. But to allow people to get land from the U.S. Government for virtually nothing, leave us an unmitigated disaster to clean up, and then get a 15 to 22 percent depletion allowance to deplete a resource that they paid nothing for. That is absurd.

Congressman MILLER and I will be working very hard to pass this bill this year. I would like to think that the time has come when Senators did not feel they could just accommodate their good friends. They are my good friends, too. Some of the people I debate this with—and the debate could get very loud and raucous—are my best friends. It is kind of like trial lawyers. Trial lawyers fight all day long and go out to dinner together. I have done that, too. This is not aimed at anybody individually. This is aimed at trying to bring some fundamental fairness to what simply is so intolerable it cannot be tolerated any longer.

Mr. President, I yield the floor and 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. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, May 9, 1997, the Federal debt stood at \$5,331,940,681,736.92. (Five trillion, three hundred thirty-one billion, nine hundred forty million, six hundred eighty-one thousand, seven hundred thirty-six dollars and ninety-two cents.)

One year ago, May 9, 1996, the Federal debt stood at \$5,088,829,000,000. (Five trillion, eighty-eight billion, eight hundred twenty-nine million)

Twenty-five years ago, May 9, 1972, the Federal debt stood at \$426,455,000,000 (four hundred twenty-six billion, four hundred fifty-five million), which reflects a debt increase of nearly \$5 trillion—\$4,905,485,681,736.92 (four trillion, nine hundred five billion, four hundred eighty-five million, six hundred eighty-one thousand, seven hundred thirty-six dollars and ninety-two cents), during the past 25 years.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

#### INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1997

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 46, S. 717.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 717) to amend the Individuals With Disabilities Education Act, to reauthorize and make improvements to that act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

#### PRIVILEGE OF THE FLOOR

Mr. JEFFORDS. Mr. President, I ask unanimous consent that Jim Downing, a fellow with the Committee on Labor and Human Resources, and Mark Hall, a fellow with the leader's office, be accorded privilege of the floor during Senate consideration of the Individuals With Disabilities Education Act Amendments of 1997, S. 717.

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

Mr. JEFFORDS. Mr. President, today is a special occasion for me and I am proud to be with my distinguished colleagues to consider S. 717, the Individuals With Disabilities Education Act Amendments of 1997.

I was there in the beginning, in 1975, Congress faced with a patchwork of court decisions, first took the historic step in assuring educational opportunities for some of the most vulnerable in our society, children with disabilities.

In 1975, the Education of All Handicapped Children Act, or Public Law 94-142, was enacted to assist States in meeting the goal of providing a free appropriate public education and offering an equal educational opportunity to all children.

Public Law 94-142 has done much to meet the educational needs of children with disabilities.

Over the life of this historic legislation we have seen many advances toward the attainment of these goals—advances in educational technique, advances in technology, advances in opportunity, and advances in our expectations. Children with disabilities are now being educated alongside their peers in unprecedented numbers. Children with disabilities are now achieving beyond our wildest dreams.

Before Public Law 94-142, society placed little value on the lives of children with disabilities. Millions of children with disabilities were denied access to education, and we invested few resources in anything more than simple caretaking. We have now learned that investment in the education of children with disabilities from birth throughout their school years has rewards and benefits, not only for children with disabilities and their families, but for our whole society.

We have proven that investment in educational opportunity for all of our kids enriches society. We have proven that promoting educational opportunity for our children with disabilities directly impacts their opportunity to live independent lives as contributing members to society. Most importantly, we have learned to value all of America's children.

Public Law 94-142 was written in different times to address basic concerns. Concerns that have evolved into expectations. With this evolution in expectations has come an evolution in other concerns that its drafters could never have anticipated. Concerns that must be addressed if we are to continue in the advancement and development of educational programs that have done so much for America's children, our children.

This year, Mr. President, I have worked hand in hand with majority leader TRENT LOTT and Chairman GOODLING in the development of this agreement. We have also worked hand in hand with Senators KENNEDY and HARKIN here in the Senate. A bicameral, bipartisan agreement has been reached.

The process in itself is historic, one in which Democrats, Republicans, the

House and Senate, worked together alongside the administration in crafting this consensus bill.

We held weekly townhall-type meetings that enabled varying stakeholders to provide their input. These stakeholders included parents of the children with disabilities, school administrators, special educators, general educators, and children with disabilities themselves.

The principal members of the working group were Senator COATS, Senator HARKIN, Senator KENNEDY, and their staffs; Members of the House of Representatives, Mr. RIGGS, Mr. MARTINEZ, Mr. SCOTT, and their staffs; the Assistant Secretary of the Department of Education, Judith Heumann, and the Director of Special Education, Tom Hehir. I would like to thank each and every one of them for their efforts. It was an incredible effort.

We owe much to Senator FRIST, who laid the groundwork last year upon which we were able to build this consensus agreement, and for his unwavering support in our efforts this year. We were further aided in our efforts this year by Senator GREGG and Senator ASHCROFT and their staffs.

I would like to thank the following organizations for their participation, guidance and support during our efforts this year. Their support for the final passage of S. 717 is crucial to the overall success of the Individuals With Disabilities Education Act Amendments of 1997. I wish to commend them for this support.

The National Parent Network on Disabilities, the Learning Disabilities Association, the ARC, the National Easter Seal Society, the American Association of School Administrators, the National Education Association, the Autism Society of America, the National Association of the Deaf, the National Down's Syndrome Society, the Epilepsy Foundation of America, the American Academy of Child and Adolescent Psychiatry, the American Association of University Affiliated Programs, the American Foundation for the Blind, the American Physical Therapy Association, the American Speech-Language-Hearing Association, the Association for Education and Rehabilitation of the Blind and Visually Impaired, the National Association of Developmental Disabilities Councils, the National Association of State Directors of Special Education, the National Coalition of Deaf-Blindness, the National Mental Health Association, the National Therapeutic Recreation Society, the United Cerebral Palsy Association, the Council of Great City Schools, Children and Adults with Attention Deficit Disorders [CHADD], the Rehabilitation Engineering and Assistive Technology Society of North America, the National Association School Psychologist, the Higher Education Consortium for Special Education, the Council for Exceptional Children, the National Association of Elementary School Principals, Federal

Advocacy for California Education [FACE], and the American Federation of Teachers.

I would like to take my colleagues through the steps we took to strengthen and improve IDEA. These steps were not taken lightly. They built upon the procedural protections expressed and the flexibility inherent in current law. I anticipate that when parents and educators have a full and accurate understanding of what we have done, they will embrace this law and these amendments as tools for making the future what it could be, what it should be, for the over 5 million children with disabilities.

First, we invested in the principle of prevention. No child should have to fail in order to be helped. No child should need a label of disability in order to be helped. We reauthorized the early intervention program for infants and toddlers with disabilities. This very successful program, originally authorized in 1986, gives parents direct support and infants and toddlers appropriate services from the moment a disability is known. Over the years, and recently by Rob Reiner, Americans have been told of the consequences of investing and not investing in the earliest years of a child's life. By assisting families with infants and toddlers through IDEA's early intervention program in the last 11 years, we have brought quality of life opportunities to these children and their families that they would not have had. We have mitigated or reduced the effects of disabilities, so that later in life, the children are more successful and less in need of special education and related services. In S. 717 we retain this vital program, and add provisions to encourage States to identify and assist, to the extent they are not doing so now, infants and toddlers who are at risk of developing developmental delays. Such children are those whose special needs are not easily detected in the earliest years, but who clearly do not develop at the same rate or degree as their same age peers in terms of physical, cognitive, emotional, and social development. We also add a provision encouraging States to provide early intervention services to infants and toddlers in natural environments where such children are typically found—the home and with other children of the same age.

We invested in prevention in other ways as well. S. 717 gives States and local school districts the option of referring to children, eligible for services, as developmentally delayed if they are between the ages of 3 through 9. I believe this simple step will move us a way from investing resources in confirming a specific disability and stamping a specific disability label on a child, and move us toward concentrating our resources on what we can do to help a child succeed in school.

For the first time, we authorize school-based improvement plans to en-

courage educators and parents at the school building level to work together to set goals to help children, with and without known disabilities succeed. For the first time, we authorize State improvement plans to be developed in collaboration with State and local educators, parents, and others interested in improving educational opportunities and results for children with disabilities. The emphasis in such plans is to ensure better trained and equipped personnel, especially regular education personnel. If teachers are prepared to detect and address a child's problem when it first appears, and make appropriate adjustments in the child's instructional program, the child is less likely to experience failure, and less likely to need special education and related services.

The focus we bring to prevention in S. 717, means increased flexibility and cost savings for school districts. But more importantly, this focus creates new opportunities for partnerships between parents and educators, and more opportunities for children, all children, to experience a greater degree of success while in school and later in life as well.

Second, the bill reflects the principle that procedures and paperwork should be driven by common sense, a need to know, and accountability for results that matter. Should parents participate in establishing their child's eligibility for special education and related services? Should parents influence what goes into their child's IEP? Should parents influence the selection of the educational placement of their child? Should a child's regular education teacher influence what goes into a child's IEP? S. 717 dictates that the answer be yes, but so does common sense.

Should educators and parents share information, including evaluation information, with each other in a timely manner? Should parents know what the rights and protections that IDEA guarantees their child as early as possible, in language that they can understand? S. 717 dictates that the answer be yes, but so does common sense.

Should educators have an opportunity to offer a free appropriate public education to a child with a disability, before the child's parents place the child in a private school and send the school district the bill? Should educators have a timely, clear, and specific indication that parents intend to request a due process hearing, before they actually do it? S. 717 dictates that the answer be yes, but so does common sense.

Should educators have the opportunity to explain the benefits of mediation to parents before proceeding to due process? Should educators be responsible for reporting on a child's progress to the child's parents? Along with other children, to the community? To the State? S. 717 dictates that the answer be yes, but so does common sense.

The third principle that influenced this legislation was that educators and parents need, in fact desperately deserve, the codification of all Federal policy governing how and when a child with a disability could be disciplined by removal from his or her current educational placement. Right now, parts of that policy are in IDEA, parts are in informal policy guidance prepared by the U.S. Department of Education, and still other parts are found in case law. The effects of this have been both unfair and unfortunate. Many educators, unaware of or unsure of their range of discretion when a child with a disability breaks a school rule, do little or nothing. Many parents, unaware or unsure of the protections IDEA affords their child, allow their child to go without educational services. We could not let the current situation stand. S. 717 attempts to correct it, through a balanced approach, an approach which recognizes both the need to maintain safe schools and the need to preserve the civil rights of children with disabilities.

When a child with a disability violates school rules or codes of conduct through possession of weapons, drugs, or demonstration of behavior that is substantially likely to result in injury to the child or others in the school, the bill provides clear and simple guidance about educators' areas of discretion, the parents' role, and procedural protections for the child.

If we adopt this legislation, dangerous children can be removed from their current educational placements. Specific standards must be met to sustain any removal. If a behavior that is subject to school discipline is not a manifestation of a child's disability, the child may be disciplined as children without disabilities. If parents do not agree with the removal of their child from his or her current educational placement, they can request an expedited due process hearing. If educators believe that a removal of a child from his or her educational placement must be extended, they can ask for an extension in a expedited due process hearing.

If S. 717 is enacted, under no circumstances would educational services to a child with a disability cease. If a child with a disability violates a school rule, and the child's behavior is not a manifestation of the child's disability, the local educational agency, in which the child attends school, must continue educational services to the child. If the policy of the local educational agency, in which the child attends school, prevents it from doing so, the State must assume the responsibility to continue the child's education. This obligation under section 612(a)(1) should not be construed to prevent schools from suspending children with disabilities for up to 10 days, consistent with the provisions in section 615(k)(1)(A)(i).

The fourth principle which influenced our efforts was that local school districts need options for fiscal relief.

Over the life of IDEA they have borne the lion's share of the costs. While retaining a single line of authority, we direct governors to devise ways for noneducational agencies, which could or should bear costs of certain special educational and related services to children with disabilities, to assume responsibility for these costs. We clarify State and local maintenance of effort requirements. States must maintain the State level of dollars spent on special education and related services. Local school districts must maintain local dollars spent on special education and related services. In addition, once IDEA funding reaches \$4.1 billion, local school districts may treat as local dollars 20 percent of IDEA dollars that represent an increase from their previous year IDEA allotment.

The amendments we are considering today, in so many ways, are not only based on common sense, but common practice, on best practice. We do not and would not impose on educators or parents the specific means by which they should respond to these amendments. Their responses will be shaped by local resources and relationships. Such responses, whatever form they actually take in communities across this Nation, will have positive consequences. And that leads me to my fifth, and last point.

Most children with disabilities are being educated and are succeeding because of IDEA. Less than 1 percent of these children and their families are experiencing disagreements with educators about whether a child has a disability, how a child should be educated, or where a child should be educated, because of the child's disability. However, increasingly, actual disagreements and the likelihood of disagreements are shaping how parents and educators view each other and each other's motivations and actions. This trend is not healthy for the children involved, nor their families, nor their teachers, nor their principals. We must create an atmosphere in which the event of designing a child's education is premised on constructive dialog, common goals, and the child, not premised on the avoidance of a lawsuit.

In S. 717 we require States to offer voluntary mediation to parents. We attach specific consequences for educators and parents, who fail to share or disclose information that, if provided, may lessen disagreements and legal disputes. We retain provisions added in 1986 to IDEA, that put limits on the conditions under which prevailing parents may receive reimbursement of attorneys' fees. We add other provisions that reflect current policy and legislative history with regard to the use and reimbursement of parents for attorneys' time spent in IEP meetings or mediation.

I would like to thank the staff members also: Pat Morrissey and Jim Downing, from my staff, Townsend Lange and Bobby Silverstein, Danica Petroshius, Sally Lovejoy, Todd Jones,

Bob Bacon, Alex Nock, Theresa Thompson, and most importantly, Dave Hoppe, for without his hard work we could not have achieved our goal.

Mr. President, I thank my colleagues, and ask unanimous consent that my full statement be included in the RECORD as if read.

Mr. President, I thank my colleagues.

I yield to my colleague from Iowa.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

#### PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Mr. Tom Irvin, a detailee from the Department of Education to the Labor Committee staff, be accorded privileges during debate and amendments on this bill.

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

Mr. HARKIN. Mr. President, I rise in support of S. 717, the Individuals with Disabilities Education Act Amendments of 1997.

On February 20, 1997, a bipartisan, bicameral working group was established to develop a bill reauthorizing the Individuals with Disabilities Education Act [IDEA]. The working group included a representative from the Department of Education, Judy Heumann, Assistant Secretary for Special Education and Rehabilitative Services, and congressional staff representing Senators JEFFORDS, KENNEDY, COATS, HARKIN, FRIST, and DODD; and Representatives GOODLING, MARTINEZ, RIGGS, MILLER, CASTLE, and SCOTT. The facilitator of the group was David Hoppe, the majority leader's chief of staff.

The mission of the working group was to review, strengthen, and improve IDEA to better educate children with disabilities, and enable them to receive a quality education. With this mission in mind, the group agreed to start with current law and build on the actions, experiences, information, and research gathered over the life of the law, particularly over the past 3 years. The group further agreed that it must distinguish between problems of implementation and problems with the law, and respond appropriately, according to the issue raised.

After 10 weeks of marathon negotiations, an agreement was reached on all outstanding issues. S. 717 is the outcome of this effort.

Mr. President, IDEA is a powerful civil rights law with a long and successful history. More than 20 years ago, Congress passed Public Law 94-142, a law that gave new promises, and new guarantees, to disabled children and their parents under part B of the Education of the Handicapped Act, now known as IDEA.

Prior to the enactment of Public Law 94-142, 1 million children with disabilities were excluded entirely from the public school system, and more than half of all disabled children in the United States did not receive appropriate educational services that would



enable them to enjoy full equality of opportunity.

On that day in 1975, when Public Law 94-142 was enacted, we lit a beacon of hope for millions of children with disabilities and their families, we exclaimed that the days of exclusion, segregation, and denial of educational opportunity were over in this country.

We recognized that the right of disabled children to a free appropriate public education is a constitutional right established in the early 1970's by two landmark Federal district court cases—*Pennsylvania Association for Retarded Children versus Commonwealth* in 1971 and *Mills versus Board of Education of the District of Columbia* in 1972.

Thus, IDEA was enacted for two reasons: First, to establish a consistent policy of what constitutes compliance with the equal protection clause so that there would be no need to continue pursuing separate court challenges around the country. Second, to help States meet their constitutional obligations.

IDEA is landmark legislation that has literally changed the lives of millions of children with disabilities and their families.

IDEA has been a very successful law that has made significant progress in addressing the problems that existed in 1975. Today, every State in the Nation has laws in effect assuring the provision of a free appropriate public education for all children with disabilities. Over 5,000,000 children with disabilities are now receiving special education and related services.

The number of young adults enrolled in postsecondary education has tripled, and the unemployment rate for individuals with disabilities in their twenties is almost half that of their older counterparts.

And, because of a promise made in 1986, all States now provide early intervention services to infants and toddlers with disabilities and their families.

For many parents who have disabled children, IDEA is a lifeline of hope. As one parent recently told me:

Thank God for IDEA. IDEA gives us the strength to face the challenges of bringing up a child with a disability. It has kept our family together. Because of IDEA our child is achieving academic success. He is also treated by his nondisabled peers as "one of the guys." I am now confident that he will graduate high school prepared to hold down a job and lead an independent life."

IDEA helps preserve and strengthen the family unit. Because of IDEA, disabled children will grow up with their siblings and parents, and worship and play with neighbors and friends.

IDEA teaches personal responsibility by tailoring education to meet each child's unique needs.

IDEA empowers disabled children to grow up to lead productive lives in the mainstream of society.

Because of IDEA, we hear less anger and frustration from parents than in the past. We now hear a greater sense of optimism, as I heard from a parent

in Iowa writing about her 7-year-old daughter with autism. She said, "I have no doubt that my daughter will live nearly independently as an adult, will work, and will be a very positive contributor to society. That is very much her dream, and it is my dream for her. IDEA has made this dream capable of becoming a reality."

Mr. President, these are not isolated statements from a few parents in Iowa. They are reflective of the general feeling about the law across the country.

But despite the tremendous progress that has been made since 1975, we know that our work is not over, and significant challenges still remain. The unfortunate truth is that, for far too many disabled children, the promise of IDEA is not yet a reality.

For example, too many students with disabilities are still failing courses and dropping out of school. Almost twice as many disabled students drop out of school, as compared to nondisabled students. And when disabled students drop out, they are less likely to ever return to school and are more likely to be unemployed or have problems with the law.

Enrollment of disabled students in postsecondary education is still too low. And too many of these students are leaving school ill-prepared for employment and independent living.

Of further concern is the continued inappropriate placement of children from minority backgrounds and children with limited English proficiency in special education classrooms with low expectation for these children. In addition, school officials and others complain that current law is unclear and focuses too much on paperwork and process rather than on improving results for children.

And it is distressing to observe that the law is not being consistently implemented across the Nation, or even within individual States. Why is it that in one school district, the number of suspensions and drop outs is very high, whereas in a neighboring district within the same State, these problems do not exist? Unfortunately, this is not an isolated situation.

In February, just after the working group began its effort to improve IDEA, I received a copy of a letter to David Hoppe from the Disability Rights Education and Defense Fund relating to implementation problems with IDEA in the city of Los Angeles. The letter states, "We implore you to read the enclosed report prepared by well qualified, unbiased, independent consultants hired by the Los Angeles Unified School District in California and parents of children with disabilities in their efforts to resolve a lawsuit in Los Angeles for violations of IDEA." The letter adds:

The findings of the consultants/experts are astounding. Twenty years after the passage of IDEA, the consultants were "compelled to conclude that the District suffers from a pervasive, substantial, and systematic inability to deliver special education and related serv-

ices in compliance with special education laws." . . . The harm suffered by children with disabilities, their parents and their communities is incalculable, tragic and unacceptable.

As a result of IDEA, most children are now in school. But it is clear that we must ensure that IDEA is fully and consistently implemented. And we need to place greater emphasis on improving educational results for these children. Careful strengthening and refocusing of the law is necessary in order to build upon 20 years of success while ensuring resolution of existing problems.

In addressing these challenges, the bipartisan, bicameral working group established a set of principles to guide its efforts, including adopting the following three goals:

The first goal was to review, strengthen, and improve IDEA to better educate children with disabilities and enable them to receive a quality education by:

First, ensuring access to the general education curriculum and reforms;

Second, strengthening the role of parents;

Third, focusing on teaching and learning while reducing unnecessary paperwork requirements;

Fourth, giving increased attention to racial, ethnic, and linguistic diversity to prevent inappropriate identification and mislabeling;

Fifth, ensuring that schools are safe and conducive to learning;

Sixth, encouraging parents and educators to work out their differences by using nonadversarial means; and

Seventh, assisting educational agencies in addressing the costs of improving special education and related services to children with disabilities.

The second goal was to encourage exemplary practices that lead to improved teaching and learning experiences, and which in turn result in productive independent adult lives.

The third goal was to assist States in the implementation of early intervention services for infants and toddlers with disabilities and their families and support the smooth and effective transition of these young children to preschool.

The bill that we are considering today, S. 717—the Individuals with Disabilities Education Act Amendments of 1997—has been developed with these three goals in mind.

A basic framework used by the working group was developed by the Clinton administration during the 104th Congress. Without this framework provided by the administration, we would not have been able to achieve such a successful outcome. I was proud to have introduced, along with Senator KENNEDY, the administration's proposed amendments to improve IDEA (S. 1075). In submitting the bill to Congress, Secretary Riley said:

The IDEA has helped millions of disabled Americans to finish school, get a job, and make their civic contribution like other working Americans. These amendments build on two decades of research and experience to



meet the needs of the classrooms of today. They aim to ensure that students with disabilities are offered challenging materials in classrooms with well-prepared teachers. We want the focus of the IDEA today to be on better teaching and learning—and not on unnecessary paperwork.

Much of the work of the administration in proposing improvements to IDEA has been because of the vision and leadership Judy Heumann, the Assistant Secretary of the Office of Special Education and Rehabilitative Services. Ms. Heumann testified at the January 29, 1997, hearing on IDEA conducted by the Committee on Labor and Human Resources. In her testimony, she explained how important this legislation is to children with disabilities and their families:

Through IDEA programs, millions of children with disabilities have received the education they need to become fully participating, fully contributing members of our society. The IDEA is not just a law on paper. To most families with disabled children, it is the bedrock foundation upon which the future of their children depend . . . Disabled students and their families do not want to be shut away from the rest of society or given a watered-down curriculum; they want an opportunity to study and to work so that they can contribute to society. The IDEA has changed the role of government from one of caretaker of dependent individuals to one that opens the door to education and empowers people with disabilities to fully participate in their community.

