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 Associations, 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 encourage 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 services 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 nondsabled 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 he 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 nonadversarial 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 allocation, 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 reauthorizations, and especially reauthorizations 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 commited 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 behavior. 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 colleague 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 Lungren 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