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Senate

The Senate met at 9:15 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Gracious God, in a world of qualified love it is so encouraging to hear the five wonderful words You greet us with as we begin this day: "I will always love you." We are amazed at all the territory that word "always" covers. It spans the full spectrum of all that we have ever done or said and extends to difficulties, problems, and even failures of the future. It also includes those times when we forget that You are the source of our strength and we take the glory that belongs to You. Amazing love. Your love keeps.

You come to us at the point of our needs, but You also help us come to the point about our needs. You encourage us to confess our hopes and hurts to You. You wait for us to ask for what You are ready to give. It's a mystery: Your willingness, coupled with our willingness to ask, make for dynamic prayer.

Thus, we commit the deliberations, debates, and decisions of this day to You. Bless the Senators with a profound sense of Your personal care so they can be Your agent of caring for our Nation, for one another, and their families. In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. JEFFORDS. Mr. President, for the information of all Members, today the Senate will resume the IDEA bill under the agreement reached last

evening. Following closing remarks on the IDEA amendments, the Senate will begin a series of three rollcall votes, beginning at approximately 9:45 or 9:50 a.m. Senators should be prepared to be on the floor for these stacked votes beginning at 9:45 a.m.

Following the disposition of S. 717, there will be a short period of morning business after which the Senate will begin consideration of the partial-birth-abortion ban. The Senate may also consider the CFE treaty during today's session of the Senate. As always, Senators will be notified as to when any additional votes are scheduled.

I thank my colleagues for their attention.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1997

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 717, which 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 Senate resumed consideration of the bill.

Pending:

Gregg amendment No. 241, to modify the provision relating to the authorization of appropriations for special education and related services to authorize specific amounts or appropriations.

Gorton amendment No. 243, to permit State and local educational agencies to establish uniform disciplinary policies.

Smith amendment No. 245, to require a court in making an award under the Individuals With Disabilities Education Act to take into consideration the impact the granting of the award would have on the education of all children of State educational agencies and local educational agencies.

The PRESIDING OFFICER (Mr. ENZI). Under the previous order, the Senator from New Hampshire is recognized.

AMENDMENT NO. 241, WITHDRAWN

Mr. GREGG. Mr. President, I ask unanimous consent to vitiate the yeas and nays and withdraw my amendment which is No. 241.

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

The amendment (No. 241) was withdrawn.

Mr. GREGG. Mr. President, just to clarify the record on this, this amendment was addressing the issue of funding relative to special education which is, I believe, a critical element of the whole issue obviously of special education, especially the fact that the Federal Government has failed to live up to its obligation to fund 40 percent of the cost of special education. It is only funding approximately 7 to 8 percent of the cost.

After discussions with the majority leader, and with members of the Appropriations Committee on which I serve, I think there is a reasonable opportunity that we will receive the type of funding and support we need in order to start on the path toward reaching the 40 percent.

This path was outlined in S. 1, Senate bill 1, which is the Senate Republican position and which commits to having us fund 40 percent over a 7-year period. This year I am hopeful we can increase funding for special ed so we can get up above the \$4 billion mark in this account, which would allow us to—under the new bill, if it is passed, as I presume it will be—allow us to kick in the ability of the local communities to use some of this special ed funding which the Federal Government was supposed to be paying for, which presently is being paid for by local taxpayers, to use those local taxpayer dollars for other areas of education and to relieve some of the pressure on the communities and the local taxpayers.

So with that understanding, which is not formal—I appreciate that—but which I believe was made in good faith, I am withdrawing this amendment. I

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



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recognize a lot of work has gone into this bill, that there is a great desire to pass this bill without amendments so it will be able to be moved quickly and because it involves an intricate and delicate, delicate compromise. And it is a step forward in the attempt to address the IDEA question and issue of caring for children with disabilities.

This amendment I believe would have had a good chance of passing, but I believe it also would have undermined the desire of those who want to reach an accommodation to make sure to move the process forward and improve the basic special ed bill, and we can do so with this bill, and it would undermine the capacity to do that.

I still believe we can still get to the role of the funding issue which runs on a parallel course without necessarily having to attach this specific language to this bill.

I would note that the law continues to retain in it the 40 percent language. It remains the commitment of the Federal Government and it is a commitment which I and I know the majority, the chairman of the committee, ranking member on the subcommittee, and the majority leader are committed to try to reach.

Mr. JEFFORDS. Will the Senator yield?

Mr. GREGG. I yield to the Senator from Vermont.

Mr. JEFFORDS. I want to thank you for what you have just done. You have provided a way for clear passage of this bill today. But most of all, I want to commend you for your continuous efforts to try to fully fund the 40 percent that we promised the people when this bill was passed some 22 years ago.

I also want to remind Members that your amendment—I think it was on the goals 2000 bill—passed 93 to 0, where we said we would do what JUDD GREGG wants. So I am hopeful that will be kept in mind as the people go forward with the budget. I certainly am going to do all I can to make sure that we live up to the obligations of our own party's promise, which is in S. 1, to do what the Senator from New Hampshire believes we should do.