This IDEA reauthorization bill that we are considering today has enjoyed strong bipartisan support. Last Wednesday, May 7, 1997, the Committee on Labor and Human Resources unanimously approved the Individuals with Disabilities Education Act Amendments of 1997 as an original bill. And the House Committee on Education and the Workforce voted out an identical bill. On the next day, S. 717 was formally introduced by Senator JEFFORDS and Senator HARKIN, along with Senators LOTT, KENNEDY, COATS, DODD, GREGG, MIKULSKI, FRIST, DEWINE, ENZI, HUTCHINSON, MURRAY, COLLINS, WARNER, MCCONNELL and REED.

Mr. President, I am pleased to learn that this bill has the endorsement of 25 national disability groups. And the major organizations representing general education have also endorsed the bill. I ask unanimous consent that a list of these groups be printed in the RECORD.

I am particularly pleased that I recently received a letter from Justin Dart, a friend and leader in the disability community, endorsing the bill:

Colleagues, the agreement is the result of valiant efforts of disability advocates across the country. It maintains the fundamental right to a free appropriate public education for all children with disabilities. Without agreement, many of the fundamental protections for children and families afforded under the IDEA would have been dramatically weakened or even eliminated. Please join me in voicing your support for this legislation—and the principles of equality, inclusion, and education for all, on which we all agree. Let us unite, each of us communicating our common goal according to his

or her own conscience. Together, we shall overcome.

I am also pleased that the bill retains all of the basic rights and protections available under current law, while providing needed improvements. Based on 20 years of experience and research in the education of children with disabilities, we have learned many new things that are important if we are to ensure an equal educational opportunity for all children with disabilities.

Consistent with the basic principles adopted by the working group in February, I would like to briefly describe some of the major changes to current law that are proposed in S. 717:

#### IMPROVING RESULTS FOR DISABLED CHILDREN

Mr. President, the single most important principle addressed in S. 717 is improving results for disabled children—by ensuring their access to the general curriculum and general educational reforms. All of the other principles support this overarching goal.

The bill includes a number of provisions to address this goal. For example, it enhances the participation of disabled children in the general curriculum through improvements to the IEP—by relating a child's education to what nondisabled children are receiving; providing for the participation of regular education teachers in developing, reviewing, and revising the IEP; and requiring that the IEP team consider the specific needs of each child, as appropriate, such as the need for behavior interventions, and assistive technology.

The bill also requires that schools report to parents on the progress of their disabled child as often as such reports are provided to nondisabled children; and it also provides for transition planning for disabled students beginning at age 14. In addition, the bill makes procedures for evaluating disabled children more instructionally relevant. It also provides for the inclusion of disabled children in State and district assessments, and requires the development of State performance goals for children with disabilities, and regular reports to the public on progress toward meeting the goals.

#### STRENGTHENING THE ROLE OF PARENTS

In order to achieve better outcomes for disabled children, it is critical to strengthen the role of parents. S. 717 includes specific provisions related to this goal. For example, it provides that public agencies must ensure that parents are included in any group that makes placement decisions about their child. And it requires that, at a minimum, parents be offered mediation as a voluntary option whenever a hearing is requested to resolve a dispute between the parents and the agency about any matters specified in the bill.

The bill also requires that parents receive regular reports on their child's progress, by such means as report cards, as often as reports are provided to parents of nondisabled children; and it supports parent training and information centers in every State to assist

parents to better understand the nature of their child's disability and educational needs, and to enable them to participate effectively in developing their child's IEP. In addition, because some parents feel threatened by attending IEP meetings with school staff, the bill retains the longstanding policy of allowing parents to bring other individuals to the meeting who they deem necessary to be effective partners.

#### REDUCING UNNECESSARY PAPERWORK AND OTHER BURDENS

S. 717 includes several provisions that reduce unnecessary paperwork, and directs resources to teaching and learning. For example, the bill permits initial evaluations and reevaluations to be based on existing evaluation data and reports, and does not require that eligibility be reestablished when the triennial evaluation is conducted if the team agrees that the child continues to have a disability. The bill eliminates unnecessary paperwork requirements that discourage the use of IDEA funds for teachers who work in regular classrooms, while ensuring the needs of students with disabilities are met.

In addition, the bill permits States and local educational agencies and lead agencies for the Infants and Toddlers Program to establish eligibility only once. Thereafter, only amendments to the State or local application necessitated by compliance problems or changes in the law would be required.

#### PREVENTING INAPPROPRIATE IDENTIFICATION AND MISLABELING OF MINORITIES

There is general agreement today at all levels of government that State and local educational agencies must be responsive to the increasing racial, ethnic, and linguistic diversity that prevails in the Nation's public schools today. This is especially true in cases involving overrepresentation of minorities. S. 717 addresses this goal by codifying the nondiscriminatory testing procedures from the current part B regulations; and by requiring States to collect and examine data to determine if significant disproportionality based on race is occurring with respect to particular disability categories or types of educational settings, and if it is occurring, to take appropriate corrective action. The bill also requires States to determine if there is a disproportionate number of long-term suspension and expulsions of disabled children, and if so, to ensure that the agency's policies are consistent with the act.

#### ENSURING THAT SCHOOLS ARE SAFE AND CONDUCIVE TO LEARNING

Mr. President, one of the most emotional issues in the process of reauthorizing IDEA related to discipline policies and procedures of disabled children. There is a critical need to ensure that our schools are safe and conducive to learning for all children. S. 717 includes several specific provisions related to this goal, while retaining the fundamental protections of IDEA:

For example, the bill retains the stay put provision, and includes two limited

exceptions. First, the bill allows school personnel to move a child with disabilities to an interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline but for not more than 45 days, if that student has brought a weapon to school or a school function, or knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function. Second, local authorities can secure authority to remove a child from his or her current educational setting for up to 45 days from a hearing officer, if they can demonstrate by substantial evidence—that is, beyond a preponderance of the evidence—that maintaining the child in the current placement is substantially likely to result in injury to the child or others. Further, the bill makes clear that services may not cease for any IDEA-eligible child.

The interim alternative educational setting must enable the child to participate in the general curriculum and continue to receive those services and modifications, including those described in the child's current IEP, so that the child will meet the goals set out in that IEP. In addition, the child must receive services and modifications in the interim alternative educational setting designed to address the child's behavior that was subject to disciplinary action so that the behavior does not recur.

#### FOSTERING PARTNERSHIPS BETWEEN PARENTS AND SCHOOLS

If the parents of disabled children and school staff can work together in a constructive manner, this will help significantly to meet the goal of improving results for these children. S. 717 includes several provisions aimed at accomplishing this and specifically in encouraging parents and educators to work out their difference through non-adversarial means.

For example, the bill promotes the involvement of parents in their child's education by including them in placement decisions and providing them with regular reports on their child's progress.

It also ensures that a voluntary mediation process is available to all parents and school districts. Mediation is a low-cost, effective means for resolving many of the disputes between parents and school districts. In cases where parents do not choose to participate in mediation, the bill authorizes school districts to require parents to meet with representatives from the Parent Training Centers or other dispute resolution people to explain the benefits of and encourage the use of mediation before going to due process.

#### ASSISTING EDUCATIONAL AGENCIES WITH THE COST OF SPECIAL EDUCATION AND RELATED SERVICES

The Federal contribution to the education of children with disabilities, notwithstanding the authorization level of 40 percent, has been relatively constant but low, approximately 7 to 8

percent of the cost. In order to provide additional help for LEA's in their efforts to provide for the education of these children, the bill includes several provisions related to providing financial assistance:

**Authorization levels:** The bill includes significant increases in the authorization levels for the preschool program—\$500 million, compared to a current appropriation of \$360—and for the early intervention program under part H—\$400 million compared to a current appropriation of \$315.

**Noneducational agencies paying their fair share:** The bill requires noneducational State agencies to pay or reimburse local educational agencies for the cost of services such agencies would normally cover.

Although data regarding potential savings to LEA's on a national basis are not available, in States that have voluntarily provided interagency supports, cost savings to LEA's have been significant. For instance, the Chicago public schools receives \$40 million in support for medically related services for students with disabilities, which has enabled the district to contain costs for related services and increased the access of poor children with disabilities to comprehensive health care services.

**State maintenance of effort:** The bill adds a State maintenance of effort provision, to ensure that increases in Federal appropriations are not offset by State decreases.

Estimated savings for triennial evaluations. The bill reduces the need to conduct unnecessary assessments in relationship to the triennial evaluation. Although no national data are available, the Education Department estimates that the projected savings to LEA's under this provision, based on data prepared by the State of Michigan, would be nearly \$765 million.

Children enrolled by their parents in private schools. The bill includes several critical provisions relating to the extent to which IDEA applies to children who are enrolled in private schools by their parents. These provisions and clarifications are very important because of the number of conflicting court rulings that have been issued within the last few years.

For example, the bill clarifies that public agencies are required to spend a proportionate amount of IDEA funds on special education and related services for disabled children enrolled in private and parochial, for example, 10 percent if 10 out of 100 disabled children attend parochial schools, and that services may be provided on the premises of the private or parochial school, to the extent consistent with State law.

In addition, the bill reiterates current policy that a public agency is not required to pay for special education and related services at a private school if that agency made a free appropriate public education available to the child.

State set-aside. Currently, a State may retain 25 percent of the State allo-

cation, 5 percent for administrative purposes, and the remainder for monitoring, technical assistance, personnel development, and other direct and support services. Some States retain the full 25 percent set-aside while others pass through a large amount to local school districts.

The bill continues to authorize that States may retain a portion of their State allotments with certain changes effective for fiscal year 1998. First the 5 percent for administrative purposes is capped at the 1997 level, with future annual increases limited to the lesser of the rate of inflation or the rate of Federal appropriation increases. The remaining 20 percent of the State's share of its part B allotment is capped in the same manner. Any excess above inflation in any year goes into a new 1-year fund that must be distributed that year through grants to LEA's for local systemic improvement activities or for specific direct services. In the next year, the amounts expended for such activities must be distributed to LEA's based on the part B formula.

**Local maintenance of effort.** The bill codifies the local maintenance of effort provision from the current regulations, except makes it applicable only to local funds, and includes additional exemptions for when a local school district need not maintain effort, for example, a teacher at the high end of the pay scale retires and is replaced by a recent graduate.

In addition, the bill also provides some relief to LEA's by allowing LEA's to replace local funds with a portion of new Federal dollars. Once the appropriation for the program reaches \$4.1 billion LEA's would be allowed to replace local funds with up to 20 percent of the increase in their Federal funds over the prior year. However, SEA's could prevent LEA's from doing this in cases in which the SEA determined it was necessary to ensure compliance with the IDEA.

#### ENCOURAGING EXEMPLARY PRACTICES THROUGH THE DISCRETIONARY PROGRAMS

The bill consolidates 14 authorities under current law down to 6. The changes promotes the improvement of educational results for disabled children and early intervention services for disabled infants and toddlers by supporting system change activities carried out by State educational agencies in partnership with LEA's and others, through a State improvement plan, coordinated research and personnel preparation, and coordinated technical assistance, dissemination, and support and technology development and media services. The bill retains the separate program supporting parent training and information centers.

Mr. President, I have a brother who is deaf; and so, I am particularly pleased to learn that the loan program for the deaf is preserved by S. 717.

ASSISTING STATES WITH THE INFANT AND  
TODDLER PROGRAM

The bill includes improvements in the early intervention program for infants and toddlers with disabilities, including clarifying that these children should receive services in natural environments where appropriate, for example, in their home; and providing improved requirements designed to ensure a smooth and effective transition from the early intervention program under part C, part H under current law. The bill also significantly increases the authorization level for this program from \$315 to \$400 million.

STRENGTHENING ENFORCEMENT  
RESPONSIBILITIES

Mr. President, I have set out the major improvements that have been added by this bill. However, another critical addition to IDEA that is added by this bill relates to strengthening the enforcement responsibilities of the Department of Education and each of the State educational agencies in ensuring full and consistent implementation of IDEA. As I mentioned earlier in my statement, 22 years after the basic provisions of IDEA were passed the law is not being implemented consistently across the Nation, or even within individual States. S. 717 adds additional enforcement teeth to the bill:

The bill provides the Secretary of Education with greater authority to enforce the law, for example, authority to withhold all or some funds, including funding for administrative salaries when violations are found and refer the matter to the Department of Justice for appropriate enforcement action, including the failure to comply with the terms of any agreement to achieve compliance within the timelines specified in the agreement. Authority to withhold in whole or in part is also provided to SEA's. In addition, the bill requires that the public be notified when enforcement action is contemplated. Further, the local school district must make available to parents of disabled children and the general public all documents relating to the eligibility of the agency.

I am pleased that these enforcement provisions are in the bill.

In closing, Mr. President, I would like to quote Ms. Melanie Seivert of Sibley, IA, who is the parent of Susan, a child with Downs Syndrome. She states:

Our ultimate goal for Susan is to be educated academically, vocationally, [and] in life-skills and community living so as an adult she can get a job and live her life with a minimum of management from outside help. Through the things IDEA provides . . . we will be able to reach our goals.

Does it not make sense to give all children the best education possible? Our children need IDEA for a future.

Mr. President, IDEA is the shining light of educational opportunity. And we, in the Congress, must make sure that the light continues to burn bright.

We still have promises to keep.

I urge all of my colleagues to join me in supporting S. 717 the IDEA Amendments of 1997.

## AMENDMENT NO. 240

(Purpose: To modify the provisions relating to the limitation on the provision of a free appropriate public education to children with disabilities)

Mr. JEFFORDS. Mr. President, I have a managers' amendment at the desk which has been cleared on both sides.

The PRESIDING OFFICER (Mr. FRIST). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 240.

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

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

The amendment is as follows:

Beginning on page 65, strike line 25 and all that follows through page 66, line 4 and insert the following: "part be provided to children with disabilities who, in the educational placement prior to their incarceration in an adult correctional facility—

"(I) were not actually identified as being a child with a disability under section 602(3); or

"(II) did not have an individualized education program under this part.

Mr. JEFFORDS. Mr. President, this amendment clarifies that the obligation to make a free appropriate education to children with disabilities does not apply with respect to children age 19 through 21 to the extent that State law does not require special education-related services under part B of IDEA.

We provided for children with disabilities who, in the educational placement prior to incarceration in an adult correctional facility first, were not actually identified as a child with a disability under section 6023 or did not have an individualized educational program.

This is a technical amendment to clarify for which children a State does or does not have an obligation to provide special education-related services relative to incarcerated individuals. The same technical amendment is to be incorporated as a technical amendment when it is to be considered by the full House when it considers its companion bill tomorrow.

This is agreed to by both Houses, as well as by both sides in this. I ask the amendment be considered agreed to.

Mr. HARKIN. Mr. President, we wholeheartedly support the amendment.

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

The amendment (No. 240) was agreed to.

## AMENDMENT NO. 241

(Purpose: To modify the provision relating to the authorization of appropriations for special education and related services to authorize specific amounts of appropriations)

Mr. GREGG. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 241.

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

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

The amendment is as follows:

On page 64, strike lines 19 and 20, and insert the following: "there are authorized to be appropriated to the Secretary not less than \$4,107,522,000 for fiscal year 1998, not less than \$5,607,522,000 for fiscal year 1999, not less than \$7,107,522,000 for fiscal year 2000, not less than \$8,607,522,000 for fiscal year 2001, not less than \$10,107,522,000 for fiscal year 2002, not less than \$11,607,522,000 for fiscal year 2003, not less than \$13,107,522,000 for fiscal year 2004, and such sums as may be necessary for each succeeding fiscal year."

Mr. GREGG. Mr. President, first, let me begin by speaking a little bit about the underlying bill and congratulating the chairman of the committee, Senator JEFFORDS, and the Presiding Officer for their extraordinary work in developing this bill. The Senator from Tennessee, the Senator from Vermont, and the Senator from Iowa, of course, have been involved in this issue for years and years and have worked very hard together, as have a number of Members of the Senate and House.

It has been acknowledged that Senator LOTT, through his excellent representation and his chief of staff, David Hoppe, has done an extraordinary amount of lifting to make sure that this process has come to closure. It was not an easy one. Meetings went on for dramatic lengths of time. There were complications, controversial issues which people had vested interests in which were very deep and intensely felt. The fact that a final product was reached, and an agreement has been brought before the Senate, reflects the genuine effort of a lot of very good people. It is a product which will benefit many children in this country as it goes forward and represents a new day for special education. It is really not a reauthorization of the special education bill but basically a new bill, a new approach, in many ways. It should be looked on as such.

I got involved in special education a long time ago, in fact, before I was even able to vote. I was working at a center called the Crotched Mountain Rehabilitation Center, which began as a center to care for children who have polio, and when that disease was, fortunately, beaten, it moved on to care for children who had problems with hearing, deaf children, specifically, and then when that issue was resolved in many ways relative to needing special schools and those children could find their way into the mainstream, it moved on to dealing with children with very complex physical disabilities, sometimes emotional disabilities. It is and continues to be the premier facility, or one of the premier facilities, in the country for caring and educating—

that is the basic goal of the Crotched Mountain Rehabilitation Center—children with disabilities, and does it in a variety of ways.

When 94-142 came along, we saw it as a great step forward because it meant the school systems would begin to have to be involved in educating children who we felt should have remained in school systems, but because school systems were not able to do it, ended up at Crotched Mountain. It gave us the opportunity to move kids back into education in the much more comfortable environment of their home and community, who should have been in their home and their community being educated. We continue to work with those who really needed some special attention.

So the issue of special education is something I have had a lot of personal involvement with. I think that 94-142 is a bill with really strong decisions made by this legislature over the years in the area of education. But as part of that concept, there was an element of sharing of the effort. Originally, when it was passed, 40 percent of the cost of special education was going to be borne by the Federal Government, the balance being borne by the local communities and the State. This was a reasonable cost-sharing concept.

Unfortunately, over the years, although the bill itself continues to work and kids are getting educated, the cost sharing has not occurred. The Federal Government's participation in helping to bear the burden of educating children who have special needs has dropped to about 7 percent, or did drop to about 7 percent a year and a half ago. That meant that the local communities and the States have had to step in and pick up the Federal share of the cost.

What has this done? Unfortunately, it has perverted the process. The practical effect of this is not only that the Federal Government has not come up with the dollars that have been owed the local communities, the practical effect has been in two ways extraordinarily detrimental. First, it has meant that the special-needs child and their parents have found themselves in a constant confrontation—almost, in many instances, an actual confrontation, but certainly a tension with the parents of children who are not special-needs children and with the school boards, because the demand to educate and the cost to educate the special-needs child is in many instances so high.

I know of a number of instances in New Hampshire where special-needs-children costs have been upward to \$100,000. It is certainly not unusual for it to be in the \$10,000 to \$20,000 range. That has meant that resources which parents of children who are not special-needs children felt was available to them, in many instances, because of the need to pick up the Federal cost, have had to go to benefit the special-needs child, because we are dealing, in

many instances, with a pie that could not be expanded, and therefore the slicing of the pie ended up with the special-needs child obtaining, appropriately, a significant support level. But because the Federal Government was not coming in and paying its fair share, the support level for other children in the school systems dropped off or was less—maybe not dropped off, but was less than what was, many people thought, needed.

So this tension occurred and it does occur and it still exists out there. I know in my own school systems in New Hampshire it still exists, and it is difficult on the parents. It is hard enough on the parents to have a special-needs child. It is more difficult when you put them in the position of being faced with this controversy over how the funds are being allocated in the school system. So that was one of the detriments of this failure of the Federal Government to live up to what it said it would do.

The second detriment of the Federal Government's failure to living up to what it said it would do, it perverted the tax base of many communities. I know in my State and throughout New England, and it may be true in other parts of the country, real estate taxes pay a tremendous percentage of the costs of education. What happens when the Federal Government fails to come forward with its full share of the special-education need, then that means that cost falls back on the property tax owner, the homeowner in the community, who is already under significant stress with the tax burden. This, again, creates tension, an inappropriate tension, between the homeowners and the communities, and property taxpayers in the communities who maybe do not have schoolchildren, and particularly special needs children, and the school system itself, which sees needs that it feels it has to pay for, but it does not feel it can go back to the property tax owner or to the State tax treasury for. In many States, that may be the effect. You have an intense confrontation in many areas, and the intensity of it is undermining the confidence in the school systems and the quality of the school systems and, unfortunately, the character of the school systems as a positive environment which the community has supported in many areas.

So, that, again, is almost a direct function of the Federal Government's failure to pay its fair share. Why do I say that? Because in New Hampshire, in the average school district in New Hampshire, 20 percent of the costs of the school districts go to special education—20 percent—and New Hampshire may be low compared to other States. I think in Massachusetts it is somewhere around 30 percent. However, what you can see when the Federal Government fails to come forward and pay its fair share of that cost, of that 20 percent, is that has a disproportionate impact on the community, on the students, and on the tax base.

So what we have here is the Federal Government having created an obligation—and an inappropriate obligation—on the communities and States, having said it would fund that obligation at the level of 40 percent, but only funding it at the level of 7 percent, 2 years. We are getting that amount up a little bit because of efforts made by the leader, Senator LOTT, but not up enough.

So we have probably the single largest unfunded mandate of the Federal system outside of the environmental area in this area of special education. One of the primary commitments of the Republican Congress was that we would stop unfunded mandates. So as an effort to do that, we passed as a Congress—and I think it was passed almost unanimously, so we had bipartisan support—a bill that was authored by Senator KEMPTHORNE from Idaho, was passed during the last session, and that bill said there would be no more unfunded mandates, or if there were unfunded mandates, it would take a supermajority to pass, in most instances, or at least we have to have full disclosure.

Well, I think that should apply to re-authorizations, and especially re-authorizations which are essentially a creation of a new approach, in many ways, to the law.

On the balance of what we have already done as a Congress, clearly, we have an obligation to live up to the 40 percent, but more importantly, we have an obligation to live up to it because it is needed, it is appropriate, and it is the right thing to do.

I have offered this amendment, which I brought forward today, which essentially will get us to the 40 percent. While it does not get us there immediately, it gets us there, I believe, by the year 2004. It is a scaling up, and I believe with some of the incentives for a little more efficiency which this bill puts in place, especially in reducing, hopefully, some of the attorney's fees and consultant fees, that we will be able to reduce some costs in special education and, at the same time, be increasing the Federal share. I believe that, as a result of those two functions, we will get to the 40 percent level, which is the goal we should attempt to obtain here.

