

citizen intern for 1997. Dr. Fisk is an outstanding individual whom I look forward to welcoming to our Nation's Capitol. I rise to share with my colleagues some biographical information on Dr. Fisk.

Dr. Marvin Fisk is a highly respected member of the medical community. He is an alumni of Howard University in Washington, DC. For the past 16 years, Dr. Fisk has been on staff at the Mt. Sinai Medical Center. He was previously employed at Forest City Hospital. Dr. Fisk's resume also includes faculty appointments at the Howard University College of Dentistry and the Case Western Reserve Dental School. He has also been assigned as an examining dentist and school clinic dentist by the Cleveland Board of Education.

Mr. Speaker, Dr. Fisk's professional memberships include the American Dentist Association, Ohio Dental Association, Fellow of the International College of Dentistry, and the Greater Cleveland Dental Society, just to name a few. He is the former president of the Ohio Dental Association; former president of the Greater Cleveland Dental Society; and the former president of the Academy of General Dentistry. He is currently a member of the board of trustees for Howard University. Further, Dr. Fisk serves as vice president for the Retired Senior Volunteer Program.

In addition to his assignment at the Mt. Sinai Medical Center, Dr. Fisk is an active member of various civic organizations throughout the Cleveland community. They include the Phyllis Wheatley Association, Boy Scouts of America, the Fraternal Order of Police, the NAACP, and Kappa Alpha Psi Fraternity. Dr. Fisk is also a member of Mt. Zion Congregational Church.

Mr. Speaker, Dr. Marvin Fisk is the recipient of numerous awards and citations which recognize his leadership and commitment. He received the Outstanding Leadership Award from the Howard University Alumni Association, and the Distinguished Dentist Award from the Howard University Dental School. Further, Dr. Fisk is the recipient of the Outstanding Leadership Award from the American Dental Association.

Mr. Speaker, I take special pride in saluting Dr. Marvin Fisk. He is an exceptional individual who has earned the respect of his colleagues and others throughout the community. I have also benefited from our close working relationship on issues which impact the Greater Cleveland community. I am certain that Dr. Fisk will do an outstanding job as a congressional senior citizen intern. I want to congratulate him and express my appreciation for his participation in this important program.

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

SPEECH OF

**HON. MATTHEW G. MARTINEZ**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, May 13, 1997*

Mr. MARTINEZ. Mr. Speaker, with the passage of H.R. 5, the Individuals with Disabilities Act Amendments of 1997, Congress has vastly improved the ability of and access for children with disabilities to receive a free appropriate public education. With this reauthoriza-

tion, Congress has built upon the successes of IDEA and made modifications where experiences over the 22 years of the act's existence has necessitated change.

Prior to the enactment of what was then the Education for All Handicapped Children Act, 2 million children were excluded from receiving their right to a public education. On top of this gross injustice, another 2½ million children were receiving totally inadequate educational instruction. Fortunately, my predecessors in Congress recognized this terrible injustice and passed IDEA's predecessor. This civil rights initiative has served our Nation's children with disabilities well throughout its 22 years.

During the 104th Congress, attempts were made to reauthorize IDEA. Unfortunately, the partisan atmosphere of the Presidential elections and the inability to fashion a document which could gain the support of the act's many constituencies essentially doomed these efforts to failure. With the commencement of the 105th Congress, I realized the importance of fashioning a bill which could gain the support of both sides of the aisle, and called on the majority to recognize this fact during the first hearing the Subcommittee on Early Childhood, Youth and Families had on IDEA reauthorization. Fortunately, Chairman GOODLING saw the wisdom in this suggestion and joined together with Senator JEFFORDS and Senate Majority Leader LOTT in proposing that we negotiate a bipartisan, bicameral piece of legislation with significant input from groups and individuals who are affected and served by the act. This process commenced on February 20, and has led us to House and Senate consideration of this measure.

The current IDEA statute consists of 3 formula grant programs that assist States to serve children with disabilities in different age ranges, and 14 special purpose programs that support early intervention and special education research, demonstrations, technical assistance, and personnel training. Of the formula grant programs, two are permanently authorized—the grants to States program, better known as part B, and the preschool program. Despite part B, the heart of the act which mandates that children with disabilities receive a free appropriate public education, being permanently authorized, modifications were necessary to strengthen the acts protections, safeguards and enforcement means. In addition, interpretations by the courts of various aspects of part B has necessitated that Congress clarify its intent.

Among the modifications made by H.R. 5 to the act is a provision which specifically states that educational services for children with disabilities who are suspended or expelled cannot be ceased. Since the inception of the act, the Department of Education has interpreted current law to allow schools to use disciplinary proceedings on children with disabilities, including expulsion. However, the Department's interpretation of the law is that these procedures cannot result in a cessation of educational services. Unfortunately, this interpretation of the statute was called into question by a recent case before the Fourth Circuit Court of Appeals—Virginia Department of Education versus Riley. In the Virginia case the court held that the department's interpretation of the statute was incorrect and that services could be ceased to children with disabilities in certain circumstances.