Mr. GREGG. I thank the Senator from Vermont. I thank him for his courtesy and enjoy working with him.

AMENDMENT NO. 243

The PRESIDING OFFICER. Under the previous order, there will now be 20 minutes of debate equally divided between the Senator from Washington [Mr. GORTON], and the Senator from Vermont [Mr. JEFFORDS], on the pending question, amendment No. 243 by the Senator from Washington [Mr. GORTON].

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

Mr. GORTON. Mr. President, the amendment which we are about to vote on is extremely simple, plain, easy to understand and totally logical.

It reads in its entirety:

Notwithstanding any other provision of this Act, each State educational agency or local educational agency may establish and implement uniform policies with respect to discipline and order applicable to all children within its jurisdiction to ensure the safety and appropriate educational atmosphere in its schools.

Mr. President, I have spoken about the fact that this bill imposes a huge unfunded mandate, \$35 billion a year, on the schools of this country with no more than 10 percent of that money paid for by the Federal Government.

I have spoken of the huge complexity—327 pages in this bill—imposing identical rules on every school district in the country no matter how large or how small. But the single aspect of this bill that is most questionable and most unjust is the double standard it sets with respect to discipline, response to violence, disorder in the classroom. Each and every school district retains its full and complete authority over all of these questions as they apply to students who are not disabled. They lose almost all of that authority under the present IDEA statute and regain only a modest amount of it under this revision.

This double standard makes it difficult to provide an appropriate education to tens of thousands, perhaps hundreds of thousands of our students around the country. They make it difficult to impose rational disciplinary measures on those students who are denominated disabled. They create a tremendous incentive to seek some "expert" who will provide for a given student the title "disabled." We find the decisions that the very disorder, the very violence in classrooms that is to be the subject of discipline is found to be evidence of disability so that the discipline cannot be imposed.

For the educational attainment of all of our students, for the proper protection of all of our students, we should allow each school, each school district, each State to set rules with respect to disorder, to discipline, to violence that are the same for all of the students. Nothing could be simpler.

This amendment will not in any way undercut the right created by this bill for a free and complete education for every student, disabled or not. That remains. What is restored to each school district is the right on its own to make those decisions while looking at the educational atmosphere in which all of its students must learn. The vice of this bill is that it pretends that there are no nondisabled students, only the disabled students count, only their rights count. The rights of all other students and their parents are ignored.

So we ask very simply that this bill be amended to allow each educational agency to establish and implement uniform policies with respect to discipline and order applicable to all children within its jurisdiction in order that they may be safe and have an appropriate educational atmosphere—nothing more, nothing less.

This bill says that the U.S. Senators know more about how to educate stu-

dents than do their teachers, their administrators, their school board members, people who have spent their lives and careers at this job. We do not know more. They know more. We should permit them to do their jobs.

Mr. JEFFORDS addressed the Chair. The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. JEFFORDS. I wish to speak in strong opposition to the amendment. I understand the emotionalism that has gone on in our States throughout this Nation over the years, and even up to the point that we speak, about the problems that were created, and which the Senator from Washington is attempting to address.

I point out, first of all, that the bill tries its best to preserve the order in the classroom through uniform policies for all school districts, and to ensure that every child with a disability is treated fairly, but also balances the needs of those in the classroom to have a safe and peaceful, shall we say, learning environment. That is done. The House voted yesterday with only three dissenting votes on this bill, recognizing that those kinds of balances had been reached after an incredible effort on the part of so many to give us a bill that everyone who is deeply involved in this issue can agree with.

I know this body respects the order that is necessary in the classroom and also the ability of local schools to be able to try and accommodate the interests of all, but I believe this bill, by doing this, what it says is, "notwithstanding any other provision of this act, each State, educational agency or local educational agency may establish and implement uniform policies with respect to discipline and order."

Now, what does that mean? I do not know. But if it means what it says, it wipes out everything. It would be contrary to what they want to do. That means we could have thousands or hundreds of different ideas on how to bring order to the classroom. It would set back the system.

I know the Senator from Washington speaks sincerely, and I know that Washington had a terrible problem, initially, in the early parts of this decade. Almost half the cases, I believe, went to due process hearings and ended up in court. However, this past year, 96 percent of those cases that were heard in mediation were solved and did not go to court. So his own State, I think, has solved the problems he is trying to deal with.

I hope Members would not vote for this amendment. At the appropriate time I will move to table it. This would create havoc in the whole system.

Mr. President, I yield 3 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I rise to speak in strong opposition, as well, to this amendment before the Senate, put forth by the Senator from Washington,

an amendment which would instruct local education agencies to set out their own policy, a potentially very different policy, in disciplining students with disabilities. In short, under his amendment, each school district potentially would have its own distinct policy in disciplining disabled children, and with 16,000 school districts, the potential for conflicting policies is very real, and I am afraid this would be a turnback to the pre-1975 era before IDEA.

Is this a double standard? I say "no." Clearly, we have outlined a process whereby students, if there is a manifestation of a disability, would go down one process, and if a discipline problem was not a manifestation of a disability, that student would be treated just like everyone else.