Let me tell you a little bit of the history of the funding of this issue. Last year, we considered this to be so important that as we completed the omnibus appropriations bill, Senator LOTT, to his credit—and he never got much credit for it, which I thought was ironic—insisted that as part of the settlement with the White House, we would put an additional \$780 million into special education. That brought the special education total to about \$3 billion. That was a major step forward. That meant significant, new, or additional dollars in special education. But it only meant that we essentially went from 6 or 7 percent up to about 8, 8.5 percent of the funding levels of the special ed cost for the country. So we are

still well below the 40 percent we should be at. But at least we put our dollars where our talk was and we showed that we were willing to make that decision as a Republican Congress. We were willing to put dollars on the table in support of special education. We didn't get any credit for it. In fact, during the election, in many instances, we were rather vilified by our position on education by some of our opposition. But the fact is that we have been there with dollars and commitment.

Now, as this Congress began, I thought the President would want to join us in this effort. I regret to say that he has not. He has put forward a lot of funding initiatives in education. He has talked about them everywhere. Obviously, he has made education a priority. But for some reason, in doing that, he has overlooked, ignored, what is the primary Federal education obligation today in the elementary and secondary school system, which is special education funding. As he has created all these new programs for educational funding, he has failed to, in any significant way, go back and fulfill our obligation of the 40 percent. In fact, his budget proposed only an additional \$141 million. That is a lot of money, but in the context of what we are talking about relative to the cost of special education, it is really a very, very, very insignificant commitment, especially when you consider the fact that he is talking multiple billions—somebody said it was \$30 billion—of new funding for education and discretionary accounts over the term of the next budget cycle. That may be high, but we know it is a very big number. It hasn't been settled, but it is a huge number.

So it didn't surprise me, really, that he failed to put this on his list of issues that should be addressed, because this is an obligation the Federal Government presently had. So it is my belief that before we start—most of these educational issues are new initiatives—before we start creating a new obligation for the Federal Government in education that we are going to do this, this and that for the public, we ought to fulfill the obligation we made back in 1976, which was that we would fund 40 percent of the special ed need, an obligation which not only should we fulfill because we said we would by law, but because it is the right thing to do and because it works. Special needs kids who go through the system learn and they participate in the mainstreaming of education, and they have an opportunity to have a better lifestyle.

So if you want to help education, this is a great way to do it. Not only would it help a special needs child, but, equally important, if we fully fund the 40 percent of special education accounts, we will, in fact, be helping education at the elementary and secondary school level dramatically because we will be infusing a significant amount of funds into a system that is under strain right

now, according to the President, and I believe it is, also.

Those funds will give the local school systems new flexibility in order to address other needs of the school system because, under this bill, one of the positive aspects of this bill is after we get to a certain funding level, which we haven't quite reached yet, local communities will have a chance to take a percentage of the special needs dollars and apply them for other educational activity, which is the way it should be, because, right now what is happening is that the local dollars are being used to fund the Federal share. When the Federal Government starts to fund its share, the local dollars should be freed up to fund other educational initiatives, those which are important in the community. That is the concept of this bill, in part. So this attempt to fully fund the special needs program is critical, not only to help the special needs child but also to free up the funds and give the local school system some flexibility as to how they address the coming years of cost and expense and education of our children.

So this amendment that I am offering today, which has broad bipartisan support, is a statement of our belief as an authorizing committee that we shall pay the obligations of the special ed bill as it was originally intended. We don't get there immediately. We propose about a \$1 billion increase this year, followed by a billion and a half or so each year thereafter until we get to approximately the 40 percent level. We need this authorization, obviously, in order to give the appropriating committees the directions that will allow them to make the proper allocation for the new education dollars that are going to be flowing. If the appropriating committee does not see from the authorizing committee that we consider this to be a priority, then the appropriating committee may want to put the money somewhere else. But, obviously, this is a priority for us.

This has been a key piece of legislation. The chairman has worked on this and has been committed to this for years. The Senator from Iowa has an equal commitment, as do the members of the committee. Of course, the majority leader, through actions last year and through the involvement of his chief of staff this year, has shown his tremendous commitment.

I should mention one other item relative to commitment from the Republican side. The Republican Congress and the Senate listed the top 10 issues that we intend to pass in this session. The No. 1 bill that we put forward, S. 1, was a bill that called for funding for special education exactly in line with this amendment. So this amendment is essentially an assertion of what is the Republican senatorial conference's position relative to funding special education and has been rated the No. 1 priority of this Republican Congress by its designation as Senate bill 1.

So let me conclude there. But first let me make a couple of points. I want

to, again, note what the chairman noted, which is that the Senator occupying the chair now, the Senator from Tennessee, was the energizer of this effort. He put thousands of hours, I suspect, or hundreds anyway, into this effort last year and did an extraordinary job of getting us almost to the finish line—close enough so that it was able to be crossed this year. Second, I thank the chairman for his excellent effort in this area. He has been a committed individual in the area of education and all of the aspects of education, as we know, for many years. This is another in the long list of successes he has had.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. Mr. President, I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I commend the Senator from New Hampshire for his amendment, although I will have to oppose it for reasons unrelated to its value. The situation is this, and I want to bring to the attention of my colleagues the situation we face with respect to any amendments. As I earlier expressed and took some time to disclose the tremendous difficulty we have had in getting a consensus—and the Presiding Officer knows how difficult it was because he worked long and hard to obtain a consensus last year, and we thought we had a consensus. At the last moment, it dissolved, it disappeared. Why? Because some people went out and really distorted the great work that had been done—this is such an emotional issue with educators and parents of the disabled—and the whole thing unraveled.

This year, we started where Senator FRIST's efforts stopped and built on that, and not only that, but in the leadership's office with the data, we went the furthest mile possible to make sure everybody understood exactly what was in the bill. It was argued and debated. It was from one part of the country to another. Finally, it was agreed that we would all hold hands and work until the last hour of the time possible to make sure that we had every amendment that could be agreed upon done. We finished that effort earlier. However, the situation is this. The House has passed the bill. We will pass that bill on the suspension calendar with the little amendment we had this morning. Once that is done, then it will come over to us and we intend to pass ours. If they are identical, there is no chance of this falling apart. However, if there is an amendment that is of significance, even though I agree with the intent of the Senator from New Hampshire, the thing will fall apart. There is a chance that it won't, but having gone through that

experience last year, I don't want to go through it again.

Let me explain, also, why the Gregg amendment is not necessary. First of all, there are no set authorization levels in the bill, nor have there been in previous legislation. It says such sums as are appropriated and defined. So there is no limit. There is no limit down; there is no limit up. So everything that the Senator from New Hampshire wants to accomplish can be accomplished without his amendment.

I want to reassure everyone that if the Appropriations Committee decides that it will follow, as it did last year, to add the additional billion dollars, that will be done. On the other hand, if we don't, if we can't agree, we could really have an impasse here. I want to commend the Senator from New Hampshire because I was present in the leadership office when we were discussing these matters at the end of last year when we were trying to reach agreement on the total amount of money that would be spent. He was the one that brought to the attention of Senator LOTT the great need—and I backed him up on that—that if we wanted to help the local school districts in this country and really improve the ability to improve education, what we had to do was live up to our commitment to the 40 percent. I was on the conference committee that made that commitment we should provide 40 percent.

I also want to explain, though a little differently than the Senator from New Hampshire, that, in my mind, this is not a Federal mandate. There were 26 State cases where it was determined there was a constitutional right for an appropriate education. That right included mainstreaming. As a result of that difficulty created throughout the country, the Congress decided that what had to happen was for the Congress to step in and establish those principles that would comply with the constitutional mandate of an appropriate education containing mainstreaming. So that is why, in 1975, we spent many days putting together the legislation which has finally resulted in being here today.

The mandate is on the States to provide an appropriate education. We devised 94-142 in this law in order to ensure that there were a sense of generally agreed upon principles as well as specific approaches on how to put a bill together that would ensure that the States comply with a constitutional mandate, and everyone would agree upon that.

So I understand the call for mandate. But I wanted to give that history because I think that is important.

Also, under the leadership of Senator GREGG some time ago—back about 3 years ago—he came forward with an amendment that we agreed to work on, one that we could pass. I think all of my colleagues should remember this.

Hopefully, we will remind you today and tomorrow that Senator GREGG and I passed an amendment that said as

soon as reasonably possible we will fully fund IDEA. In my mind, that time is here. It is reasonably possible. The money is there. We just have to do it.

So we don't need another amendment because we voted 93 to 0 in this body to say as soon as reasonably possible we will fully fund it. So we don't need the Gregg amendment. But we need to bring it out of the Appropriations Committee in order to bring that to a reality. As has been pointed out, that is part of the majority view on what should happen this year with respect to the budget.

We should get ourselves on a path to fully fund this over a reasonable length of time. We can't do it all in 1 year. We know that. But if we go forward and use the guidelines set out in the Gregg amendment we could get there.

But we don't need this amendment to do that, it has already been done. This amendment raises this issue once again. I praise the Senator from New Hampshire for doing that. It makes it apparent to all of us what needs to be done. It lays the groundwork.

So at the appropriate time I will ask hopefully that this amendment be withdrawn, or some other way taken to make sure that we do not add the amendment to the bill.

So I want to again thank the Senator from New Hampshire who has been tireless in his efforts to make sure that we do adequately and appropriately fund 94-142.

I would also like to point out what the bill does in that regard because I think it is important to know.

As the Senator from New Hampshire pointed out, the greatest burden has been placed not where it should be on the States but on the local communities. What we want to do—I agree with him on that—is try to make sure that any additional funds that are placed in the appropriations process must be passed through to the town. That is extremely important. That is in this bill. This bill say to the States that, if we give them more money, they can't just reduce their share. We say they have to maintain their share. Not only that, they have to flow that money through to the local governments where the greatest pressure problems are.

So this bill I think accomplishes our goals already without this amendment, everything that the Senator from New Hampshire wants to accomplish. It has the flowthrough to make sure, as he wants to see and I want to see, that the local governments have adequate funding, and that the States can't hog it or reduce their own share.

So I, unfortunately, must oppose the amendment. But, again, I praise the Senator from New Hampshire for bringing it before us.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARKIN. 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. HARKIN. Mr. President, I want to join with our committee Chair, Senator JEFFORDS, in reluctantly perhaps opposing the amendment offered by the Senator from New Hampshire. As I said in my opening remarks, Senator GREGG has been a leader on the issue ensuring that we had adequate funding to help the States and local school districts meet their constitutional obligations.

However, again, as Chairman JEFFORDS said, this bill was a compromise worked out after long negotiations, and certainly there is nothing in the bill that would restrict us in any way from reaching the levels that Senator GREGG wants to reach in the future. So that the door is open.

Hopefully we will find those resources that would enable us to help the States meet their obligations. So I join with the chairman in opposing the amendment.

Mr. President, there was something else that was said. Again, my colleague, Senator JEFFORDS, responded adequately to it. But I would like to just add my remarks to buttress what Senator JEFFORDS said regarding the statement made by my friend, Senator GREGG, about this being some kind of unfunded mandate and falling under the unfunded mandate law of the Congress. Quite frankly, Mr. President, many people still have this concept that IDEA is an unfunded mandate. It is simply not correct. Again I want to set the record straight. Part B of IDEA is not an unfunded mandate.

The notion that Congress imposed a mandate on the States and school districts to educate children with disabilities and then refused to pay for it is simply not the case.

The truth is that the right of children with disabilities for free appropriate public education is a constitutional right. It is not something that we mandated here in Congress. It was established in the early 1970's, as I said earlier, by two landmark court cases—*Pennsylvania Association for Retarded Children versus Commonwealth*, in 1971, and *Mills versus Board of Education of the District of Columbia*, in 1972.

Again, these established the right. Basically, in my own view, what they said is, "Look, if a State guarantees to its children a free public education, it can then not discriminate against other children because of disabilities."

Again, the Constitution certainly wouldn't allow a State to say we are going to provide free public education to all children but only if they are Caucasian. Obviously, the Supreme Court would strike that down in a minute; or, we are going to provide a free public education to all males but not females. They will strike that down in a minute, too. You can think of all kinds of scenarios.

What has been happening in the past is we were providing a free public education to kids but not to kids with disabilities. And the courts said, "Wait a minute. That falls under the same equal protection clause of the 14th amendment of the Constitution." So the courts struck it down. They said if the States provide that public education it can then not discriminate on the basis of disability.

So it is not a mandate of Congress. It is a constitutional mandate. What Congress said was OK in 1974. Senator JEFFORDS was the leader at that time on the bill. But the Congress said it is OK. We understand that local school districts have a responsibility to provide a free and appropriate public education to disabled children. The Federal Government should help States meet their constitutional responsibility. And we set up the basic provisions of part B to make sure that the States meet the court judgments.

As the Senate report stated, passage of the act, "It is the intent of the Committee to establish and protect the right to education for all handicapped children and to provide assistance to the States in carrying out their responsibilities under State law and the Constitution of the United States to provide equal protection under the law."

So again there is not an unfunded mandate of the Federal Government. Of course, again when the law was passed it was stated that the goal was for the Federal Government to eventually fund 40 percent of the cost. We are still down around 7 percent. So we have a long way to go to get to 40 percent.

But again, that was never a requirement in law. It was a goal we set up. Again, I agree with Senator GREGG. It is a goal that we ought to be working toward. The Federal Government ought to provide greater assistance to local school districts to help them meet their constitutional responsibilities. We have a national goal. We have a national commitment to this. We ought to help solve that problem on a national basis.

So, while I agree with Senator GREGG and his comments regarding trying to get the Federal role up, I do not agree with him that this is an unfunded mandate at all. The law and the record is clear on that.

Also, IDEA is a program exempted from coverage under the Unfunded Mandates Reform Act of 1995. That was also introduced I believe by Senator GREGG. That would fall under that act that we passed a couple of years ago.

The Congressional Budget Office explicitly recognized this fact in the House and Senate report accompanying the bill.

I will read this. This is from page 45 of the report.

Intergovernmental and private-sector impact: Section 4 of the Unfunded Mandates Reform Act excludes from consideration under that Act any bill that would "establish or enforce statutory rights that prohibit discrimination on the basis of . . . handicap,

or disability." S. 717 fits within that exclusion because it would ensure that the rights of children with disabilities are protected in the public education system.

So clearly it does not fall under the Unfunded Mandates Reform Act of 1995.

So, again, Mr. President, it is a good goal. There is nothing in this bill that prohibits us from meeting that goal. Hopefully those on the Appropriations Committee, of which I am one, will in the coming years ensure that the Federal Government meets more of the needs out there. I will not say "obligation" but "meet" more of the needs of what the Federal Government ought to be providing the States and local governments.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. JEFFORDS). The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, I rise in support of the passage of the Individuals with Disabilities Education Act Amendments of 1997, commonly known as IDEA.

The Individuals with Disabilities Education Act is a civil rights law that ensures that children with disabilities have access to a free appropriate public education. The 22-year-old law has been a tremendous success.

During the 104th Congress I had the opportunity—in fact, the privilege—to serve as chairman of the Subcommittee on Disability Policy. In that capacity, I worked on a bipartisan basis, especially with my friend Senator HARKIN, in establishing a commonsense approach to the reauthorization of this vital critical law. Unfortunately, as you heard earlier on the floor, time ran out before we could fully achieve the broad widespread consensus that we set out for, and, thus, IDEA is before the Senate today.

Throughout the last Congress we elected to keep the high ground and use our efforts to work together on a bipartisan basis to establish the consensus that we have achieved today. Yet, I am pleased to say it has become the foundation of the bill that is on the floor. I am glad to see that all of those efforts on behalf of so many people over the last Congress are reaching fruition.

I especially want to thank Senator HARKIN for the leadership that he showed and has shown on this issue through this Congress, through the past Congress, and throughout his tenure in the U.S. Congress.

I also want to thank his staff, Bobby Silerstien and Tom Irvin. I recognize and thank my former staff director of the Subcommittee on Disability Policy, Dr. Patricia Morrissey, and the staff of this subcommittee, which at that time included David Egnor, Sue Swenson, and Dr. Robert Stodden, for their tireless efforts really day and night during the 104th Congress.

I also want to thank David Larson, who worked diligently on the Subcommittee on Disability Policy in the last Congress and has remained on my

staff to advise me on disability policy issues.

We have heard, and will continue to hear over the course of today and tomorrow, about the efforts that have gone on in this Congress—really historic efforts—to achieve a bipartisan consensus working with the House and the Senate to put together and to fashion a bill that is on the floor today. I know from experience over the last Congress how difficult and how hard it is to achieve this commonsense consensus approach. And, thus, I think we will hear both today and tomorrow that there will be amendments that come to the floor that we very much support in substance, in spirit, but which may be just enough to set off the very delicate balance that we have in the bill that has been brought forward.

I want to salute all of the members and the staffs who have spent the days and nights reaching this agreement: David Hoppe has been mentioned repeatedly for his wisdom, for his judgment, and for his commonsense approach, and, on top of all that, his courage and patience in this effort. I also want to thank my colleagues, Senators LOTT, JEFFORDS, COATS, KENNEDY, and HARKIN once again for their efforts in this process, and, of course, Senator JEFFORDS who worked on the original passage over 22 years ago. And it is really fitting that the chairman of the Labor and Human Resources Committee be present and providing the key leadership in amending it 22 years later.

These amendments reflect the reality, the recognition that our Nation's schools are moving past that initial challenge of providing access to educate children with disabilities to a new step in that process to educate children with disabilities so that they can become productive and independent citizens. The IDEA amendments of 1997 will help the Nation's schools succeed in that effort.

Twenty-two years ago, before IDEA, a newborn with a disability had little hope of receiving help during the critical early years of development; children with disabilities who went to school were segregated in buildings away from their siblings and peers, and many young people with disabilities were destined to spend their lives in institutions. Young people with less-obvious disabilities, like learning disabilities and attention deficit disorder, were denied access to public education because they were considered too disruptive or unruly. These children tended to grow up on the streets and at home with no consistent access to an appropriate education.

Today, infants and toddlers with disabilities receive early intervention services; many children with disabilities attend school together with children without disabilities, and many young people with disabilities learn study skills, life skills, and work skills that will allow them to be more independent and productive adults.



Children without disabilities are learning first-hand that disability is a natural part of the human experience, and they are benefiting from individualized education techniques and strategies developed by the Nation's special educators.

Children with disabilities are now much more likely to be valued members of school communities, and the Nation can look forward to a day when the children with disabilities currently in school will be productive members of our community. As a nation, we have come to see our citizens with disabilities as contributing members of society, not as victims to be pitied. As a nation, we have begun to see that those of us who happen to have disabilities also have gifts to share, and are active participants in American society who must have opportunities to learn.

While there is no doubt that the Nation is accomplishing its goals to provide a free, appropriate public education to children with disabilities, many, many challenges remain. We have made an effort to deal with them in the amendments, the IDEA Amendments of 1997 that we now have before us.

IDEA was originally enacted by that 94th Congress as a set of consistent rules to help States provide equal access to a free, appropriate public education to children with disabilities. But, over the years, that initial need to provide those consistent guidelines to States has sometimes become misinterpreted as a license to write burdensome compliance requirements. In addition, it has become clear that new guidelines on procedural safeguards are needed.

The IDEA Amendments of 1997 address these issues. These amendments give educators the flexibility and the tools they need to achieve results and ease the paperwork burden that has kept teachers from spending the maximum amount of time teaching. By shifting the emphasis of IDEA from simply providing access to schools to helping schools help children with disabilities achieve true educational results, we are able to reduce many of the burdensome administrative requirements currently imposed on States and local school districts. The amendments do that.

The IDEA Amendments of 1997 streamline planning and implementation requirements for local school districts as well as States. In assessment and classification, these amendments would allow schools to shift emphasis from generating data, data dictated by bureaucratic needs, to gathering relevant information that is really needed to teach a child. These amendments also give schools and school boards more control over how they use special purpose funds to provide training and research and information dissemination. We want to encourage every school in America to create programs that best serve the needs of all of their students, with and without disabilities.

The IDEA Amendments of 1997 clarify that the general education curriculum and standards, the standards associated with that curriculum, should be used to teach children with disabilities and to assess their educational process. Educators at the local and State levels will use indicators of student progress that allow them to focus on quality of educational programming and track the progress of children with disabilities in meaningful ways along with the progress of other children.

In an effort to reduce confrontation and costly litigation, the IDEA Amendments of 1997 require States to offer a system of voluntary schools mediation to parents who have a dispute over children's education.

The amendments also address the serious issue of disciplining children with disabilities who break school rules that apply to all children. By providing fair and balanced guidelines to help schools discipline students with disabilities, the IDEA amendments will ensure that all children in our public schools are given the opportunity to learn in a safe environment.

By preserving the right of children with disabilities to a free, appropriate public education and by providing school districts with new degrees of procedural, fiscal, and administrative flexibility, and by promoting the consideration of children with disabilities in actions to reform schools and make them accountable for student progress, IDEA will remain a viable, useful law that will provide guidance well into the next century.

In closing, we must remember that, no matter how careful we are in this Chamber to adopt good Federal policy, no matter how diligent each doctor and teacher and parent is across out Nation, the world is and always will be unpredictable. Children with disabilities will always be born. Children will develop disabilities through injury or disease. Their disabilities will almost always take their families completely by surprise. We may be certain that our own families and our own friends will be touched by disability, through we will not know when or how.

The great power of IDEA, reinforced and preserved by these amendments, is that it brings people with disabilities into the heart of our communities and our schools, where we learn that disability does not divide us, but binds us to each other.

When we take the time to know children with disabilities and their needs, we learn a great deal. From families who have children with disabilities, we learn that even though everyday life may pose great challenges, nothing interferes with the love a parent feels for a child. From the excellent teachers who work with children with disabilities, we learn that even though teaching such a child may stretch one's abilities, it can be the most rewarding experience in a teacher's career, often renewing their faith in their own skills and in the system that supports them.

From the children who attend school together, we learn that children with disabilities can be valued friends whose hopes and dreams are respected and nurtured on an equal basis with those of their peers.

As I mentioned earlier, and as we have heard in the Chamber, the bill as it stands is built on a very delicate consensus achieved over the course of more than 2 years of hard work, culminating in what I feel will be a historic effort in the next several days in Congress. We all know how difficult consensus agreements are and how difficult they are to maintain over time. There is always a group that is going to be a bit unhappy, a bit dissatisfied with what they had to give up to reach this consensus, while at the same time those groups tend to forget a little bit what they received in exchange, and they begin to feel maybe they can push a little bit harder and get a little bit more. They forget that the other side also is not entirely satisfied.