In order to clarify congressional intent, the bill codifies the long held interpretation of the

department with language that would require a free appropriate public education for all children with disabilities, including those who are suspended or expelled. This will end the short-sighted practice of leaving children with disabilities without the educational tools they need to become active and successful members of society.

Another modification to current law contained in H.R. 5 is the provisions regarding the policies and procedures each State must have in effect with respect to personnel standards in order to be eligible for part B funding. The language contained in section 612(a)(15)(C) sets forth parameters by which a State may deal with a documented shortage of qualified personnel. In subparagraph (C), I want to clarify that the reference "consistent with state law," is intended to be applicable to the laws governing the profession or discipline. This policy should be applied to the most qualified individuals, who shall be supervised by qualified personnel within that profession or discipline, for each position—in other words, on a case by case basis. Further, shortages must be documented by any agency applying this new policy.

H.R. 5 also amended current law in the area of least restrictive environment. This bill codifies recent cases (*Greer v. Rome City School District*, 950 F.2d 688 (11th Cir. 1991); *Oberti v. Board of Education*, 995 F.2d 1204 (3d Cir. 1993); *Sacramento City Unified School District v. Holland*, 14 F.3d 1398 (9th Cir. 1994)) regarding the inclusion of children with disabilities in the general education classroom. This principle of inclusion is so fundamental and central to the purpose and principles of the bill and always has been. The bill underscores the strong presumption in the law recognized by innumerable courts, that children with disabilities should be educated with children without disabilities in the general education classroom. All children, whether or not disabled, benefit from such education. This is surely the best approach to eradicating the prejudice which has kept people with disabilities out of the work force and out of our communities generally—and surely the best way to guarantee equal educational opportunity for all children.

Research technology and experience with integration in the last two decades has flourished. It has demonstrated that children with the full range of disabilities can successfully be taught in the general education classroom—whether or not they are at grade level and whether or not they have disabilities that require them to partially complete tasks or participate in activities differently from other students. Educators have learned a great deal about modifying and adapting curriculum so that children like Rachel Holland with developmental disabilities are successfully receiving all of their education in the general education classroom. This bill is intended to further dismantle the walls of segregation.

Last, I would like to comment on the provisions in the bill which pertain to the provision of FAPE to juveniles who have been adjudicated as adults and are incarcerated in adult correctional facilities. Once this bill is signed into law by the President, States will be permitted to transfer the responsibility for educating juveniles with disabilities placed in adult correctional facilities from State and local educational agencies to other agencies deemed appropriate by the Governor and to allow for the modification of an individualized education

plan [IEP] and the least restrictive environment provision for bona fide security reasons and compelling penological reasons. In addition, the bill will permit public agencies to not serve juveniles who are incarcerated in adult correctional facilities who have not been identified or did not have an IEP in their last educational placement.

In exercising these new authorities, public agencies should remember that children with disabilities who are incarcerated in adult correctional facilities will be more likely to return to prison after their initial release if they do not have the educational tools to survive in life after prison. The small savings gained by not serving these children while they are in adult correctional facilities will pale in comparison to exorbitant future costs of additional prison time or reliance on social welfare programs.

In ensuring compliance with the act, the appropriate education and/or prison official will have the obligation to determine if a youth entering the prison system had been previously identified as eligible for special education services. The prison officials should develop a system for making this determination that includes: interviews with each incoming youth under the age of 22 regarding prior special education participation, notice to each youth under the age of 22 regarding the special education process, and a procedure for contacting educational authorities, including those in correctional or juvenile institutions, to determine special education eligibility and to obtain prior special education records.

#### BOB DEVANEY'S LEGACY LIVES ON

#### HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, May 19, 1997

Mr. BEREUTER. Mr. Speaker, Bob Devaney has left a tremendous legacy that extends across the State of Nebraska and continues to touch coaches, players, and fans with whom he came into contact. As a football coach, he instilled a sense of pride in his players and their fans and helped make Nebraska a winner both on and off the field.

It is clear from the statistics that Bob Devaney was an exceptional football coach. He took a team with a history of losing and instantly transformed it into a victorious powerhouse with a national reputation for success. The turnaround was dramatic. Since his first year as head coach, the team has not had a losing record. During Devaney's tenure as coach, the Nebraska Cornhuskers won or shared eight Big Eight championships and were crowned as National Champion twice. His teams compiled an impressive record of 101-20-2. As a coach, Devaney was a skilled motivator and teacher.

However, Devaney's influence on Nebraska extended far beyond the football field. He created a unifying experience for the State's citizens which is unrivaled in the Nation. Devaney created a positive bond that was obvious not only on football Saturday, but during the week and throughout the year. He drew together east and west; urban and rural; man, woman, and child.

The State was fortunate to have the benefit of Devaney's leadership and expertise not

only as a coach but also as athletic director for the University of Nebraska. In that capacity, he helped establish quality facilities programs for women and men, and established a winning attitude throughout the athletic department.

Bob Devaney earned the respect of his coaches, his players, and fans across the State and throughout the Nation. He demonstrated what can be accomplished through collegiate athletics. With his competitive spirit, lively sense of humor, and genuine concern for his players, Devaney set a positive example of success and good sportsmanship which lives on in Nebraska's football program and throughout the lives of Nebraskans.