To my colleagues who have not yet decided which way to vote on this bill or as amendments come to the floor, I ask all of you simply to look at what really does hang in the balance: the first real changes in IDEA in more than 22 years; substantial new relief for schools; new tools for teachers; and a new focus on achieving results for children with disabilities. I hope all of my colleagues will step beyond the last-minute clamor for changes or adding additional amendments and even to really look beyond what may be the unhappiness of a few people that I am sure will arise over the next day or so. Instead, we need to look to those goals and to the needs of the Nation. And I ask my colleagues to join me in supporting this very important package of amendments and bring this important law into the next century.

Mr. President, before stepping down, let me simply comment briefly on the amendment which was just introduced by my colleague, Senator GREGG. I think he and the subsequent Senators who came to the floor to speak have outlined the history behind funding for IDEA, and therefore I will not recount that. The funding today is currently at about \$4 billion for fiscal year 1997, which, as has been pointed out, is an increase of about \$700 million from the previous year. And again, I extend my thanks and my appreciation to my colleagues, including Senator LOTT and Senator GREGG, who were so instrumental in seeing that that \$780 million was added.

As has been pointed out, when IDEA was originally enacted, essentially a promise—I guess we can debate whether or not it is called a mandate or not, but a promise was made that the Federal Government would pay 40 percent of the cost of IDEA, and at that time 40 percent, I believe, was the estimate it would cost to provide services for a child with disabilities as opposed to a regular education student, and again, as we have heard, currently instead of

paying 40 percent of the cost of IDEA, we, the Federal Government, the U.S. Congress, is paying about 8 percent—not 40 percent, 8 percent. Thus, we have fallen far short on our promises to the States.

Senator GREGG worked through last year, the last Congress, and he continues today working very hard on this important issue. It is an issue that I think all of us can gather around, this increased funding, funding which was promised to assure a free, appropriate public education for individuals with disabilities. Senator GREGG, along with 20 other of our colleagues, including myself, sent a letter to President Clinton this past February requesting that the President work with us to increase funding for IDEA. I would love for some of the \$35 billion that the President wishes to spend and has put forward as part of the current budget proposal be directed to this obligation—I would call it an obligation or a promise—that we made to our States in terms of funding IDEA. We have fallen far short.

Senator GREGG is absolutely correct on the issue, and I look forward to working with him again on whatever vehicle possible to increasing funding for IDEA. I was, in fact, disappointed that this amendment—after all of our consensus working group effort, bringing people together in a bipartisan and a bicameral way, I would love to have seen this amendment as part of the final agreement, yet it was not part of that final agreement, and therefore I will support those who have spoken over the last few minutes who will end up opposing this amendment on this vehicle. I hope Senator GREGG will consider withdrawing the amendment, again recognizing that all of us support the substance and the intent of the amendment, but just that we are very, very concerned, after working together, establishing the bipartisan and, in effect, bicameral bill, this may upset that balance just enough where we would lose the entire bill.

Again, I thank Senator GREGG for persistently and tenaciously addressing this underfunding by the Federal Government in promises it has previously made.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

(Mr. FRIST assumed the Chair.)

Mr. BOND. 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. BOND. Mr. President, today I want to share with my colleagues some concerns and views on this very important piece of legislation, S. 717, the Individuals with Disabilities Education Act Amendments of 1997. I express my appreciation to the distinguished chairman of the committee for the

good work he and the ranking member and the entire committee have done on this bill.

We all know that since the enactment of the Individuals with Disabilities Education Act in 1975, tremendous improvements have been made in the lives of millions of children with disabilities, providing them with a full array of outstanding educational services to meet their individual needs.

Mr. President, going back about a year before that, in the State of Missouri, when I was Governor, we passed our Special Education Act in 1974, one of the first major pieces of legislation adopted during my first term as Governor. House bill 474 was an effort at the State level to assure that children with disabilities received educational opportunities and received educational services that were designed to meet their abilities and to compensate for any difficulties or deficiencies they might have.

I think it is clear that we have come a long way. Clearly, there was much that needed to be done, and many of those children, with grave needs, were not being taken care of, they were not being served, and certainly they have a right to be served.

I think as we move through this bill, preserving the rights of special-needs children to a free appropriate public education so that they can become productive and responsible citizens is an absolutely essential goal that we must keep in mind.

I have had the opportunity to hear from many, many groups in Missouri who are concerned about how this bill is being carried out, how IDEA is being implemented. Without dissent, there is unanimous agreement that the goals are worthy, the objectives are right, the need is there, more needs to be done. Unfortunately, because of the way the law has been carried out, the way it has been interpreted, there are disruptions to classrooms, there is needless danger to other students and to teachers in the classroom, and there is also a shortage of funds to carry out the worthwhile objectives of this act.

As I traveled throughout Missouri over the last couple of weekends when I was home, I talked with school superintendents, principals, school board members, special education directors, parents and others who are concerned, and the two top concerns that were mentioned just about every place I went was safety and discipline for all students in the public school system.

The number of instances where there have been serious disruption and violent acts on students was hair raising. There was a lot of interest and focus in the St. Louis area on a tragic murder that occurred in one of the schools. A young woman was brutally beaten to death. It turns out that the young man who committed the crime was a young man with disabilities. He had transferred into that school district from another school district where he had been cited many times for bad behav-

ior. The receiving school district did not know anything about his past activities because they did not know about his behavioral problems. So the first thing they requested was that they get information on a student's past activities, if there has been discipline, what the discipline had been and why the discipline was administered.

Second, they told me some hair-raising stories about children with disabilities who committed violent acts. In one classroom, in a commercial art class, a young man picked up a knife and stabbed a fellow student several times and told the school administrators that since he qualified under a certain specific section of the act, they couldn't do anything to him, that they could only take him out of the classroom for 10 days, and then he would be back in there.

They told me about another student, one of two students, who had been apprehended for selling drugs. The one student who did not have a disability was expelled for 175 days. The other student, a year later, was still in the classroom. His parents had retained an attorney, which the school district was paying for, and they carried on the process. A year later, that student who sold the drugs was still in the classroom.

Earlier, I introduced legislation, the School Security Improvement Act of 1997, which is designed to do a couple of things: No. 1 is to create a safe learning environment for all children. We have to continue to provide support and assistance for disabled students, but where there is a clear-cut example of behavior that is incompatible with a decent learning environment, the schools have to be able to take some action. One principal told us, "You cannot learn in chaos. A child cannot learn in chaos. A teacher cannot teach in chaos."

When they have students with disabilities whose violent acts have been judged to be a manifestation of their disability and they have to come back into the classroom after 10 days, other students live in fear, teachers are apprehensive about the impact on their class and, according to the teachers, the administrators, the parents, the job of education comes to a halt.

The measure that I introduced, the School Security Improvement Act of 1997, will eliminate the double standard that currently exists between special education and general education children. All children, disabled or not, should receive the same discipline for the same behavior. I believe this is appropriate wherein the behavior of the child is not related to the disability. Children must learn that there are consequences for violating the rules. Good education means discipline and standards of conduct. If there is a violent act that is a manifestation of the disability, if it is a dangerous act, if it is a violent act, then that child ought to be put in a learning situation where there

will not be a danger to fellow students of committing a similar act.

In addition, this measure would require schools to include in the record of a child with a disability a statement of any disciplinary action taken against the student, and that should be available for a student transferring within a State or from State to State, so that the receiving school will know if there are problems with the student who has come to them.

The record issue, as I indicated previously, has been brought to the forefront because of the tragic murder of a young woman in north St. Louis County.

This measure that I have proposed will enable the school administrators to remove dangerous children with disabilities who pose a threat to the safety of others from the classroom and make temporary alternative placements to ensure that the safety of all students is secure until a more appropriate placement is determined.

In addition, the current IDEA provision requiring local school districts to reimburse attorneys fees incurred by parents who elect to initiate litigation has had what, unfortunately, is a predictable result of encouraging litigation and of driving up special education costs. It appears that the dispute-resolution procedures have become extremely adversarial and costly. Studies have found that the amount of special education litigation has dramatically increased in recent years. Too often, the litigation can be used as a fishing expedition to threaten districts with protracted litigation.

The practice serves to reduce district funds available to meet the needs of students with disabilities, and we clearly need reforms of the dispute-resolution process to ensure that scarce educational funds are used for educational services for the children for whom they were intended. But because of the explosion of litigation in this area, educational services for students are put at risk.

Under the measure I introduced, local school districts would be permitted to provide alternative education placements to children who threaten the safety of others. For some children, it is absolutely appropriate to remove them swiftly and permanently from the regular classroom setting. And under the law that I proposed, school officials would be permitted, on their own authority, to discipline dangerous and unruly students.

Again, the measure I introduced would give the school districts the authority and flexibility to ensure that the students and the personnel are provided educational and working environments that are safe and orderly.

Finally, I point out that when the Federal Government enacted IDEA, it promised to fund 40 percent of the national average per-pupil expenditure. Today, the Federal Government funds only 7 percent. That is why I am very pleased today to join with my col-

league from New Hampshire, Senator GREGG, to provide in this legislation explicit direction to Congress to fund fully IDEA.

I congratulate the committee and its leadership for having made so many necessary reforms in the reauthorization of the Individuals With Disabilities Education Act. I hope we can take the next very important step and assure the funding. Congress only recently has come up with 7 percent of the funding rather than 40 percent.

Last week, a major network news story featured a story on a school in my home State in Maryville, MO. The Maryville R-II School District did not have the revenue to repair its deteriorating classrooms. After six unsuccessful attempts to pass local bond issues, the district was able to pass a bond issue to renovate the schools.

The Maryville school district spends approximately \$434,800 on special education, of which \$68,200 is Federal funds, all of which is spent on mandates. If the district were not bound by the paperwork requirements and other costly mandates of the law, they would have more money to improve their facilities and their classrooms.

The skyrocketing costs of our special-needs children being served by IDEA places local school districts in a bind with little assistance from the Federal Government.

An Economic Policy Institute study on school funding found that new money for education went disproportionately to fund deficits in special education funding caused by increasing requirements for services coupled with the Federal failure to meet its promised commitment.

We have been in this body in an effort sometimes called devolution, sometimes called enhanced federalism, more often, in my view, called the commonsense approach of letting the level of Government which delivers the service make the decisions.

Over the last few years, it says we ought to be allowing the school district if it is an educational decision, or the water district if it is a water-related problem, or the justice system if it is a justice problem make the decisions of how it works.

We need to be providing more resources and less good ideas to local governments. That is particularly important in this field with the Individuals With Disabilities Education Act. I can tell you that the goals and the objectives are understood, they are strongly felt by the people who serve in the school system and who support the school system, but they have too many requirements that prevent them from getting the job done. That is why I think we need to provide some flexibility for local school districts. We need to reestablish and restore to local school districts, to school administrators, and others the ability to use common sense in maintaining discipline and order and safety in the classroom.

We also in this body need to step up to the plate and make sure that we

come through with the funding that is needed to carry out these mandates.

When I talked with the school principals, administrators, and teachers, I said, "After what you have told me, we need to give you some freedom to do these things." They said, "Well, how about a little money to help us with the burdens you put on us?" I said, "That makes sense." They said, "Look, to handle these children with disabilities who are violent, we need to have the resources to provide them the alternative education which is appropriate for them and which will not subject their fellow students to risks." It is going to be more expensive, and there is not the money there yet.

I am hoping that if we can increase the funding that is needed for these services, we are going to see not only order and discipline and conduct restored in the normal classrooms but a much higher quality of educational services delivered to the children with disabilities.

Again, I commend and thank the committee for making the many reforms it has done in this bill. And I say that the School Improvement Security Act of 1997, which I described briefly, most of which is very significantly incorporated in this measure—I have been advised that the following organizations strongly support the provisions of it: The Missouri School Boards Association, the Missouri Association of Elementary School Principals, the Missouri Association of Secondary Principals, the Missouri State Teachers Association, the Missouri Federation of Teachers & School Related Personnel, the Fort Zumwalt School District.

I think, I say to the chairman, that we could get a list a half-mile long of organizations in my State that are behind you in the efforts to reform and reauthorize this measure. I know they are going to be behind Senator GREGG's and my efforts to get more funding.

So I congratulate you on the measure. We look forward to working with you. We want to see if there is a way that we can provide the funding that is so badly needed for this very important service and for the well-being of the entire educational system in our country.

I thank the Chair and thank the distinguished managers of the bill.

I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. I thank wholeheartedly the Senator from Missouri for his comments. I also want to thank him for his introduction of the legislation last year which we found immensely helpful in being able to amend the present law and used to make sure that we did a better job in handling the very difficult situations which the Senator from Missouri referred to. He has been a tireless worker in many areas. This is one of those where he has demonstrated his keen ability to be of assistance in very difficult areas. I thank the Senator very much for his statement.

Mr. President, I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I do want to thank my colleague from Missouri for his long efforts to make sure that the law works and works well, not only on behalf of disabled students, but on behalf of all students. Certainly there is always room for discussion, debate, and trying to get a meeting of the minds and get people together on this. That is what I think we have done in this bill.

As my friend from Missouri pointed out at the closure of his remarks, this does have a broad base of support, from the National School Boards Association, Parent-Teacher Association, school officers, disability rights groups. It has a broad base of support, cutting across all these lines, which I think indicates we have, indeed, through the leadership of Senator JEFFORDS, met our obligation to ensure that our constitutional requirements are fulfilled and at the same time to ensure that our schools are safe and conducive to learning for all students.

I might just say to my friend from Missouri, about the case of which he spoke, about the tragic case of the young woman who was murdered, we had looked into that case in great detail. The American Law Division of the Congressional Research Service looked into the facts of the case whether IDEA had any relevance at all to the case.

I will, just for the record, read the last paragraph of their analysis of the tragic death of Christine Smetzer. It said:

Although IDEA's provisions did not appear to be directly implicated by the factual pattern involved in Christine Smetzer's death, questions were raised concerning other laws, namely those involving the confidentiality of juvenile records. The youth charged in the case apparently had a juvenile police record which was unavailable to the school officials. This situation apparently led to the amendment of state statutes regarding juvenile crime. The new statute provides in part that the juvenile court can give school administrators information about past histories of delinquents upon request, and schools may suspend a student who has been charged or convicted of a felony in adult court.

Just for my friend's knowledge, in our bill we address that. We said here—I want to read for the RECORD, and I am told Senator ASHCROFT was responsible on our committee for putting this on the committee level. It says:

Disciplinary Information.

This is right on the point with this case I think.

The State may require that a local educational agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit such statement to the same extent that such disciplinary information is included in, and transmitted with, the student records of nondisabled children. The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action

taken, and any other information that is relevant to the safety of the child and other individuals involved with the child. If the State adopts such a policy, and the child transfers from one school to another, the transmission of any of the child's records must include [must include] both the child's current individualized education program and any such statement of current or previous disciplinary action that has been taken against the child.

So I hope that reaches this tragic case. I hope that would settle it.

I yield to my friend.

Mr. BOND. I thank my colleague from Iowa.

As I hope I indicated in this case, the Christine Smetzer tragedy was not a case where a student was kept in the classroom as a result of IDEA. I think I attempted to point out that the past disciplinary records of the student had not been transferred.

Mr. HARKIN. That is right.

Mr. BOND. The school district and the parents and everybody associated with it are still in great shock. They feel that they may have had a much better opportunity to prevent that had they been advised. That is why I thank the distinguished Senator from Iowa and the chairman of the committee, particularly my colleague, Senator ASHCROFT, for getting that records provision in there.

The teachers who have been on the front line, some stated to me, and, frankly, with fear in their eyes, "If a child is coming in who has a record of violent behavior, at least let us know, at least let us know." To me, that is just—I mean, that is an unanswerable, that is an unanswerable position. There is no reason why we should not let them know.

The State of Missouri has made significant changes in the policy for transfers within the State. Our State has the tremendous distinction of bordering on eight other States, including Senator HARKIN's State of Iowa. About everything in the Midwest, we border on them. When a student comes in from another State, or when a student from our State goes to another State, it is only fair that the teachers and the administrators know if there is a problem. Frankly, it probably is a help for the students who have no problem because they are not treated with suspicion. If a student is without problems, it is a help to know that as well.

But I do commend the committee and the occupant of the chair, who has taken an active role in this, particularly my colleague from Missouri, Senator ASHCROFT, on crafting a bill that deals with these provisions.

I hope that you will be able to take and accommodate the provisions for funding that Senator GREGG and I support.

I thank the Chair and yield the floor.

Mr. HARKIN. I thank my colleague from Missouri. I know he has been on this issue for some time.

I remember last year when we were working on the bill, it came to light, after we finished working on the bill at

the committee level but before we went to the floor. I was informed by my staff that this amendment was part of the managers' amendment. We just did not get the bill up last year. I know the occupant of the chair was the leader of our subcommittee, and we had the bill ready to go last year. He worked his heart out to get the darned thing through, but for whatever reason it did not happen.

I thank the Senator from Missouri for his long-time interest in this area and for working with us. I know sometimes the bills seem to get through exceedingly slow, but we finally got it accomplished, and hopefully it will be through in a couple of days.

I also wanted to respond—and this is something I always like to point out when we talk about the high cost of educating kids with disabilities—I know it seems like it is a high cost, but then you have to look at the other side of the ledger. What is happening to these kids later on, what is society spending or saving later on during the lifetime of these young people as they go through school?

I have some data here showing in 1974, the year before enactment of the 94-142, there were 70,655 children and youth with disabilities living in State institutions. By 1994, 20 years later, as a result of IDEA, the number had fallen to 4,001, less than 6 percent of what it was 20 years earlier. In 1994, the average State institution cost was \$82,256 per person in an institution, with 66,654 fewer children institutionalized than in 1974. Because the States were footing the bill, the savings to the States is \$5.46 billion per year that the States do not have to come up with for institutionalized care. The savings do not include the savings in welfare, social services and other costs for people with disabilities who are now able to live independently and be employed and pay taxes as a result of the special education they have received.

A young friend of mine, Danny Piper, from Iowa, who I have followed for years, came and testified once before our Disabilities Policy Subcommittee. He is 26 years old, with an IQ of 39. When he was born, his parents were told to institutionalize him. They did not do it. They put him through school with IDEA, and he went through regular high school. He acted in a school play. He was a manager of the football team.

To make a long story short, since graduating he has become a taxpayer. He has recently moved into his own apartment. He takes his own bus to work and is paying his own way.

We figured out once with his folks what the total cost to taxpayers for his special education over this 18-year period was. He received early intervention, special education. The best they could come up with was a total additional cost of \$63,000 for him for special education. The cost to taxpayers if he had been institutionalized would have been \$5 million over his lifetime.

Again, I know people think, gosh, it costs a lot of money, but we have to think where we were before and how much we were spending before for institutionalization, for a lot of people that did not need to be in institutions. Certainly Danny is one. He is out working and buying color TV's and things like that.

I wanted to make that point because I know it is an expense and we have to think of the other side of the ledger.

Since I talked about Danny Piper, I ask unanimous consent to have printed in the RECORD an article recently from the Des Moines Register about Danny entitled "Shooting for Independence." This is the whole story about Danny Piper and what he is doing, including competing in the Special Olympics. It talks about the medals he has received for basketball, track, bowling, and golf, competing in the Special Olympics. It is a story about one young man and what he has been able to accomplish because he got that kind of education.

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

[From the Des Moines Register, Mar. 22, 1997]

#### SHOOTING FOR INDEPENDENCE

BE IT A MEDAL OR A FRIEND, DAN PIPER PUSHES LIMITS TO WIN

(By Jeff Eckhoff)

The bedroom walls of Dan Piper's Ankeny apartment are covered with his trophies:

Photos of Piper with Sen. Tom Harkin at a rally promoting the Americans with Disabilities Act. A photo of a grinning Piper sporting slicked-back hair and a leather jacket for his high school production of "Grease." Framed newspaper articles and letters.

And the medals. Four of them. Gold and silver dangling from shiny blue ribbon. For basketball and track and bowling and golf. There are more in the closet, along with ribbons from scores of other events in scores of different Special Olympics competitions spread over the 26 years of Dan Piper's life.

But it's the medals that seem most important to Piper. Because he wants another one.

The state Special Olympics basketball competition is scheduled to start at 1:30 p.m. today in the University of Iowa Field House in Iowa City. And Piper, who hit 49 out of 50 free throws at a regional event last month, is expected to do well.

For his part, Piper is certainly expecting to do well.

"He's very competitive," explains a laughing Sylvia Piper, Dan's mother. "He's not a good sport at all . . . . Dear God, if he doesn't get a blue ribbon, we're all going to be tortured unbelievably."

Not that ribbons are all that's on Dan Piper's mind these days. Leaning over a table in the back room of Ankeny's Osco Drug last week, he talked about his job, about his friends there and about the relative merits of Rocky Balboa movies.

But mostly he talked of his friend, Melissa Berry—and of a dance that was scheduled to take place at an Iowa City hotel Friday night.

"My Mom's going to dance with my Dad," Piper explained. "Me, I've got to dance with my woman."

He was born Oct. 2, 1970, the son of a communications engineer and a woman whose sole prior knowledge of mental disabilities had been a field trip to a state hospital when she was in junior high school.

The doctors didn't call it Down's syndrome then. They were far less politically correct.

And they were unswerving in their belief that Gary and Sylvia Piper should institutionalize their new retarded son.

Instead, the Pipers took Dan home—and set about making sure he had every possible chance to succeed.

They fought to keep 8-year-old Dan in a "normal" classroom when they discovered he performed better there than at the "special" schools. Eight years later, they and other parents threatened legal action in order to get the Ankeny school district to start its first special-education classes.

"Dan is the teacher and we've been the students," Sylvia said. "That holds until this day. I have learned never to say 'Never' to him."

In 1993, the school district, the Heartland Area Education Agency and a group of Ankeny families that included the Pipers helped form Creative Community Options, an agency designed to help the mentally disabled live with as much independence as possible.

The agency now serves 21 individuals living in Ankeny and Des Moines, said its director, Marci Davis. Thanks to special training from the agency, thirteen of those people hold regular jobs in the Ankeny area.

Eleven of the 21 receive visits from agency workers who help them with things such as making dinner and going shopping. Six of those 11, including Piper, live in their own apartments.

The goal of all of this, Davis said, is to prove that people with mental disabilities can live in society, do real work and pay real taxes—they don't have to be shunted into special occupations or homes.

"There's this balance (we seek from employers) between charity and providing a real job," Davis said. "What we're looking for is a real job with the understanding that this person may take a little longer to do it."

Piper gets to Osco Drug at 8:30 every morning, gets his list from his boss and sets to work on the day's chores. For three hours a day, he cleans the store, stocks shelves, and handles all the returned cans and bottles.

In between, he makes a lot of friends. That, say store officials, is probably his only fault.

"He does his three or four things very well," said Osco general manager Tom Rotherham. "He doesn't always come back for more things to do, but that's OK. Sometimes, we'll find him in the aisles talking to people. . . . The customers seem to like him."

Piper is easy to talk to but difficult to follow. The words sometimes get caught in feedback loops, cycling endlessly around a thought that never quite makes it out of his mouth. But his enthusiasm is contagious.

On a recent tour of the Osco back room, he pointed with pride at the restrooms he cleans. Out front, he pointed out the frozen pizza, the Coke and the bottled water "that you have to pay for."

He lingered longer over the video rack. Piper is legendary among friends for his adoration of Darth Vader, the Jackson Five and all movies involving a certain Philadelphia boxer who, no matter what obstacles are set in front of him, refuses to give up.

"That guy was in Rocky IV," Piper said pointing to a Dolph Lundgren flick. "He's a great fighter."

He has always liked sports. Just as he has always liked Melissa Berry, another Creative Community Options client. The two were inseparable in high school, friends say. It was Melissa whom Dan first thought of when it came time to make plans for this weekend's trip.

They don't see enough of each other Piper thinks. The reasons why have to do both

with parental concerns and the practical considerations of two people who are not quite independent.

Ed Berry, Melissa's father, said she "is the same as any other child. I'm not certain when anyone can say it's time to open the magic door up and say, 'She's ready (to be on her own).' But I'm not sure you can say that with any child."

After several weeks of Piper's persistence, he, Melissa and several other agency clients were scheduled to leave for Iowa City in their own van Friday afternoon.

His parents decided to make the trek to Iowa City this morning—that way he could enjoy Friday's dance without them there.

"Dan thinks there's something strange about dancing with your parents," explained Tina Fessler, a Creative Community Options worker who helps Piper with lunch, shopping and getting around town each weekday. "He has a real hard time with that."

Mr. HARKIN. Lastly, Mr. President, we just had a report from the Census Bureau which did a study that showed the employment population ratio for persons with severe disabilities increased from 23.3 percent in 1991, when ADA went into effect, to 26.1 in 1994, meaning there are 800,000 more severely disabled working in 1994 than in 1991, which is a 27-percent increase.

So, again, I think what this Congress did with Public Law 94-142 in 1975, with the addition of part H in 1986, and then capped with the Americans With Disabilities Act in 1990, have not only made us a more decent and caring society, a more inclusive society, but in the long run it will save us money because we are putting the money in at the front end, getting these kids early intervention programs, good education, integrating them with people they will live with all their lives.

I remember some years ago when my daughter was in public school, coming home and talking about how they had a couple of kids with disabilities in the classrooms, just like it was normal. They are there every day. These are people we live with all our lives. Rather than segregating them out, we bring them in and include them.

Even though it may cost some upfront, the savings, if you look in hard economic terms, the savings are tremendous later on. Of course, that is not counting the quality of life, the independence, the ability of people to have a better life for themselves even though they may have disabilities.

All in all, it is a great bill, and the reauthorization and the amendments we have added, I believe, meet a lot of the concerns people have, legitimate concerns. I hope and trust this will provide for a more cooperative framework for parents, teachers, school administrators, and local law enforcement officials to work together in a very cooperative spirit to ensure that all kids with disabilities have that right to a free and appropriate public education.

I yield the floor and 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. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

# RECESS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now stand in recess until 2:30 p.m. today.

There being no objection, the Senate, at 1:53 p.m., recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ROBERTS].

## INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1997

The Senate continued with the consideration of the bill.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is amendment No. 241, which has been offered to S. 717.

Mr. JEFFORDS. Mr. President, I understand the Senator from Washington desires to speak shortly.

I yield the floor, and 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. JEFFORDS. 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. JEFFORDS. Mr. President, I want to take a moment to explain where we are. We have one amendment pending, the Gregg amendment, which has been offered and which we all would love to do. Again, I want to explain to my colleagues why we are in a position where it is difficult, if not impossible, for us to accept any amendments, notwithstanding how much we would like to do so.

The House will be passing in the morning the same bill, identical. We hope to pass here the same bill. The reason for that is one that is hard to explain because I don't like to have this kind of a situation. But as I explained this morning to my colleagues, last year, we came very close to passing the bill which was almost identical to what we have, but we have made some changes to reconcile some of the problems that were raised. At the time, we tried to do that, the word got out and erroneous statements were made about it. This is such a volatile area, where you are dealing with young people with disabilities and educational settings and the concept of mainstreaming and all these things. It is a very emotional subject. The whole thing fell apart.

What we have done this year with the leadership in the Senate pulling together, with David Hoppe and the groups from all over the country, we finally reached, the other night, the final, final agreement. Everybody is holding hands. Notwithstanding that, there are people today spreading incorrect information around the country that certain things have happened and people are getting concerned. We are trying to make sure we don't have any opportunity for this bill to fall apart. It is so important, so emotional, and so difficult, so we are trying to do that. At times, I will have to speak against things that I agree with. We have the Gregg amendment pending right now. It is a concept I think everybody in the Senate agrees with. In fact, they voted 93 to 0 to do what he wants to do some time ago on the Goals 2000 bill. To do that again would create a problem. I have already announced my support for us to reach the goal of 40 percent to fund the total cost of problems with disabilities in this bill.

We started off when we passed it back in 1975 with funding at 12 percent. It went down as low as about 5 percent. We are now back up to about 8 percent, around the efforts of Senator GREGG, primarily, last year. I hope we will get that kind of a commitment. I agree with everything Senator GREGG is doing, but I have to oppose it because it would create a problem we don't want to create. With that piece of knowledge, as soon as the Senator from Washington is ready, he can speak; he has an amendment. I wanted to lay out what I will do when he is finished.

I thank the Chair and yield the floor, and 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. GORTON. 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. GORTON. Mr. President, I stand before you and my colleagues here in the Senate today in a situation for which I can remember no parallel during the course of my career. It is a position with which I have struggled considerably, not just as we worked toward the scheduling of this bill, but for the course of more than the last 2 years.

I have an amendment to this bill, which I will introduce later on this afternoon, which I suspect, given the nature of this debate, has very little chance of acceptance. I will oppose this bill as one that I consider imposes not only an unfunded but an unwarranted mandate literally on every school district, every school director, every school administrator, every teacher in the public school systems of the United States.

At the same time, Mr. President, I want to pay heartfelt tribute to the distinguished Senator from Vermont,

who is managing the bill, to the distinguished junior Senator from Tennessee, who has perhaps spent more time on it during his 2-plus years in the U.S. Senate than he has on any other issue and, probably, than any other Senator has in that time. From their perspective—and it is a valid perspective—this bill represents a substantial step in the right direction from the current Individuals With Disabilities Education Act, or IDEA.

It represents a careful balancing on their part of the many, the strong, the articulate lobbies on each side of the disability issues that surround this bill. In fact, it represents an exquisite compromise dealing effectively with at least some of the interests of every group involved in public education, except for the students and the quality of education that they are provided in our public schools.

Education may be the single issue with the highest degree of prominence that will be discussed during the course of this Congress. The President has made both some real progress and far more rhetorical progress in bringing the quality of education provided for our students today, as they move into their lives in the 21st century, than he has on any other issue. This bill, however, has not played a significant part in that rhetoric. And almost nothing in the drafting or the debate over this bill has concerned itself with the overall quality of education that will be provided to the great mass of our young people as they move into an increasingly competitive world and increasingly competitive environment.

No, Mr. President, this bill is aimed, as is its predecessor, at a relatively small, though growing—and I will speak to the nature of that growth a little later—element in our population who are subject to a number of disabilities. Like so many of our other statutes in many other fields, its focus is so narrow that it avoids entirely, or interferes with, the overall quality of education provided to all of our young people, together with the rights of those who are closest to those young people—their parents, their teachers, their school administrators, their elected school board members—to make judgments about how best to provide the best possible education for the largest number of students. We hear soaring rhetoric about the need for higher educational standards as we move into the 21st century. But, Mr. President, I regret to say that this bill will not help us in any way in providing those higher standards. In fact, it will increasingly interfere with and frustrate their attainment. And yet, I must return to the very real tribute and credit that ought to be paid to those on the committee of jurisdiction who have drafted this, not on a blank slate, but on the slate that has been inscribed with the current IDEA.

Some of the remarks that I will make during the course of this debate, coming from individual parents or

school districts, will of course relate to the enforcement of the law as it exists at the present time. But I believe, very much to my regret, that they will apply with equal force and merit to the bill that is before us, should it become law.

The fundamental flaw with this bill, and with the present law, Mr. President, is that it imposes on every school district in the United States a double standard with respect to school discipline, with respect to order in the classroom, with respect to priorities in connection with the financial, the fiscal investment in our children's education. It is overwhelmingly an unfunded mandate of exactly the type the last Congress, at least so far as the future was concerned, tried to avoid. It is, however, an unfunded mandate in another sense. There is hardly a Member of this body, Republican or Democrat, who does not give eloquent lip service to the proposition of local control and local influence over our schools, particularly in their day-to-day operations, and even when we feel that certain national levels of achievement ought to be set—perhaps not imposed, but at least set against which to measure attainment.

Yet, I pick up this bill, S. 717, and I note that it is 327 pages long, every page of which imposes a detailed mandate on the system of schools in New York City, NY, on the system of schools in the smallest and most rural district in the State of Kansas, or in the State of Washington—rules which cannot possibly be set in a universal fashion applicable to every student in every situation in every school district in a world which truly values education and truly believes that so much of education results from the dynamics of an individual teacher and an individual student.

I had intended literally to read some of these requirements to you here, and I must confess that unless I wished to engage in a filibuster, I do not have time to do so. But in this bill, beginning on page 141, there are detailed procedural safeguards on behalf of any individual who claims a disability and who claims that that disability has not been dealt with precisely according to the rules in the other 300-plus pages of the statute. Those procedural requirements begin on page 141 and end on—well, I have not gotten to the end yet. I am at page 156 and working through this set of requirements—20, 30 or more pages simply of procedural requirements applicable to each disabled student, applicable to each school district, applicable to each individual determination. The only thing missing in those procedural requirements is the slightest expression of concern for any of the great majority of students who are not disabled, of the problems of individual teachers and individual classrooms or of the overall quality of education that will be provided by school districts subjected to the mandates included in this statute.

The amendment that is before the body now proposed by the Senator from New Hampshire [Mr. GREGG] would raise from about 7 percent the current level of support from the Federal Government to defray the mandates imposed by this bill to somewhere closer to 40 percent that the original Individuals With Disabilities Education Act purported to mandate or at least to authorize.

The Senator from Vermont has said that he has great sympathy with the Gregg amendment but that he must oppose it, and it will undoubtedly be defeated. We can afford to make the requirements but we cannot afford to pay for them. Why? Perhaps the Senator from Vermont will correct me on this. Because if we were to do so, if we were to pay entirely for the requirements we lay out in this statute, we would not have any money left over for any other educational purpose from K through 12. None of the wonderful promises of the President or of a multitude of Members of this body.

In fact, Mr. President, I will be blunt. If the Congress were forced to pay all of the costs that it imposes by this bill or by its predecessor on individual school districts, there is not the remotest chance that the statute would ever have been passed in the first place or be passed here today. It would simply be too expensive. We can, however, please certain interest groups by making these requirements and by requiring someone else to pay for them.

I suspect that you, Mr. President, and the Senator from Vermont and I all remember that magnificent motion picture about World War II, "Bridge on the River Kwai." I think that is what this bill is. The sponsors or their predecessors who wrote the first bill have built a magnificent bridge that is a tremendous engineering feat, the net result of which is to lower the quality of education in the United States. We are looking at the bridge and not at the results of building that bridge.

I spoke a little earlier about double standards. Overwhelmingly, the double standards in this bill have to do with rules of discipline. Perhaps the most fundamental authority in a local school district or of a State educational authority is setting rules of discipline designed for two purposes: one, to ensure to the maximum possible extent the physical safety of schools and teachers in schools and in an educational situation, and, second, to see to it that the atmosphere in those schools is one that is as conducive to learning as it can possibly be. And for the entire history of the Republic until the passing of the predecessor to this bill that authority, subject only to the Constitution, was delegated entirely to individual school districts.

This bill, as its predecessor, sets up a dramatic double standard. For a non-disabled student, there is no change. For a disabled student, there is a tre-

mendous change. Disciplinary procedures are greatly limited, are subjected to all of the procedural requirements that—I was going to say outlined—the details of which I described earlier, in such fashion that the slowest student cannot possibly escape as a part of his or her learning process if there is one rule for you and a very, very different rule for me, one that you can't get away with that I can get away with—not a very good set of lessons for impressionable young people on their way to becoming productive citizens.

Now, what does this double standard do? Well, the proponents of the bill say, accurately, it prevents discrimination against students with disabilities, a wholesome and a valuable goal—a goal, I may say, incidentally, I think most school districts believe in and would reasonably enforce without any interference by the Federal Government, a goal on which most States have statutes themselves, here preempted by what we do.

But there are other consequences of this double standard. The first is an overwhelming incentive for parents and for lawyers and for certain students to act in such a fashion that they can receive the designation that they are disabled because once you find yourself so designated, most disciplinary rules fly out the window or are greatly limited. You are likely to be entitled to a personal education plan, the cost of which is absolutely unlimited in present law or this bill. You are likely, in a controversy with your school district, to be entitled to a lawyer who will end up being paid for by the school district, that is to say, by the taxpayers, by the other students. And as I have said, whatever the average per student expenditure is in a school district is out the window. The administrative procedure, including a Federal district court, complete with lawyers and attorney's fees, can order any educational setting, any educational expenditure that it deems warranted, looking only at the disabled student, not viewing in any respect whatsoever the impact of those costs on the ability of the school district to provide an education for others.

(Ms. COLLINS assumed the chair.)

Mr. GORTON. Is it any wonder that every year, in school district after school district, more and more students find themselves denominated disabled? The incentives to do so are extremely significant. It is reported by the Advisory Council on Intergovernmental Relations that this current bill, of all Federal regulatory statutes, ranks fourth in the amount of litigation that it creates. That is a pretty good record. Of all of the regulatory statutes in the United States, this ranks fourth in the amount of litigation it creates.

I note another element in that connection. We recently had a decision by the Supreme Court of the United States on a particular form of environmental litigation in which the successful challengers to a particular statute



received their attorney's fees. In this bill, however, attorney's fees are a one-way street. If the representative of the individual student claiming discrimination under the statute prevails, that student or that student's family is awarded his or her attorney's fees. If the school district prevails, no attorney's fees can be awarded against the losing party. What does this do? Of course, it encourages litigation. The litigation is free. It also overwhelmingly encourages settlements which many school districts may regard as very, very unwise, simply because the potential downside is so great—again adding immensely to costs imposed on school districts.

We tend to say "school districts," but obviously in every case, every dollar paid out in attorney's fees, every disproportionate dollar paid out as a result of litigation or determinations pursuant to the statute, comes out of the finite pool of money that provides education for other students. A marvelous example of the way this works in the real world has taken place right here in the District of Columbia. Recently, the Washington Post highlighted the law firm that makes easy money by bringing administrative complaints and lawsuits over the shortcomings of the District of Columbia's schools' special education system. One of the lawyers quoted in the argument said, "Winning those cases is like taking candy from a baby."

I am not here to defend the quality of education in the District of Columbia. I think it is a magnificent paradox that it may spend more money per student than any other school district in the United States, or very close to that, and has pretty close to the worst results, but at least a modest portion of that has to be covered because of the fishing expeditions encouraged by this law that makes winning these cases "like taking candy from a baby." In my own State of Washington, with which I am more familiar than others, lawyers' costs range from \$60,000 a year, \$90,000 a year, \$300,000 a year, all coming out of the pool of money that would otherwise be used for educating particular children.

However, I spoke a little earlier about the impact of this legislation on other, nondisabled schoolchildren. On that subject we received a letter from a concerned mother in California. She was working as a parent volunteer in her 5-year-old son's kindergarten classroom. In doing so she observed a student disrupting the classroom with loud outburst, running, kicking, screaming, hitting the teacher and aides. The child was in the class because of what is called, in this law, a full inclusion order. The net result was that my correspondent's 5-year-old child suffered from headaches every day the disruptive child was present in the classroom, was one of the victims of the child's outbursts, was punched by the child. The parent of the disabled child rejected the use of any normal

method to control her child. The mother, who wrote me, writes that finally she had no choice but to remove her child from the school. She wrote,

Fearing for my son's physical and emotional well-being, I finally removed my child from the kindergarten system. This occurred after the Federal court ordered the school district to readmit the special education student in spite of all the documented behavior aberrations.

The statute did not protect that volunteer's child in school. It did not provide for her education. It did not guarantee her constitutional right to an adequate public education, because that child, together with the vast majority of other schoolchildren in all of the school systems in the United States, are nonpersons for the purpose of this statute. They do not count. Their safety does not count. The ability to learn in an orderly atmosphere for them does not count because the Congress of the United States has told them that it does not. All that can be considered in these cases is the situation surrounding plaintiff child, the child with a disability.

One of my own favorite superintendents, who only recently retired, L.E. Scarr, superintendent of the Lake Washington school district, a large suburban district east of Seattle, put it a little differently when he wrote this to me.

A process which is supposed to result in an education program agreed to by parents and school personnel at times becomes a battleground on which procedures become more important than educational results.

Teacher after teacher, school district after school district say that this process depreciates, worsens the educational standards that they are able to impose. Dedicated schoolteachers give up their careers because of their frustration at being able to operate in what they consider to be an appropriate educational manner. We simply have not created a situation here in which there can be any balance. Even if it is appropriate for the Congress of the United States to pass legislation on this subject, even if it is appropriate to pass a 327-page bill setting out all of these requirements, is it not appropriate to give to each school district some method by which to determine the best educational outcome for the majority of its students? Isn't there some way to say there is some limitation on the amount of limited school district assets that have to be spent on any individual? Isn't there some limitation on the amount of litigation and the amount of attorney's fees that can be imposed on our educational system? Isn't it appropriate that some consideration be given to the safety and educational environment in which the vast majority of our young people are educated? But we do not see that here in this bill.

I must return one more time to the proposition that, yes, it is an improvement over the present situation. My friend from Vermont, in a less public

conversation, said I was not giving him enough credit when I said it was minimal or modest. It was substantial. I may be willing to stand corrected on that and say that there are an additional number of factors relating to immediate physical safety which will authorize at least some discipline against a dangerous but disabled student. And that is a step forward. That is why I, along with many of my colleagues, are, to a certain degree, on the horns of a dilemma when we deal with this bill.

It would be easy to vote "no" if there were "no" Federal legislation on the subject at all. It is much more difficult when you must admit that, for all the criticisms you can make about the regime which this 327 pages creates, it is still something that is viewed with relief by the National Association of School Boards and the principals' and most of the teachers' organizations. But, it seems to me, that shows not how good this bill is, but how bad the current legislation is: the degree of desperation on the part of our school authorities, who have been willing to sign up for this proposal. I sympathize with them. I think, were I in their position, I would probably have done exactly the same thing, because the consequences of not agreeing were the continuation of the status quo.

But, here we are, 100 of us in this peaceful but highly artificial set of surroundings, pretending that we are wiser than all of the school board members in the United States of America, pretending that we know more about their business than they do, making frequent speeches about the genius of local school systems and of local school boards but acting in a way that is totally inconsistent with that lip service.

One of the features I have had in my service in the U.S. Senate in the last 8 years is to create advisory committees in every one of the 39 counties in the State of Washington. I meet with each one of them at least once a year, several of them more than once a year. I have made a conscious attempt in every one of these advisory committees to have at least one member, and sometimes more, who is a teacher, a school administrator, a school board member, in many cases recently a student, so I can hear, each time I meet with one of these groups, about their concerns with respect to the Federal involvement in public education.

Madam President, I can say—and I am probably understating it—that in the course of the last 2 years, at least three-quarters of the comments that I have received from these people from education has been with respect to this law and the frustrations and the disruptions attendant upon its implementation.

And so, I must say with some regret that I will feel constrained to vote against this bill for the reasons that I have stated. In preparing for this debate, I agreed with the sponsors that

we can probably focus on one, not more than two, particular amendments to set out the differences that we have, and the proponents asked me to come to the floor this afternoon, both to engage in a discussion that is almost complete and to offer an amendment.

I must say, through the Chair, to the chairman, while my first and perhaps my only amendment is relatively simple, I don't have it in form to offer at this moment, because I didn't like the form in which it arrived in my office from legislative drafting service.

Unlike the 327-page bill, however, it will take up less than 1 page. It will simply state that notwithstanding any other provision in this statute, each local school authority shall have the right to set rules respective of the safety and educational atmosphere for students in that school system. I hope that I will have the final form of the amendment before this afternoon is up, but we do have another amendment pending at the present time, the funding amendment of the Senator from New Hampshire.

So at this point, I simply want to say that the amendment that I will present and probably will not need to explain to the length I have explained my general position over the course of the last half-hour, the amendment that I will present goes to one element of the heart of this legislation, and that is, who makes decisions with respect to the safety of students in a given school system, who makes decisions with respect to the educational environment in which those students are educated? It does not go to the problem of attorney's fees or elaborate hearings or costs or the like, matters that I think are important but, perhaps, not quite so central to this legislation.

I will explain it. We will vote on it. I believe that while in our heart of hearts perhaps a majority of the Members of this body agree with me in theory, I am not going to hold my breath until the amendment, or that matter the amendment of the Senator from New Hampshire, is adopted. But it is healthy, I think vital, that we debate these fundamental concepts when we are talking about the education of our most priceless resource: our young people.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Madam President, I thank the Senator from Washington for a very detailed and very well-done discussion of the bill that we are considering, IDEA. However, I have to differ and would like to explain some of the areas where I think there may be confusion, if it is not explained.

First of all, I reiterate the situation that we have with respect to the requirements of States to provide an education to children with disabilities. This matter was brought up in the late sixties, early seventies in some 26 courts. Two decisions finally were utilized to define what was required.

First of all, there is no constitutional requirement to provide an education by a State. However, if a State does provide a free education to students, it cannot discriminate, and, therefore, it must provide an appropriate—and that is the keyword the courts used—an appropriate education for a child with disabilities.

Because this was nationwide in its decision, and since the States all provided a free education, it became necessary to define, in a sense, what was appropriate, and the courts labored to do that. In the consensus decree developed by the parties involved, those kinds of requirements and specificities were defined in that court decree.