This Member would like to commend to his colleagues the following editorials from the Omaha World-Herald and the Lincoln Journal-Star. The editorials highlight the importance of Bob Devaney to the State of Nebraska and his legacy that will always endure.

[From the Omaha World-Herald, May 11, 1997]

BOB DEVANEY, BUILDER OF PRIDE

Bob Devaney.

The name unleashes a flood of symbols and memories. Johnnie the Jet. Gotham Bowl. The Game of the Century. Tagge-Brownson. Back-to-back national football championships. Tom Osborne. Expansion after expansion of Memorial Stadium. A sea of helium-filled red balloons, released by thousands of football fans on Nebraska's first touchdown of the game, hanging in the air above Lincoln on a brilliant fall day.

Even before Devaney's death on Friday, it had been an often-repeated cliché that Devaney's impact on Nebraska went far beyond football, that he brought Nebraskans together, east and west.

But like most other clichés, this one is backed by solid evidence. A stumbling athletic program wasn't the only negative that greeted Devaney when he accepted the head coaching job in 1962. The state's spirit in general had been bruised by events of the previous five years. The Starkweather mass murders were still fresh in people's memories. A governor had recently died in office. Angry debates over tax policy and school financing, gathering steam since the 1940s, were dividing urban and rural Nebraska interests.

Nebraskans were ready for a little good news. Devaney gave it to them. Under him, the Cornhuskers played with noticeably greater verve. They won games that they would have lost in earlier years. They began appearing in the national ratings. Then the Top 10. Finally, in 1970 and 1971, they were national champions.

Interstate 80 was pushing westward across Nebraska in those days. Westerners sometimes asked what good it was. Devaney's success gave people in Hyannis, Kimball and Scottsbluff a reason to use the new super-highway. Cowboy boots and Stetsons, often bright red, became a familiar sight in Lincoln on autumn Saturdays.

Lincoln's economy benefited. East-west friendships grew stronger. The financial success of the football team made it possible for Nebraska to have a high-caliber women's athletic program. The classy Devaney football teams gave the university national visibility.

Some people say that too much is made of college athletics, and they're right. Devaney knew that. Remember, he told fans before a game in 1965, there are 800 million people in China "who don't give a damn whether Nebraska wins or loses." There are bigger things in life than whether the team wins.

Devaney never seemed driven or angry. He respected his opponents. His spirit of good sportsmanship lives on in the Memorial Stadium fans who traditionally applaud Nebraska's opponents at the end of each game, even when Nebraska loses.

Devaney never set out to transform Nebraska. He would have laughed if someone in 1962 said he was responsible for propping up the self-esteem of an entire state. He was just a man with something he could do very, very well. But excellence on the football field inspired excellence in other walks of life. Devaney's success, and the positive influence his accomplishments had on his adopted state, constitutes a memorial that will long bring honor to his name.

[From the Lincoln Journal-Star, May 14, 1997]

BOB DEVANEY TAUGHT US ALL TO REACH FOR  
BEST THAT'S IN US

From Scottsbluff to Omaha, Nebraskans tip their hats to Bob Devaney, who will be honored with fondness and gratitude at an unprecedented statewide funeral observance today.

The funeral services in Lincoln will be telecast live over the statewide educational television network, allowing Nebraskans across the state to participate in the event.

Devaney's enduring gift to Nebraska was an awakening of unity and possibility and pride. He left behind more than those two national football championships and 101 Husker victories.

He brought a whole state to its feet, not only to cheer a winning football program that is still winning 35 years after his arrival, but ultimately to look and reach and achieve beyond that. As thrilling and satisfying as the football success has been, there is more to the Devaney legacy. He showed us the possibilities. He removed the limits. He extended our reach. He raised the bar.

Devaney established new standards. He did not stop at saying we could be better. He said we could be the best, and then he went out and did it. And the lesson began to dawn on us: If this small prairie state could be best in football, it could be best in other endeavors as well.

He showed us excellence. And if he could achieve it with hard work and an iron will, each of us might be able to achieve it in our own pursuits as well.

Devaney came our way from Wyoming in 1962, and immediately turned Nebraska's long slumbering football program around. The success was so instantaneous that it was stunning. The Huskers went from 3-6-1 in 1961 to 9-2 and their first bowl victory in 1962. They have not had a losing season since.

After Devaney's 1970 and 1971 national championships, he turned over the coaching reins to Tom Osborne and set about building the university's entire athletic program into one of the strongest in the country. That also stands as testimony to him today.

So, most vividly, does the red-splashed, sold-out Memorial Stadium of autumn Saturdays in Lincoln. It truly is the house that Bob built, Devaney Bowl. Its seating capacity when he came here in 1962 was 36,000. Four additions more than doubled the stadium's capacity during Devaney's football tenure.

Bob Devaney. Builder. Winner.

And a good-natured Irish wit. He also brought us the pleasure of joy and laughter, and he will be remembered with a smile today all across the state.

Perhaps Osborne knows best the measure of the man. When Devaney turned the football program over to his young assistant in 1973, he stepped back out of the spotlight and