As a result of that, the Congress decided that since this affected all the States, that it be wise if they assisted the States in being able to meet the mandates of the court regarding the requirements of the States to provide an appropriate education. We did that, taking the words from the courts' decisions which defined appropriate education must also, when appropriate, have a mainstreaming component and, thus, we have set out in the early version, 94-142, what was to be done to reach the courts' mandates, not the Congress' mandates but the courts' mandates of constitutional law.

The Senator from Washington brings up a problem of which we should all be aware, and that is there are limited funds available for our school systems to utilize, and any time that the courts mandate that certain things must be done, that necessarily is going to utilize those additional resources to handle those that are being discriminated against in order to give them an appropriate education.

That was done. Whether it affects the other young people by having resources not appropriately assigned to the various groups, that is a question which is of interest and of importance for us to take a look at. I personally feel strongly that right now in our country, we have to look at all of the young people and determine that question ourselves.

I would say that the results of those that are noncollege bound and those that are not under the law with disabilities may have an argument that they are not getting a qualified education, because when we graduate 51 percent of those young people—frankly, all of the young people in that forgotten half group who are graduating from high school functionally illiterate don't have the standards necessary to meet the needs, as the Senator from Washington pointed out, of our society for the next century and may have an argument. That is another case. We are here looking at how to protect children with disabilities in conformance with the courts' mandates regarding States which offer free education.

Also, he grossly overstated the cost of this in the public school systems. If you take a look at what the costs are, I think the total cost for all of special education is over \$30 billion—\$38 bil-

lion. That is nowhere near what we spend totally on education in this country; certainly nowhere near what perhaps one would think we spend. I do not know what the total is we spend, but it is far in excess of that.

He also got into the question of uniformity, that there is a double standard. He thinks the States should decide, that they don't need the Federal Government to give them any uniformity. I think that would have been totally disruptive to the system. I think the courts were appropriate to bring the consensus decision they did, and I think the Federal Government appropriately stepped in with this law to say let's have uniformity, let's establish what the standards are that must be met to take care of those children with disabilities.

A great deal of time was spent on lawyer's fees. I am not going to spend much time on that. I could read the requirements. First of all, there is no requirement for any attorney's fees. There is nothing in the law that says you have to pay. It says the courts may order—they may order—attorney's fees under certain circumstances. If you look at those circumstances, you will see they are all very reasonable ones. It is all may, may, may. There is no requirement that any attorney's fees be paid. I don't want to spend much time on that one.

I just have to comment on District of Columbia because I love this city, but they do have terrible problems all the way down, it is not just in special education. They have terrible problems up and down. We are trying to correct those. Actions have been taken. But as far as the amount of litigation, there were only 100 cases brought in 1993. We don't have the figures since then. That is hardly any. You have 110,000 schools. There has been a court case in a tenth of 1 percent of the schools. It is not a huge problem in that respect.

I am personally appreciative of the effort of the Senator from Washington at explaining his position. I think it helps elevate the understanding of the people as to what is in this law. But I disagree with most of the comments made. We do represent—I know from going around—the feelings and opinions of a number of people, and it is appropriate, therefore, for us to discuss, as best we can, these concerns and to alleviate these concerns. I think we have done an excellent job with respect to trying to take care of the problems.

The final thing I will mention is with respect to discipline and a child that may be dangerous in a school room. I think as has been pointed out, there is a very substantial change to protect the children in a disrupted classroom. A child may be removed now and may be removed continuously, following appropriate procedures, until such time as that child really settles down and is no longer dangerous.

So it is not the kind of a situation we had before this bill which left, in many cases, the school system pretty helpless when dealing with a disruptive

child. I believe we have done an excellent job of taking care of that and, hopefully, my colleagues will read those provisions and agree with me that we have made a great step forward in undoing what has happened in so many of the classrooms in some areas where a child is dangerous and disrupted the school setting. Madam President, I yield the floor.

Mr. ASHCROFT addressed the Chair. The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Thank you, Madam President. I congratulate the majority leader, Senator LOTT, for helping bring this matter to a place where it can be debated and where this reform in the IDEA law can, in fact, be implemented.

I want to thank a number of individuals who worked on this: Senator JEFFORDS, Senator HARKIN, a wide variety of others; my colleague from the State of Missouri, Senator BOND has been active in working to make sure we had the right components.

I am grateful that the Individuals with Disabilities Education Act Amendments of 1997, S. 717, is before us, and that we will have a chance to vote on it. I believe its passage would result in a substantial improvement in the ability to deal with disruptive individuals. The committee chairman was speaking about that just a few moments ago. Last year, I objected to the Individuals with Disabilities Education Act, commonly known as IDEA, passing into law because I believed there were problems regarding discipline and discipline records of students that needed to be remedied. We worked those out at the close of the session last year in some rather arduous negotiations. This year I continued to work with the IDEA working group to get improvements in this regard that will make it possible for us to have safer school districts, safer school rooms, and safer environments in which students can learn and teachers can teach.

Schools need to provide a safe learning environment. Fear is not an emotion that is consistent with a learning environment. We need, regardless of whether a student was disabled or not, to be able to have appropriate disciplinary measures that would enable us to have learning environments which would be effective.

One of the problems that really had troubled me about our previous situation and will trouble me until it is corrected by this reform or some other, is the problem that discipline records frequently did not transfer with students from one school to the next. When a student arrives at a new campus without the discipline record, the following results can be disastrous.

There is a case in Missouri where those results were fatal.

My own interest in this particular area of the law was occasioned by an outrageous incident which I think shocked the conscience of virtually everyone who was aware of it. Two years ago, in my home State of Missouri, a

15-year-old young woman was at her high school. She had gone to the girl's restroom when a student with a learning disability and behavior disorder followed her into the restroom, and that was the beginning of a series of events which eventually led to her losing her life, after other unspeakable things were done.

This incident occurred on the disabled student's second day at the school where the incident occurred. He had been transferred from another school in accordance with IDEA procedures, but when this incident occurred the officials at the school where the assault took place say they were not aware of the prior disciplinary history.

The chronology of events leading up to this horrific incident are very troubling.

In September 1994, the disabled student was enrolled as a ninth grade student at one high school.

In October 1994, the disabled student exhibited uncooperative behavior in class. He was the prime suspect of vandalism in the classroom. He was suspected of urinating on objects in the classroom.

Later that same month, the 15-year-old student was suspended pending a psychological evaluation by the district psychologist after being found in the girl's restroom. This is obviously not behavior which was unrelated to what eventually happened.

You go through a wide variety of other chronological events which finally find the student being transferred to another school, the school at which the death of the young woman occurred, at his hands and in another restroom. But the school officials did not have the information of the previous disciplinary incidents as a part of the transfer.

I felt it essential—I felt it would be totally inappropriate for us to allow a so-called reform to go into effect and allow students to precede their disciplinary records. The incident in Missouri demonstrates dramatically that if you precede your record by as much as 2 days it may be long enough for another student to lose his or her life.

When the officials at the second school said that they did not know about the disabled student's disciplinary past, they were pointing to a tremendous, gaping hole in the framework for safety that we ought to provide in IDEA legislation.

Together with Senator BOND's and Senator HARKIN's help, we have been able to address this concern. I want to thank them both and the committee chairman. I am grateful. To me, it seems that this is not the kind of thing that ought to divide us; this is the kind of thing that ought to unite us.

Whenever any of the child's records are transmitted to another school, the student's discipline record and the individual education program must be included in the transmission, so that school officials and teachers will know. They will know the past disciplinary

records of a disabled student on his first day in the school. They will know in time to take corrective action. They will know in time to do what they can.

This will not make all of our schools perfectly safe, but it will elevate our capacity to do what we can do and ought to do by giving us timely information.

Moreover, when the school or school district reports a crime to law enforcement or juvenile justice authorities, copies of the student's disciplinary records must be transmitted for consideration to that authority.

In those circumstances where the public agency initiates disciplinary procedures against a student, the agency must ensure that the disciplinary records of the child with a disability are transmitted for consideration by the person or persons making the final determination.

We have had a disconnect between our schools and our justice system. Frankly, it is time, when serious, dangerous behavior that literally threatens the life and safety of other individuals, we do not have an artificial barrier that keeps the education agencies from talking to the criminal justice agencies or the juvenile justice agencies. This law now provides that school officials may report incidents to proper authorities.

Not long ago, in Tennessee, a student with a disability kicked a water pipe in the school lavatory until it burst, resulting in \$1,000 worth of water damage.

When the school officials filed the petition against the child, a hearing officer ordered the school district to dismiss its juvenile court petition, a decision which was upheld by the Sixth Circuit Court of Appeals. The court faulted the school for not holding a multidisciplinary meeting before initiating a juvenile court petition.

I think it is clear that if students commit crimes that are worthy of prosecution, the school should be able to file or cause to be filed a case against the students. The practical effect of the court's ruling is that schools as a matter of law cannot unilaterally refer disabled students to juvenile court for committing acts of violence unless the student consents to such referrals. So prior to filing the case, you would have to get the consent of the parents of the disabled child or a court order. Otherwise, it would not happen. It is important that we say to students: Your disabilities will not be a license for you to violate the law or threaten the health and safety and security of others.

This bill moves toward abolishing a double standard for individuals who claim disabilities as a shield for potentially life threatening behavior.

Regular education students are subject to a range of disciplinary actions. Disabled students, on the other hand, even those who are violent or seriously disruptive, can stay put at their current educational environment, even if the actions are criminal. This is a double standard, and has been, and it is

wrong. While we want to protect disabled students from discrimination, we also have a duty to protect other children from harm.

Senate bill 717 now gives greater flexibility to school officials to remove dangerous students from the current school. If the child carries a weapon to school or to a school function or if the child knowingly possesses or uses illegal drugs, the bill allows school officials to move the child to an alternative interim setting for the same amount of time that a regular education student would be subject to discipline, but not for more than 45 days.

Moving away from this double standard which had existed is a step in the right direction on the part of this bill.

A trend developed recently under the bill, the law which we now have—which needs the reform which this bill would provide—that students would not be known as “disabled” or even claim disability until after they had committed some serious wrong; and after they had committed some serious wrong, to avoid penalties, they would shout: Well, I’m disabled in one way or another, either that I don’t read well or that I have a kind of nervousness or even some kind of other subjective claim of disability.

This measure, for which I am grateful, basically provides remedies that are fundamental to improving the environment for learning in the school.

It requires that the student’s disciplinary records accompany the student’s individualized education program when the student transfers to another school, so no student goes to a new school without the officials at the school learning about their prior discipline history, a major achievement.

Second, it holds children with violent or other bad behavior to the same disciplinary standards of other students when the behavior is unrelated to their disabilities. You cannot claim you are a slow reader and, as a result of being a slow reader, you have the right to assault another student. That simply will not cut it anymore.

Third, it will allow school officials to report crimes committed by disabled students to police and juvenile authorities before meeting with the Individualized Education Program team, a special team that agrees on an education program for disabled students.

It seems to me, especially since that committee is composed of individuals like family members of the student and others who would not allow the crime to be reported, that we need to give schools clear authority to make the communication with law enforcement officials when even disabled students have committed what is clearly a criminal activity.

I opposed the bill last year because it did not have these safeguards.

I want to commend the committee chairman, Senator JEFFORDS. I want to commend BILL FRIST, the Senator from Tennessee, who has worked so hard on this. I want to thank my colleague

Senator BOND, and Senator HARKIN from our neighboring State of Iowa, for their work in this respect.

I believe the bill is a substantial improvement, and when it is enacted, the young people of the United States will be safer. We have not sacrificed the rights of students with disabilities to be educated, but we have enhanced the capacity of students generally to get the kind of education they deserve.

I thank the Chair.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. I want to thank the Senator from Missouri for a very articulate explanation of the most difficult area that we faced, and that is how to handle disruptive children in the school. That has been a very, very troubling problem for schools to handle. It has been one which has led to considerable concern about the effectiveness of special education.

The Senator’s help in producing this amendment and in these things, I think, has done more to get this bill quickly in shape where I think it will have close to unanimous passage. I deeply appreciate all the help the Senator has given.

Mr. ASHCROFT. Thank you.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Madam President, I have just a brief supplement to the remarks that I made earlier.

I referred in general terms to the cost of the mandates under this bill and under the current IDEA legislation. I have checked it, and, at the present time, the current funding level is just over \$3 billion.

The amendment proposed by the Senator from New Hampshire, [Mr. GREGG], would, over roughly a 7-year period, reach the authorized level of having us here in Congress pay for 40 percent of the cost of IDEA and would reach, I am told, something like \$13 billion or \$13.5 billion. It seems to me that is a little short. My own figures are, if we were to fund it at 40 percent for next year, for 1998, the cost to the Congress, to the Federal Government, would be just over \$14 billion. Now, that is 40 percent.

My grade school arithmetic tells me that if the cost were \$14 billion at 40 percent, the cost of 100 percent funding would be \$35 billion. So we have created and will continue to impose a \$35 billion cost on the school districts of the United States for the implementation of the requirements that are set out in the statute.

Madam President, I went into the Cloakroom and checked how much we put into title I, which is, I believe, the single most expensive of all of our Federal aid to education in specific bills for all the disadvantaged children.

The basic grants for the current year for title I are a little over \$6 billion. When you add all of the special categories under title I, you get almost to \$8 billion.

I am told, without having checked every single one of these, that the second most expensive are the drug-free schools programs, which is roughly \$4 billion.

Now, if I am correct in these, Madam President, I simply go back to the proposition that here we are creating a set of mandates far more expensive than all, I think, of the programs of direct aid for education from kindergarten through the 12th grade.

I guess I have to ask the manager of the bill, the chairman of the committee, if, in fact, we had to come up with \$35 million right now for 1998 to pay all of the costs of this bill, and if, in fact, we had to work within the balanced budget agreement that has been entered into between the President and the leadership in the Congress, and if, in fact, paying for this bill caused us to either repeal or substantially wipe out a huge range of other programs of education assistance, would we be imposing this mandate?

Now, I ask that question rhetorically. I know the answer. Of course we would not be. It is real easy to do it, Madam President, when somebody else has to pay the bill. But the Senator from Vermont is going to oppose even Senator GREGG’s amendment, which allows us 7 years to get to 40 percent.

Now, it is wonderful for us to say our educational theory is this or our educational theory is that. We think this is the way schools ought to be managed or we think that is the way schools ought to be managed. There are two objections to it. First, we do not know as much about the subject as educators do; and, second, I think we have a requirement to put our money where our mouth is. We are not putting our money where our mouth is in this bill. We never have, as long as this predecessor has been the law.

How do we get to the point at which we tell everybody else in the United States how to run their businesses, but do not pay for it?

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Just to get back to the Gregg amendment very quickly, there is no limit as to what we can appropriate by any authorization level that we could set. We could go for 40 percent tomorrow. There is no requirement.

Even Senator GORTON voted back in 1994 when the vote was 93 to 0—I have not checked the seven absences, but I do not think the Senator was absent—that as soon as reasonably possible, we ought to fund IDEA.

There is no necessity for the Gregg amendment. We can do that now. It does set out for my colleagues a very reasoned way to do it, which is in S. 1, a commitment that the Republicans here—that we do it. I think that is important to keep in mind.

What the Senator from Washington has talked about, well, that would skew things. But look where the money would go. That money would go to the

local school districts. That is where it goes. In the bill, right now, as this is written, if we went up to full funding, that money would all flow to local school districts that have any children at all with disabilities. That is where it would go. The States have to keep their levels. So we would help the local school districts so they could use the money and spend it on people you are concerned about that do not have adequate resources.

This is an excellent way of pushing money to your local school districts. You ought to be yelling and shouting for it. It is exactly what you have always said, that we have to help the local school districts have more flexibility. This gives great flexibility.

I yield the floor.

Mr. GORTON. Will the Senator yield?

Mr. JEFFORDS. I am happy to yield to the Senator.

Mr. GORTON. I spoke to the Senator recently, Madam President. I have one more modest redraft on my amendment and then we will be able to submit it during the course of the afternoon, I hope in the course of the next hour. I gather there is an attempt to see to it that there is some overall reasonable limitation of debate on the amendments and on the bill to which this Senator is certainly in accord.

So, we will have that here so Members can read it so the Senator can critique it, as he will, in a relatively short period of time.

Mr. JEFFORDS. I thank the Senator from Washington.

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. CRAIG. 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. CRAIG. Madam President, I have the privilege today to be here on the floor to support S. 717, the Individuals With Disabilities Education Act.

First of all, I find it important to congratulate Senator JEFFORDS, Senator COATS, and Senator LOTT, who have worked hard to reach a compromise that I believe this legislation supports. It is an important compromise because this is necessary and important legislation.

As my colleagues have stated so well here today on the floor, IDEA is our Nation's core special education statute for children with disabilities. In 1975, when the original IDEA passed, Congress accepted responsibility in this area. Now it is our turn to live up to this commitment.

I happen to have a son-in-law who is a fifth grade schoolteacher. He speaks to me about the difficulties in the classroom when there are not enough resources to be able to handle children who find themselves with these difficulties and the average child who is there in the classroom to learn. He

finds himself dividing his time up among these, and sometimes in an inappropriate way, and not offering to all of the children the kind of time that their teacher and their instructor ought to give.

In the bill before the Senate today we have a balanced approach which takes into account the needs and rights of the local school boards, teachers, parents and, most important, the students. Among its chief provisions is the flexibility it affords local school officials in making alternative interim placement of children with disabilities who bring weapons or drugs to school. This was an area of heated debate, and I am pleased to see the final bill includes an arrangement we can all work with.

Likewise, I am pleased with the progress the committee has made on other controversial issues such as the recovery of attorney's fees and succession of services. While no parties involved will receive all that they hoped for, this balanced approach is fair, and, I think, it is sound public policy.

There is, however, some work left to be done. Though perhaps not today, this Congress will, in the very near future, have to take up the issue of full funding for IDEA. There is a role for the Federal Government to play in education, and while those of us who believe in the right of the State and, most important, the right of the local school district to have the primary responsibility, the area of funding of targeted needs and special needs has been something the Federal Government has done well over the last good number of years, and IDEA, in my opinion, is one of those.

When the law was originally passed in 1975, Congress promised to provide appropriations equal to 40 percent of the national average per pupil expenditure for education. Since S. 717 makes progress toward that important goal, I remained committed to seeing us reach the full funding level. I am confident, however, that this issue will be addressed during our consideration of the budget. Accordingly, I do not see the need for amending S. 717 at this time.

Again, Madam President, I state my thanks for the work that has been done by all of those involved in the lengthy but successful process of bringing S. 717 to the floor.

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

The PRESIDING OFFICER (Mr. AL-LARD). Without objection, it is so ordered.

Mr. FORD. Mr. President, what is the order of business?

The PRESIDING OFFICER. The pending business is the Gregg amendment, No. 241.

Mr. FORD. Mr. President, I would like to speak on the bill itself rather than the amendment. I believe that is appropriate.

The PRESIDING OFFICER. Yes, it is.

Mr. FORD. Mr. President, I rise today to speak about the reauthorization of the Individuals With Disabilities Education Act, or IDEA, as it is commonly referred to. This legislation has had a long and difficult journey. The coalitions supporting this bill do not all agree on all of its points. In fact, there are a few things in this legislation that I would have preferred to have seen strengthened. However, as the great Kentucky statesman Henry Clay once said, "compromise is mutual sacrifice."

It is my understanding that modifications to this legislation will doom the bill to failure. While I have a few reservations, I am certain that this reauthorization is better than not reauthorizing the current statute. Therefore, this Senator will not vote for any amendment that will prevent this legislation from being signed into law. Let me repeat that. This Senator will not vote for any amendment that will prevent this legislation from being signed into law, and I hope others will follow that lead. We simply cannot fail to reauthorize this important statute. Our disabled children and our educators have waited long enough.

A few years back, I read a journalist's observation that "We are defined by who we have lost." It wasn't until this time last year, Mr. President, when I got word of the death of a young woman from Berea, KY, that I really understood the journalist's words. Twenty-three years ago, when I was Governor of Kentucky, Susy Riffe was just a child with Down's syndrome. But she became a symbol of great potential and great promise as she sat on my lap and helped me sign a bill guaranteeing public education for disabled children in Kentucky.

Susy went on to lead a full and productive life, completing her education and giving back a great deal to the community as a volunteer, an employee, and a dear friend. Her life came to define the potential that exists for all Americans when the greater community provides them with the tools they need to succeed. They say that 250 people came to Susy Riffe's memorial service. But that number represents only a small fraction of the children and families she touched and the world of possibilities she helped define.

Just 1 year after I signed that law onto the books in Kentucky, the Individuals With Disabilities Act was passed into law here in Washington, helping millions of children across this great land of ours. We must always remember that the mission of this law is that the right to a free and appropriate public education is the right of all American children. While IDEA provides critical education assistance from the Federal Government to the State and local education agencies, it

is the guarantee of disabled children's rights to an education that makes this statute great.

I want to take this opportunity to thank my colleagues, the floor managers, members of the Labor Committee, the majority leader, and their staffs for their efforts in bringing this reauthorization to the Senate floor today. It is a herculean task that has not gone unnoticed by this Senator.

Finally, Mr. President, I ask unanimous consent that my name be added as a cosponsor to this legislation.

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

Mr. MACK. Mr. President, I rise today to commend my colleagues in both the House and Senate, from both sides of the aisle, for their diligent work on S. 717, the IDEA Improvement Act of 1997: Their commitment to ensuring that children with disabilities have continued access to the opportunities and resources essential to becoming independent and contributing members of society.

Since Congress first enacted legislation to ensure that students with disabilities were no longer denied educational services, few changes have been made. Today, the world is a very different place, and Congress needs to address the issues currently facing both students and educators. These include changes to ensure States have flexibility in using Federal funds; the ability for schools to effectively discipline disruptive children; and provisions to encourage alternative dispute resolution procedures to ensure timely and cost-effective responses to the needs and concerns of parents and administrators. S. 717 accomplishes these important goals.

Discipline of special education students has been a matter of contention for several years. Currently, except in cases involving firearms, schools are hindered from removing a disabled child from their current educational setting unless the parents of the child agree with the removal decision. Under S. 717, schools can discipline a disabled child just as they would on a non-disabled child if the behavior is determined not to be a manifestation of the child's disability. A hearing officer would then be able to remove the child from his or her current educational placement. This is an important change because, currently, a court injunction is required to remove a dangerous child.

S. 717 also prohibits States from ceasing to provide services to a child whose behavior warrants expulsion from school. In cases such as this, States would be required to educate the child in an alternative setting, which is a continuation of the guarantee of a free, appropriate, public education.

This bill ensures parents have continued access to due process by requiring States to offer voluntary mediation services to parents and schools. Currently, 39 States offer mediation to

parents in an effort to resolve disputes concerning their children. Florida is one of these States, and its mediation program has been an overwhelming success since it was instituted in 1992. A majority of all mediation cases in Florida are reconciled, reducing the need for more costly litigation.

Mr. President, this bill will aid in the education of the 319,012 disabled students in Florida. I am pleased that Members of Congress and the administration have been able to come together to reach a consensus on this bill. It will shift current policy from a focus on bureaucracy and paperwork to educating our students. I want to commend Chairmen JEFFORDS and GOODLING, Senator LOTT, as well as Senators FRIST and COATS for the leadership they have shown on this important issue. I also want to commend State of Florida officials who have already enacted many of the changes contained in this bill.

I urge my colleagues to support this bill.

Mr. KENNEDY. Mr. President, I was proud to serve on the committee that passed the original Individuals With Disabilities Education Act in 1975, and I am proud to support the current reauthorization.

I commend Chairman JEFFORDS, Senator COATS, Senator FRIST, and Senator HARKIN for their leadership in negotiating this needed legislation to reauthorize IDEA. I commend the House Members who worked closely with us—Representative GOODLING, Representative RIGGS, Representative CASTLE, Representative GRAHAM, Representative MARTINEZ, Representative SCOTT, Representative MILLER, and Representative CLAY. I also especially commend our distinguished Senate majority leader, Senator LOTT, for his effective leadership in bringing all sides together and making this needed compromise possible.

For 22 years, IDEA has held out hope to young persons with disabilities that they too can learn, and that their learning will enable them to become independent and productive citizens, and live fulfilling lives. For millions of children with disabilities, IDEA has meant the difference between dependence and independence, between lost potential and productive careers.

In 1975, 4 million handicapped children did not receive the help they needed to be successful in school. Few disabled preschoolers received services, and 1 million children with disabilities were excluded from public school. Now, IDEA serves 5.4 million children with disabilities from birth through age 21. Every State in the Nation offers public education and early intervention services to children with disabilities.

Fewer than 6,000 children with disabilities are living in institutional settings away from their families today, compared to 95,000 children in 1969. This transformation represents a major accomplishment in keeping families together, and it also reflects a significant

reduction in the cost to the Government and taxpayers of paying for institutional care, which averages \$50,000 a year for each child.

Students with disabilities are making great progress. The number of students with disabilities completing high school with a diploma or certificate increased from 55 percent in 1984 to 64 percent in 1992.

Some 44 percent of all people with disabilities have some college education today, compared to only 29 percent in 1986. This dramatic increase demonstrates the success of the equal access provisions of IDEA; 47 percent of people without disabilities have some college education, so the gap has almost closed.

For young people with disabilities, as for so many others, education leads to economic success; 57 percent of people with disabilities are competitively employed within 5 years of leaving school today, compared to an employment rate of only 33 percent for older people with disabilities who have not benefited from IDEA. With this reauthorization, we are taking needed additional steps to see that disabled children can grow up with the skills they need to get a job and live independently.

This bill will direct the attention of teachers and schools away from paperwork and toward the academic progress of students with disabilities. The bill changes the Federal formula from one based on child counts to one based on census and poverty data. This revised formula in no way changes the commitment and obligation of education agencies to identify and serve children with disabilities. Changes in the Federal formula and in other areas of the bill are intended to help schools and school districts improve the quality of services the children receive.

The bill strengthens the individualized education plan, by tying a child's education to the general curriculum and ensuring accountability for results. It also urges schools to see that students are not being referred to special education when their needs can be better met in regular classes.

We also address another serious problem—the disproportional representation of minority students in special education. This bill makes States responsible for monitoring the impact of policies on identification and placement of minority students. Through the development of coordinated service systems in schools, prereferral intervention programs, including behavior management and academic skill development, will be more available to academically challenged students and help reduce the number of minority students wrongly referred to special education. It also gives parents better information about these issues so they can be more effective in helping their children.

In addition, the bill continues and strengthens early intervention and preschool programs for disabled infants

and toddlers. By establishing better relationships with other public and private programs, early childhood programs under IDEA can be a resource for young children with disabilities as well as for children at risk of disability. It will make it easier for schools and districts to collect funds from other agencies, without allowing schools to abdicate their responsibility for making sure that disabled students get the services they need.

It also requires States to offer mediation, but makes it voluntary for both parties to determine whether they want to participate. In addition, the bill authorizes school districts to require parents to meet with representatives from parent training centers or other alternative dispute resolution experts to explain the benefits of mediation.

Schools have asked for additional leeway to discipline students with disabilities to help guarantee a safe learning environment for all students. This bill gives schools more discretion in disciplining students with disabilities, while still protecting those students. The bill provides the authority for school personnel to remove children with disabilities from their current placement into an interim alternative educational setting for up to 45 days in two specific cases: First, if the child carries a weapon or knowingly possesses, uses, or sells illegal drugs of controlled substances; or second, if the school obtains such authority from a hearing officer after demonstrating that maintaining a child in the current placement is substantially likely to result in injury to the child or others.

Although the bill provides more flexibility for schools to discipline students, discipline should never be used as an excuse to exclude or segregate children with disabilities because of the failure to design behavioral management plans, or the failure to provide support services and staff training. It is critical that schools use the new discretion with utmost care. Research tells us that suspension and expulsion are ineffective in changing the behavior of students in special education. When students with disabilities are suspended or expelled and their education is disrupted, they are likely to fall farther behind, become more frustrated, and drop out of school altogether.

Children who leave school become a burden on society. Dropouts are three times more likely to be unemployed than high school graduates. Nearly half of the heads of households on welfare and half of the prison population did not finish high school.

We have also made changes to see that the provisions of IDEA are more vigorously enforced by giving the U.S. Secretary of Education and State education agencies greater power to enforce the law, including greater discretion to withhold funds when violations are found and explicit statutory authority to refer cases of noncompliance

to the Department of Justice for enforcement action. We expect the Department of Justice to act on such referrals in a timely and appropriate manner. This referral authority is particularly critical for instances when a State fails to implement corrective action within the time specified in the State monitoring plan. We expect the Secretary to use enforcement authorities when applicable to ensure that failure to comply with the law will not go without remedy.

In addition, the Department of Education is expected to report annually on the status of State monitoring and compliance. We also expect the Department of Education to include parents more actively in the State and local monitoring process.

We must never go back to the days when large numbers of school-age children with disabilities were excluded from public school, when few if any pre-school children with disabilities received services, and when most children in school did not get the help they deserve. The goal of public education is to give all children the opportunity to pursue their dreams. We must be committed to every child—even the ones who aren't easy to teach.

I commend all the students, parents, teachers, and administrators who have left an indelible mark on this legislation. Their commitment to this law and their willingness to put aside the divisions of the past and find constructive compromises will improve the education of students with disabilities, and enable schools to implement the law as effectively as possible.

I also commend and thank all the staff members of the working group for their skillful assistance in making this process successful: Pat Morrissey and Jim Downing of Senator JEFFORDS' staff; Townsend Lange of Senator COATS staff; Bobby Silverstein and Tom Irvin of Senator HARKIN's staff; David Hoppe and Mark Hall of Senator LOTT's staff; and Kate Powers, Connie Garner, and Danica Petroschius of my own staff. I also commend the hard work of the House staff on the working group, including Sally Lovejoy and Todd Jones of the House committee majority staff; Alex Nock of the House committee minority staff, Theresa Thompson of Representative SCOTT's staff, and Charlie Barone of Representative MILLER's staff.

This bill deserves the support of every Member of Congress. It means a new day of hope and opportunity for children with disabilities.

I yield the floor and 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. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

## MORNING BUSINESS

Mr. CRAIG. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

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

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1841. A communication from the Acting President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to a transaction involving U.S. exports to the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC-1842. A communication from the Assistant Secretary of Commerce for Export Administration, transmitting, pursuant to law, a rule entitled "Revisions and Clarifications" (RIN0694-AB56) received on May 1, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-1843. A communication from the Deputy Secretary of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, a rule including a definition (RIN3235-AH14) received on May 1, 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-1844. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report on Bradley Vehicle Systems acquisition program; to the Committee on Armed Services.

EC-1845. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report on Chemical Demilitarization acquisition program; to the Committee on Armed Services.

EC-1846. A communication from the General Counsel, Department of Defense, transmitting, a draft of proposed legislation that addresses several management concerns; to the Committee on Armed Services.

EC-1847. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a rule entitled "Intergovernmental Personnel Act Mobility Program" (RIN3206-AG61) received on April 30, 1997; to the Committee on Governmental Affairs.

EC-1848. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a rule relative to employment, (RIN3206-AH66) received on April 30, 1997; to the Committee on Governmental Affairs.

EC-1849. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a rule entitled "Official Duty Station Determination for Pay Purposes" (RIN3206-AH84) received on May 8, 1997; to the Committee on Governmental Affairs.

EC-1850. A communication from the General Counsel, Department of Defense, transmitting, a draft of proposed legislation to reform government-wide acquisition; to the Committee on Governmental Affairs.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first



and second time by unanimous consent, and referred as indicated:

By Mr. BREAUX (for himself, Mr. MACK, Mr. GRAHAM, and Mr. DORGAN):

S. 734. A bill to amend title XVIII of the Social Security Act to make certain changes to hospice care under the medicare program; to the Committee on Finance.

By Mr. D'AMATO:

S. 735. A bill to amend title 10, United States Code, to restore the Department of Defense loan guarantee program for small and medium-sized business concerns that are economically dependent on defense expenditures; to the Committee on Armed Services.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BREAUX (for himself, Mr. MACK, Mr. GRAHAM, and Mr. DORGAN):

S. 734. A bill to amend title XVIII of the Social Security Act to make certain changes to hospice care under the Medicare Program; to the Committee on Finance.

#### THE MEDICARE HOSPICE BENEFIT AMENDMENTS OF 1997

• Mr. BREAUX. Mr. President, I introduce legislation to make technical changes to the Medicare hospice benefit which will ensure that high-quality hospice services will be available to all terminally ill Medicare beneficiaries. This legislation is identical to H.R. 521, introduced by Representative CARDIN.

Hospices care for and comfort terminally ill patients at home or in home-like settings. There are 2,800 hospice programs in all 50 States and in 1995 they cared for more than 390,000 patients. One out of every three people who died from cancer or AIDS were cared for by hospice.

Services provided under the Medicare hospice benefit include physician services, nursing care, drugs for symptom management, pain relief, short term inpatient and respite care, and counseling both for the terminally ill and their families. But terminally ill patients who elect hospice care opt out of most other Medicare services related to their terminal illness.

Hospice services permit terminally ill people to die with dignity, usually in the comforting surroundings of their own homes with their loved ones nearby. Hospice is also a cost-effective form of care. At a time when Medicare is pushing to enroll more beneficiaries in managed care plans, hospice is already managed. Hospices provide patients with whatever palliative services are needed to manage their terminal illness, and they are reimbursed a standard per diem rate, based on the intensity of care needed and the location of the provision of care.

With 28 percent of all Medicare costs now going toward the care of people in their last year of life, and almost 50 percent of those costs spent during the last 2 months of life, cost-effective alternatives are needed. Studies show hospices reduce Medicare spending. A 1995 Lewin study showed that for every dollar Medicare spent on hospice, it

saved \$1.52 in Medicare part A and part B expenditures. Similarly, a 1989 study commissioned by the Health Care Financing Administration showed savings of \$1.26 for every Medicare dollar spent on hospice.

Since 1982, when the hospice benefit was added to the Medicare statute, more and more Americans have chosen to spend their final months of life in this humane and cost-effective setting. Yet in recent years, it has become clear that certain technical changes are needed in the Medicare hospice benefit to protect beneficiaries and ensure that a full range of cost-effective hospice services continue to be available. The bill I am introducing today makes these necessary technical changes.

First, the Medicare Hospice Benefits Amendments of 1997 restructure the hospice benefit periods. The basic eligibility criteria do not change. Under this bill, as in current law, a person is eligible for the Medicare hospice benefit only if two physicians have certified that the patient is terminally ill with a life expectancy of six months or less. Patients who elect to receive hospice benefits give up most other Medicare benefits unless and until they withdraw from the hospice program.

While this bill does not change hospice eligibility criteria, it does change how the benefit periods are structured. Currently, the Medicare benefit consists of four benefit periods. At the end of each of the first three periods, the patient must be recertified as being terminally ill. The fourth benefit period is of unlimited duration. However, a patient who withdraws from hospice during the fourth hospice period forfeits his ability to elect hospice services in the future. Thus, patients who go into remission, and are thus no longer eligible for hospice because their life expectancy exceeds 6 months, cannot return to hospice when their condition worsens.

This bill restructures the hospice benefit periods to eliminate the existing open-ended fourth benefit period and to provide that after the first two 90-day periods, patients are reevaluated every 60 days to ensure they still qualify for hospice services. This restructuring ensures that those receiving Medicare benefits are able to receive hospice services at the time they need them and can be discharged from hospice care with no penalty if their prognosis changes.

Second, the bill clarifies that ambulance services, diagnostic tests, radiation, and chemotherapy are covered under the hospice benefit when they are included in the patient's plan of care. No separate payment will be made for these services, but hospices will have to provide them when they are found to be necessary as a palliative measure. This change conforms the statute to current Medicare regulatory policy and does not cost Medicare any additional money because payments are covered by the current per-diem payments.

Third, the bill also permits hospices to have independent contractor relationships with physicians. Under current law, hospices must directly employ their medical directors and other staff physicians. This creates a legal problem in some States which prohibit the corporate practice of medicine, and the requirement has made it increasingly difficult to recruit part-time hospice physicians.

Fourth, the bill creates a mechanism to allow waiver of certain staffing requirements for rural hospices, which often have difficulty becoming Medicare-certified because of shortages of certain health professionals. Currently, about 80 percent of hospices are Medicare-certified or pending certification.

Finally, this bill provides some administrative flexibility regarding certification of terminal illness. Currently, the statute requires that paperwork documenting physician certification of a patient's terminal illness be completed within a certain number of days of the patient's admission to hospice. This bill will eliminate the strict statutory requirements. It gives the Health Care Financing Administration the discretion, as it currently has with home health certifications, to require hospice certifications to be on file before a Medicare claim is submitted.

The Medicare Hospice Benefit Amendments of 1997 are noncontroversial and should not affect Medicare spending, but they will make important and necessary changes to the Medicare hospice benefit, to enable hospices to provide high-quality, cost-effective care to the terminally ill, and to protect beneficiaries who depend on these services.

I urge my colleagues to support this bill, and I ask unanimous consent that the full 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. 734

*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 "Medicare Hospice Benefit Amendments of 1997".

#### SEC. 2. HOSPICE CARE BENEFIT PERIODS.

(a) RESTRUCTURING OF BENEFIT PERIOD.—Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended in subsections (a)(4) and (d)(1), by striking "a subsequent period of 30 days, and a subsequent extension period" and inserting "and an unlimited number of subsequent periods of 60 days each".

(b) CONFORMING AMENDMENTS.—

(1) Section 1812 of the Social Security Act (42 U.S.C. 1395d) is amended in subsection (d)(2)(B) by striking "90- or 30-day period or a subsequent extension period" and inserting "90-day period or a subsequent 60-day period".

(2) Section 1814(a)(7)(A) of the Social Security Act (42 U.S.C. 1395f(a)(7)(A)) is amended—

(A) in clause (i), by inserting "and" at the end;

(B) in clause (ii)—

(i) by striking "30-day" and inserting "60-day"; and

(ii) by striking “, and” at the end and inserting a period; and

(C) by striking clause (iii).

### SEC. 3. OTHER ITEMS AND SERVICES INCLUDED IN HOSPICE CARE.

Section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)) is amended—

(1) in subparagraph (G), by striking “and” at the end;

(2) in subparagraph (H), by striking the period at the end and inserting “, and”; and

(3) by inserting after subparagraph (H) the following:

“(I) any other item or service which is specified in the plan and for which payment may otherwise be made under this title.”.

### SEC. 4. CONTRACTING WITH INDEPENDENT PHYSICIANS OR PHYSICIAN GROUPS FOR HOSPICE CARE SERVICES PERMITTED.

Section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2)) is amended—

(1) in subparagraph (A)(ii)(I), by striking “(F),”; and

(2) in subparagraph (B)(i), by inserting “or under contract with” after “employed by”.

### SEC. 5. WAIVER OF CERTAIN STAFFING REQUIREMENTS FOR HOSPICE CARE PROGRAMS IN NONURBANIZED AREAS.

Section 1861(dd)(5) of the Social Security Act (42 U.S.C. 1395x(dd)(5)) is amended—

(1) in subparagraph (B), by inserting “or (C)” after “subparagraph (A)” each place it appears; and

(2) by adding at the end the following:

“(C) The Secretary may waive the requirements of clauses (i) and (ii) of paragraph (2)(A) for an agency or organization with respect to the services described in paragraph (1)(B) and, with respect to dietary counseling, paragraph (1)(H), if such agency or organization—

“(i) is located in an area which is not an urbanized area (as defined by the Bureau of Census); and

“(ii) demonstrates to the satisfaction of the Secretary that the agency or organization has been unable, despite diligent efforts, to recruit appropriate personnel.”.

### SEC. 6. LIMITATION ON LIABILITY OF BENEFICIARIES AND PROVIDERS FOR CERTAIN HOSPICE COVERAGE DENIALS.

Section 1879(g) of the Social Security Act (42 U.S.C. 1395pp(g)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and moving those subparagraphs 2 ems to the right;

(2) by striking “is,” and inserting “is—”;

(3) by making the remaining text of subsection (g) (as amended) that follows “is—” a new paragraph (1) and indenting that paragraph 2 ems to the right;

(4) by striking the period at the end and inserting “; and”; and

(5) by adding at the end the following:

“(2) with respect to the provision of hospice care to an individual, a determination that the individual is not terminally ill.”.

### SEC. 7. EXTENDING THE PERIOD FOR PHYSICIAN CERTIFICATION OF AN INDIVIDUAL'S TERMINAL ILLNESS.

Section 1814(a)(7)(A)(i)(II) of the Social Security Act (42 U.S.C. 1395f(a)(7)(A)(i)(II)) is amended by striking “, not later than 2 days after hospice care is initiated (or, if each certify verbally not later than 2 days after hospice care is initiated, not later than 8 days after such care is initiated),” and inserting “at the beginning of the period”.

### SEC. 8. EFFECTIVE DATE.

The amendments made by this Act apply to benefits provided on or after the date of enactment of this Act, regardless of whether or not an individual has made an election under section 1812(d) of the Social Security Act (42 U.S.C. 1395d(d)) before that date.●

By Mr. D'AMATO:

S. 735. A bill to amend title 10, United States Code, to restore the Department of Defense loan guarantee program for small and medium-sized business concerns that are economically dependent on defense expenditures; to the Committee on Armed Services.

THE SMALL BUSINESS ADMINISTRATION DEFENSE LOAN AND TECHNICAL ASSISTANCE LOAN EXTENSION ACT OF 1997

● Mr. D'AMATO. Mr. President, I introduce legislation that will extend the Small Business Administration Defense Loan and Technical Assistance [DELTA] Loan Program. There are many areas in the country still in the process of trying to transition from defense into commercial product lines. The proposed legislation would extend the program to September 30, 1999, and broadens the eligibility to include companies that derived at least 25 percent of its sales from defense-related contracts in any 1 of 7 prior years and increases the loan guarantee to 90 percent. Since the funds have already been appropriated no additional funds are required.

Presently under the current DELTA Program, a company must have 25 percent of its sales coming from defense contracts in the prior year and guarantees 75 percent of the loan. The current DELTA Program has a sunset clause which goes into effect at the end of fiscal year 1998.

Without this legislation, the DELTA Program expires before companies have been given ample opportunity to make this very difficult transition. We have an obligation to provide extended support for small businesses in areas that have been hard hit by defense downsizing.

If the DELTA Program is allowed to expire, all the undedicated monies would revert back to the General Treasury. Of the \$30 million appropriated, only slightly more than \$3 million has been utilized.

Mr. President, I urge my colleagues on both sides of the aisle to join me in cosponsoring this important legislation.

Mr. President, I ask unanimous consent that the complete text of the bill be placed in the RECORD.

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

S. 735

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. RESTORATION OF LOAN GUARANTEE PROGRAM FOR DEFENSE DEPENDENT SMALL AND MEDIUM-SIZED BUSINESS CONCERNS.

(a) DELTA LOAN GUARANTEE PROGRAM.—(1) Chapter 148 of title 10, United States Code, is amended by inserting before section 2525 the following new section:

#### “§2524. Loan guarantees for defense dependent small and medium-sized business concerns

“(a) LOAN GUARANTEES AUTHORIZED.—The Secretary of Defense may provide support

under this section for programs sponsored by the Federal Government, regional entities, States, local governments, and private entities and nonprofit organizations that assist small business concerns and medium-sized business concerns that are economically dependent on defense expenditures to acquire dual-use capabilities through the provision of loan guarantees to such business concerns under the terms and conditions specified under this section and other applicable law.

“(b) TRANSFER OF ADMINISTRATION.—(1) The Secretary of Defense may enter into a memorandum of understanding with the Administrator of the Small Business Administration, the Administrator of the Economic Development Administration of the Department of Commerce, or the head of any other Federal agency having expertise regarding the provision of loan guarantees, under which the agency may—

“(A) process applications for loan guarantees under this section;

“(B) guarantee repayment of the resulting loans; and

“(C) provide any other services to the Secretary to administer the loan guarantee program under this section.

“(2) From funds made available for the loan guarantee program under this section, the Secretary of Defense may transfer to the agency or agencies that are parties to the memorandum of understanding such sums as may be necessary for the agency or agencies to carry out activities under the loan guarantee program.

“(3) The Secretary of Defense shall enter into the memorandum of understanding authorized by paragraph (1) within 60 days after the date of the enactment of this section.

“(c) CONDITION ON OPERATION.—The Secretary shall carry out the loan guarantee program authorized under this section during any fiscal year for which funds are specifically made available to cover the costs of loan guarantees to be issued pursuant to such section.

“(d) SPECIAL REQUIREMENTS REGARDING LOAN GUARANTEES.—(1) Competitive procedures shall be used in the selection of small business concerns and medium-sized business concerns to receive loan guarantees under this section.

“(2) The criteria used for the selection of a small business concern or medium-sized business concern to receive a loan guarantee under this section shall include the following:

“(A) The extent to which the loans to be guaranteed would support the retention of defense workers whose employment would otherwise be permanently or temporarily terminated as a result of reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

“(B) The extent to which the loans to be guaranteed would stimulate job creation and new economic activities in communities most adversely affected by reductions in expenditures by the United States for defense, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

“(C) The extent to which the loans to be guaranteed would be used to acquire (or permit the use of other funds to acquire) capital equipment to modernize or expand the facilities of the borrower to enable the borrower to remain in the national technology and industrial base available to the Department of Defense.

"(3) Except as provided in paragraph (4), to be eligible for a loan guarantee under this section, a borrower must demonstrate to the satisfaction of the Secretary that, during any one of the seven preceding operating years of the borrower, at least 25 percent of the value of the borrower's sales were derived from—

"(A) contracts with the Department of Defense or the defense-related activities of the Department of Energy; or

"(B) subcontracts in support of defense-related prime contracts.

"(4)(A) An individual described in subparagraph (B) shall be eligible for a loan guarantee under this section to establish, or acquire and operate, a small business concern in an area that the Secretary determines is (or reasonably can be expected to be) detrimentally affected by reductions in defense spending, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

"(B) An individual referred to in subparagraph (A) is an individual—

"(i) who is a former employee of the Department of Defense or a defense contractor; and

"(ii) whose employment was terminated as a result of reductions in defense spending, the termination or cancellation of a defense contract, the failure to proceed with an approved major weapon system, the merger or consolidation of the operations of a defense contractor, or the closure or realignment of a military installation.

"(e) MAXIMUM AMOUNT OF LOAN PRINCIPAL.—The maximum amount of loan principal for which the Secretary may provide a guarantee under this section during a fiscal year may not exceed—

"(1) \$1,250,000, with respect to a small business concern; and

"(2) \$10,000,000 with respect to a medium-sized business concern.

"(f) LOAN GUARANTY RATE.—The maximum allowable guarantee percentage for loans guaranteed under this section may not exceed 90 percent.

"(g) ALLOCATION OF FUNDS BETWEEN SMALL AND MEDIUM BUSINESSES.—The total amount available for a fiscal year to cover the costs of loan guarantees under this section shall be divided between small business concerns and medium-sized business concerns as follows:

"(A) 60 percent for small business concerns.

"(B) 40 percent for medium-sized business concerns.

"(h) MEDIUM-SIZED BUSINESS CONCERN DEFINED.—In this section, the term 'medium-sized business concern' means a business concern that is not more than two times the maximum size specified by the Administrator of the Small Business Administration for purposes of determining whether a business concern furnishing a product or service is a small business concern."

(2) The table of sections at the beginning of subchapter IV of such chapter is amended by inserting before the item relating to section 2525 the following new item:

"2524. Loan guarantees for defense dependent small- and medium-sized business concerns."

(b) CONTINUED AVAILABILITY OF EXISTING FUNDS.—The funds made available under the second proviso under the heading "RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE" in Public Law 103-335 (108 Stat. 2613) shall be available until September 30, 1999—

(1) to cover the costs (as defined in section 502(5) of the Federal Credit Reform Act of

1990 (2 U.S.C. 661a(5))) of loan guarantees issued under section 2524 of title 10, United States Code, as added by subsection (a); and

(2) to cover the reasonable costs of the administration of loan guarantees referred to in such section.●

#### ADDITIONAL COSPONSORS

S. 376

At the request of Mr. LEAHY, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 376, a bill to affirm the rights of Americans to use and sell encryption products, to establish privacy standards for voluntary key recovery encryption systems, and for other purposes.

S. 387

At the request of Mr. HATCH, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 387, a bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software.

S. 394

At the request of Mr. HATCH, the names of the Senator from California [Mrs. FEINSTEIN] and the Senator from Minnesota [Mr. GRAMS] were added as cosponsors of S. 394, a bill to partially restore compensation levels to their past equivalent in terms of real income and establish the procedure for adjusting future compensation of justices and judges of the United States.

S. 535

At the request of Mr. MCCAIN, the name of the Senator from Oregon [Mr. SMITH] was added as a cosponsor of S. 535, a bill to amend the Public Health Service Act to provide for the establishment of a program for research and training with respect to Parkinson's disease.

S. 620

At the request of Mr. GREGG, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 620, a bill to amend the Internal Revenue Code of 1986 to provide greater equity in savings opportunities for families with children, and for other purposes.

S. 717

At the request of Mr. FORD, his name was added as a cosponsor of S. 717, a bill to amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that Act, and for other purposes.

#### SENATE CONCURRENT RESOLUTION 21

At the request of Mr. MOYNIHAN, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of Senate Concurrent Resolution 21, a concurrent resolution congratulating the residents of Jerusalem and the people of Israel on the thirtieth anniversary of the reunification of that historic city, and for other purposes.

#### SENATE RESOLUTION 82

At the request of Mr. SMITH, his name was added as a cosponsor of Senate Resolution 82, a resolution expressing the sense of the Senate to urge the

Clinton Administration to enforce the provisions of the Iran-Iraq Arms Non-Proliferation Act of 1992 with respect to the acquisition by Iran of C-802 cruise missiles.

#### SENATE RESOLUTION 85

At the request of Mr. GREGG, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of Senate Resolution 85, a resolution expressing the sense of the Senate that individuals affected by breast cancer should not be alone in their fight against the disease.

#### AMENDMENTS SUBMITTED

#### THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENT ACT OF 1997

##### JEFFORDS AMENDMENT NO. 240

Mr. JEFFORDS proposed an amendment to the bill (S. 717) to amend the Individuals With Disabilities Education Act, to reauthorize and make improvements to that act, and for other purposes; as follows:

Beginning on page 65, strike line 25 and all that follows through page 66, line 4 and insert the following: "part be provided to children with disabilities who, in the educational placement prior to their incarceration in an adult correctional facility—

"(I) were not actually identified as being a child with a disability under section 602(3); or

"(II) did not have an individualized education program under this part."

##### GREGG AMENDMENT NO. 241

Mr. GREGG proposed an amendment to the bill, S. 717, supra; as follows:

On page 64, strike lines 19 and 20, and insert the following: "there are authorized to be appropriated to the Secretary not less than \$4,107,522,000 for fiscal year 1998, not less than \$5,607,522,000 for fiscal year 1999, not less than \$7,107,522,000 for fiscal year 2000, not less than \$8,607,522,000 for fiscal year 2001, not less than \$10,107,522,000 for fiscal year 2002, not less than \$11,607,522,000 for fiscal year 2003, not less than \$13,107,522,000 for fiscal year 2004, and such sums as may be necessary for each succeeding fiscal year."

#### NOTICE OF HEARING

##### COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet on Tuesday, May 13, 1997, at 10:30 a.m. in room 485, Russell Senate Office Building to conduct an oversight hearing on Public Law 102-477, the Indian Employment, Training and Related Services Demonstration Act of 1992.

Those wishing additional information should contact the Committee on Indian Affairs at 224-2251.

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. NICKLES. Mr. President, I would like to announce for the information of the Senate and the public that the Subcommittee on Energy Research, Development, Production and Regulation of

the Committee on Energy and Natural Resources will hold a hearing to review H.R. 363, a bill to amend section 2118 of the Energy Policy Act of 1992 to extend the Electric and Magnetic Fields Research and Public Information Dissemination Program.

The hearing will take place on Monday, May 19 in room SD-366 of the Dirksen Senate Office Building starting at 11:30 a.m. Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information please contact David Garman or Shawn Taylor at 202-224-8115.

#### ADDITIONAL STATEMENTS

##### EMERGENCY SUPPLEMENTAL APPROPRIATIONS BILL

• Mr. MURKOWSKI. Mr. President, I want to express my support for this emergency supplemental appropriations legislation that will provide much needed relief to citizens in 33 States who have lived through some of the most catastrophic weather emergencies we have ever witnessed in this country. And this legislation also provides much needed funding for our brave service men and women who are keeping the peace in Bosnia.

We have spent the entire week on this legislation and its successful completion is a tribute to the leadership of the new chairman of the Appropriations Committee, my distinguished senior colleague and close friend TED STEVENS and his staff for their hard work on this important piece of legislation.

Mr. President, not only will this legislation provide important financial relief to citizens in hundreds of communities, but it will ensure that we will not see a repeat of the shutdown of the Government that occurred in 1995. And it removes the arbitrary policy of the Interior Department which would terminate the 130-year-old policy that allows States to continue to have access across public lands.

I want to congratulate Senator STEVENS on the passage of this, the first legislation reported by the Appropriations Committee under his chairmanship. I look forward to working with him on many more appropriations bills and am certain that the leadership he has demonstrated on this bill will be repeated several times over in the years to come. •

##### HELPMATE ROBOTICS OF DANBURY, CONNECTICUT

Mr. DODD. Mr. President, I am proud of the many distinguished people, places, and enterprises in my great State of Connecticut. One of them is a company in which innovative spirit, entrepreneurial zest, and good will combine to create products that truly make our lives better. I am speaking of HelpMate Robotics of Danbury, CT.

HelpMate invented and manufactures the first hospital care robot. The robot performs tasks such as delivering food, medicine, and lab samples, so that nurses and orderlies can concentrate on what they do best: caring for patients. Many hospitals are relying on HelpMate's hospital robot to cut costs while improving patient care.

HelpMate's success is due largely to the vision of its founder, Dr. Joseph Engleberger. Dr. Engleberger is widely known as the father of the industrial robot. After building a successful company around the hospital robot, he and HelpMate are now developing an elder-care robot that would help older or infirmed people live at home independently.

Mr. President, I speak about this company and its products today not just to share a home State success story, but to make the larger point that research in one sector often leads to applications in several others. Such cost-effective investments of Federal research dollars ought to be encouraged. The HelpMate hospital robot and anticipated elder-care robot exemplify such a process. The technology they use was initially born out of research for space robotics funded by a NASA Small Business Innovative Research award, and this same technology will ultimately help drive down health care costs.

I urge my colleagues to read more about this company and their remarkable work in the March 3, 1997, Business Week article that I now submit for the RECORD.

The article follows:

[From Business Week, Mar. 3, 1997]

##### INVASION OF THE ROBOTS

(By Otis Port)

At age 71, Joseph F. Engelberger knows time is running out on his lifelong ambition. He is already acclaimed around the world as the father of the industrial robot. But the workaholic chairman of the HelpMate Robotics Inc. in Danbury, Conn., would rather be remembered as the father of the home robot. "Common sense tells you it's got to end up a bigger market than factory robots," he says.

Don't expect the Smiths and Joneses to turn their housekeeping chores over to a robot soon. The first model—which Engelberger has promised to his wife, Margaret, even though she's not crazy about the idea—won't roll off an assembly line until 30 months after Engelberger amasses at least \$5 million to finish development. "The clock starts ticking when I get the money," he says.

People who know Engelberger figure he'll pull it off. "Joe is a very charismatic guy," says Brian R. Carlisle, president of robot maker Adept Technology Inc. in San Jose, Calif. "He's really able to make you believe in his visions." Just ask his kids. Daughter Gay, age 41, is HelpMate's marketing director, and son Jeff, 38, is an engineer at Adept Technology. "When you grow up with someone like him," Gay says, "how could you not want to get into this business?" Investors also are under Engelberger's spell. In January, 1996, HelpMate's initial public offering was a sellout, even though the company had an accumulated deficit of more than \$13 million.

Why are so many people rooting for Engelberger? Because without him, Detroit auto workers might still be welding and painting cars by hand. Today's robot industry stems from a 1956 cocktail party in Westport, Conn., where science-fiction fan Engelberger met inventor George Devol. When Devol mentioned he had applied for a patent on a punch-card-controlled mechanical arm for doing repetitive jobs in factories, Engelberger was hooked.

He persuaded his employer, Consolidated Controls Co., to buy Devol's patent. The first prototype dubbed Unimate, was finished in 1959 and went to work unloading a die-casting machine in a General Motors Corp. factory. But two years later, Consolidated lost interest and told Engleberger to close his shop. "I went to Barnes & Noble and bought six books on finance—and earned my MBA over the weekend," he quips. On Monday, he proposed a spin-off and was given four months to find a backer. He did, and Unimation Inc. was born.

Sputtering. During the 1960s, Engleberger fought an uphill battle to persuade skeptical U.S. manufacturers to employ his programmable arms. He got a warmer reception in Japan—and Japanese robot makers quickly rose to world domination. Among Japanese managers, Engelberger is "a legendary figure," says Shikageaki Yanai, a researcher at the Japan Robot Assn.

Unimation held its own against the Japanese, but in 1983 its cash-strapped owner, Condec Corp., sold the company to Westinghouse Electric Corp. for \$107 million. "They picked a great time to sell," notes Engleberger. America's U.S. robot business soon sputtered, after dozens of companies jumped into the market and sold some systems that didn't live up to promises. Sales peaked in 1984 at \$484 million, then headed south.

Engleberger had hoped Westinghouse would see an opportunity in home robots. When it didn't, he quit and bought a 62-foot, \$800,000 sailboat with part of his \$3 million take from Unimation's sale. He planned to enjoy life as a gentleman of leisure. That lasted for two months. "I got bored pretty quick," he admits. In late 1984, he formed HelpMate, initially called Transitions Research Corp.

To pave the way for home robots, Engelberger decided to use hospitals as a test bed. In 1988, he sold his first medical unit to Danbury Hospital, which now has two. They roam the hallways running errands—delivering medications, meals, X-rays, and patients' records. Handling these chores to machines frees more time for nurses and orderlies to concentrate on caring for patients, says HelpMate President Thomas K. Sweeny.

Word of HelpMate's robots is spreading. Baylor University Medical Center in Dallas has 4 machines, with 11 more on order. All told, 144 have been hired by 85 hospitals in the U.S. Canada, 18 in Japan, and 10 in Europe. Purchased outright, the robots cost \$110,000, so most are rented for \$4 to \$6 an hour.

Outwardly, the 4-foot-6-inch robots resemble the box-on-wheels systems that carry the mail in some offices. But there's a crucial difference: A HelpMate doesn't follow a fixed track, such as a wire in the floor. Instead, its electronic memory contains a floor map of the hospital. When summoned by radio or pointed to a location on a built-in video screen, the robot's microprocessor brain calculates the quickest way to get there. En route, the robot uses infrared and ultraviolet beams to dodge people, food carts, and gurneys in busy corridors, and it summons elevators and opens doors with radio signals.

Sweeny says large hospitals can economically justify one HelpMate for every 100 beds,

so "our total potential market in the U.S. is 10,000 robots." But that number would leap if the robots had arms. Then they could make beds, help patients out of bathtubs, and relieve nurses of other menial tasks. These expanded capabilities would also be needed in home robots, which is why HelpMate with arms are next on Engelberger's list. Once HelpMates have been fitted and arms, they could be programmed for such household chores as cooking, washing dishes, and sweeping. Considering the precision factory jobs that Unimation's arms still perform using yesterday's technology, Engelberger foresees no major hurdles in creating household robots. And his chances of attracting a backer are looking up.

In 1992, the U.S. robot business finally turned around. Lately, sales of industrial robots have been posting successive all-time highs (chart). In 1995, American industry found jobs for 10,198 steel-collar workers worth \$898 million, according to the Robotic Industries Assn.

Now that industrial robots have recovered their sparkle and HelpMate has moved into bigger quarters—Unimation's former home—Engelberger is eager to launch an elder-care robots. Most old folks who enter nursing homes are mentally alert and healthy, Engelberger notes. "They just aren't nimble enough to care for themselves." All the technology developed for patient care would be useful for elder-care robots. Adding certain repetitive household jobs, such as loading the dishwasher or microwave oven, would be fairly easy. Others, including meal preparation, might involve special-purpose attachments. And for finding packaged foods, the robot could have a built-in bar-code reader.

Even a \$100,000 home robot would soon pay for itself by enabling people to stay out of nursing homes. With the population quickly aging, demand could surge, bringing down costs to "something more in line with the cost of a car," says Sweeney.

Guess who Engelberger thinks should market them? "If the auto makers want to diversify, they need a product that sells at roughly the same price point and in the same volume," he says. Next, the father of the industrial robot hopes to become the proud papa of Chevybots, Hondabots, and Volvobots.●

#### FORTY YEARS OF NOVAK

Mr. MOYNIHAN. Mr. President, I rise to record and to celebrate Robert D. Novak's 40 years of Washington journalism, as he himself records this morning in a Washington Post column "What a Change 40 Years Makes." Forty years in journalism, as he writes, "an association with Congress that continues today." An association of rare civility and, too often alas, of deadly accuracy. His access, energy, good spirits, and rage for the truth are equaled only by his lifelong friend and partner Rowland Evans. Top Drawer and Front Page, there has never been the like of them, and I choose to think never will be, for there are some national treasures that truly are unique.

Senators will note Mr. Novak's observation that "The capital city of 1957 was at once shabbier and far better governed than today's glittering but pothole-scarred Washington." A concise way to make the point that as American Government has reached for beyond its grasp on so many social issues, it has accepted an appalling de-

cline in the fundamentals of good government, such as street paving. He notes that in 1957 Congress itself "was vastly less imperial. Admission to the Capitol and office buildings was open, without the need for photo ID cards and security checks." One might add our buildings were not surrounded by concrete barriers and guardposts. One could even go so far as to note that one could even drive down Pennsylvania Avenue in front of the White House. That thoroughfare having now been blocked off. Albeit, ever alert to the need for austerity it has, in its eastern reaches at 15th Street, been turned into a parking lot complete with parking meters.

I came to Washington in 1961 with the Kennedy administration. Bob Novak was a force for government openness even then. Irresistible as a friend and devastating as an analyst. Why only last week he revealed to an unwary world that the proposal for a more accurate cost of living adjustment in Federal finances was the "culmination of Senator DANIEL PATRICK MOYNIHAN's masterful campaign to perpetuate big government \* \* \*"

No matter, just so long as his concern over big Government serves to perpetuate Bob Novak. Let us agree for at least a half century. Let hope, as indeed we may, that his beloved Geraldine will see to this.

He fought for his nation as a lieutenant during the Korean war and has been fighting for it ever since.

Mr. President, I ask that Mr. Novak's column from today's Washington Post be printed in the RECORD.

The column follows:

[From the Washington Post, May 12, 1997]

WHAT A CHANGE 40 YEARS MAKES

(By Robert D. Novak)

On May 13, 1957, I reported to the Associated Press bureau in Washington as a reporter transferred from Indianapolis. I was immediately dispatched to Capitol Hill for Midwestern regional coverage. Within a week, I was detailed to help report the uproarious hearings of the Senate Rackets Committee, which was engaged in a bipartisan assault on Jimmy Hoffa.

That put me in personal contact with John F. Kennedy, Bobby Kennedy, Barry Goldwater, Edward Bennett Williams and Pierre Salinger—headly stuff for a 26-year-old. So began my 40 years in Washington and association with Congress that continues today. The transformation of the city and the institution over four decades has been breathtaking.

The capital city of 1957 was at once shabbier and far better governed than today's glittering but pothole-scarred Washington. Neither chic restaurants nor huge lawyer-lobbyist firms had yet appeared (Bob Strauss's arrival was years in the future). The city was a little more Southern and far less New Yorkish than today. The smell of money was not yet redolent. Nobody came to Washington then seeking the equivalent of a 1997 seven-figure income, but they sure do today.

Congress was not yet consumed with fund raising and was vastly less imperial. Admission to the Capitol and office buildings was open, without the need for photo ID cards and security checks. Members of Congress had not yet adopted Japanese-style bouton-

nieres, and few employed a press secretary. Nearly all readily responded to telephone calls from a low-level AP reporter without an aide asking what he wanted.

Accessibility stemmed in part from many fewer staffers on Capitol Hill—4,500 then, compared with 16,000 now (filling three additional big office buildings). In 1957, \$117 million was appropriated to run Congress, but only \$67 million (\$386 million adjusted for inflation) was spent. That compares with \$2.2 billion in 1997.

With fewer staffers, lawmakers did much of their own work. At night on his portable typewriter, Sen. Everett McKinley Dirksen wrote summaries of every bill reported by every Senate committee. Unlike today, floor leaders—including the imperious Sen. Lyndon B. Johnson—actually spent hours on the floor.

Floor debate was spirited—sometimes mean-spirited. It was the summer of 1957 when Democratic Sen. Robert S. Kerr called Republican Sen. Homer Capehart, to his face, "a rancid tub of ignorance." But issues were not polarized along party lines, with a bipartisan conservative coalition often in control. Both congressional parties shared the conviction that the less government the better—an attitude assailed as "extreme" today.

"Ike Fights to Save Budget," said an eight-column front-page Post headline my first week in Washington, referring to a nationally televised plea by President Dwight D. Eisenhower for public support against congressional budget-cutting. Eisenhower the previous November had become the first Republican president reelected since 1900 and promptly faced the Democratic-controlled Congress seeking to reduce his \$71.8 billion budget substantially—about \$449.9 billion in 1997 money (less than one-third of President Clinton's \$1.7 trillion budget).

The government then was taxing 17.8 percent and spending 17 percent of gross domestic product; the comparable figures for 1997 are 19.2 percent and 20.8 percent. In 1957, it ran a budget surplus at 0.8 percent of GDP, compared with today's hoped-for deficit of 1.8 percent.

The government had not grown since New Deal days and would not until Lyndon Johnson's Great Society eight years in the future. In 1957, regulation was but a glimmer of what it would become.

There was no Education Department, no Energy Department, no Environmental Protection Agency, no Legal Services Corp., no National Endowment for the Arts, no Corporation for Public Broadcasting, no Women, Infants and Children food program. Nor, except for factions on the left in both parties, was there demand for all this.

Libertarians such as Charles Murray would like to peel back to 1957, but it is hard to find any member of Congress who agrees. Rather, Republicans now acquiesce in Clinton's insistence on still greater expansion of government. Americans unquestionably are less free than they were in 1957. Whether, on balance, they in return have been blessed with a better life is doubtful.●

#### ORDERS FOR TUESDAY, MAY 13, 1997

Mr. CRAIG. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 a.m. on Tuesday, May 13. I further ask unanimous consent that on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted, and the Senate then begin consideration of S. 4, the Family Friendly Workplace Act.

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

Mr. CRAIG. Mr. President, I further ask unanimous consent that the Senate stand in recess from the hours of 12:30 until 2:15 for the weekly policy conferences to meet.

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

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PROGRAM

Mr. CRAIG. Mr. President, for the information of all Senators, tomorrow

morning the Senate will begin consideration of the Family Friendly Workplace Act.

It is also hoped that the Senate will be able to complete action on S. 717, the IDEA legislation.

As always, all Members will be notified as to when to anticipate any roll-call votes on either of these two matters.

The Senate may also consider any other legislation or executive item that can be cleared for action.

ADJOURNMENT UNTIL 10 A.M.  
TOMORROW

Mr. CRAIG. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 4:18 p.m., adjourned until Tuesday, May 13, 1997, at 10 a.m.