I think this is fair. This is equitable. Remember, if behavior is not a result of that disability, all students are treated the same in this bill. If behavior is secondary to a disability, there is a very clear process, which is outlined in detail. Yes, it does take several pages to outline that, but it sets up a balance between the school, between school boards, between parents, and between children.

Senator GORTON claims this amendment is about local control, and I feel that it will be used, I am afraid, to turn back the hands of the clock to the pre-1975 conditions where we know that children with disabilities were excluded from the opportunity to receive a free and appropriate public education.

I urge my colleagues to vote against this amendment, not just because, as has been pointed out, it will kill our overall bipartisan effort that we brought forward, but that it would, in fact, turn back the clock and lead, potentially, to discrimination that children with disabilities faced before IDEA was enacted 22 years ago.

Mr. JEFFORDS. Could I inquire to the time remaining?

The PRESIDING OFFICER. The Senator from Vermont has 4½ minutes and the other side has 3 minutes, 45 seconds.

Mr. JEFFORDS. I yield 2 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I thank Senator JEFFORDS for his leadership and I thank Senator FRIST for his eloquent comments.

I rise in strong opposition to the amendment proposed by my colleague Senator GORTON.

The amendment drives a stake through the heart of the bipartisan, bicameral, fair, and balanced provisions in the bill relating to disciplining children with disabilities.

The amendment states plain and simple that local school districts can totally ignore every word of the bill if they so choose. In other words, the amendment effectively repeals every protection in the law for disabled children.

Last night, this extreme position was rejected by 420 of my colleagues in the House in favor of the commonsense approach included in the bill.

The bill specifies procedures for the immediate removal to an alternative setting of disabled children who bring weapons to school or who knowingly use, possess, or sell illegal drugs.

The bill also authorizes: The removal to an alternative setting of truly dangerous children; proper referrals to police and appropriate authorities when disabled children commit crimes, so long as the referrals, do not circumvent the school's responsibilities under IDEA.

And, the transfer of student disciplinary records.

Under the amendment, local school districts could cease educational services for any disabled child regardless of whether or not the child's behavior was related to his or her disability. Cessation of services is not only opposed by all disability organizations, but is opposed by the major groups representing general education and the police and prosecutors. That is why the bipartisan bill rejects cessation.

My colleague raised a number of other points in the course of the debate which I would like to respond to at this point.

My colleague constantly refers to IDEA as an unfunded Federal mandate.

According to the Congressional Budget Office, the American Law Division of the Congressional Research Service, and the U.S. Supreme Court, IDEA is not an unfunded mandate.

IDEA is a civil rights statute that implements the equal protection clause of the U.S. Constitution. IDEA helps States and local school districts pay for the costs of implementing their constitutional obligation to disabled children.

My colleague also talks about the high costs of educating disabled children but fails to talk about the savings to society, not to mention the enhanced quality of life for disabled children and their families.

Prior to the enactment of IDEA, 70,655 children were in institutions. Because of IDEA, that number is down to 4,001. The average cost of serving a child in a State institution is \$82,256 per person. With 66,654 fewer children institutionalized, the savings to States is \$5.46 billion per year.

Danny Piper from Ankeny IA, was born with Down's syndrome. He has an IQ of 39. At birth, his parents were told to institutionalize him because he would be a burden and would not benefit from education. The cost to the taxpayers of Iowa over the course of his life would have been \$5 million. His parents said no and instead placed him in early intervention and then in an integrated program at Ankeny High School where he was a manager of the wrestling team.

The cost of special education over his 18 years was \$63,000. Was it a good investment? You decide. Today, Danny

works, he pays taxes, and he has his own apartment.

My colleague also quotes a parent of a nondisabled child who was told by a lawyer that she has no rights when her child's class is disrupted by a disabled child. I say to that parent she better get a new lawyer.

They have a right to a class environment that is safe and conducive to learning.

That parent has a right to insist that the schools develop positive behavioral approaches and train teachers and provide them with the necessary supports.

What they don't have is the right to kick that disabled kid out of the class just as school systems cannot kick out African-American children when a white child or his parents are uncomfortable around African-Americans.

Can we have school environments that are safe and conducive to learning without kicking disabled kids out? Yes we can. Just ask Dr. Mike McTaggart of West Middle School in Sioux City, IA. In just 1 year, the number of suspensions of nondisabled children went from 692 to 156 of which 7 were out-of-school suspensions. The number of suspensions of disabled children went from 220 to zero. Attendance has gone from 72 percent to 98.5 percent. Juvenile court referrals went from 267 to 3.

His philosophy of discipline for all students is to use discipline as a tool to teach rather than to punish.

In closing, let's reject the Gorton amendment and send a message that we can ensure school environments that are safe and conducive to learning without gutting the rights and protections of disabled children.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

Mr. GORTON. Mr. President, in a recent article in the National Review, the author, Chester Finn, Jr., made the following comments about the present statute equally applicable to this bill.

... prescriptive federal mandates that create heavy costs and regulatory burdens for local communities; extra benefits for government-protected populations and their exemption from rules that others must obey; ample opportunities for activists and lawyers to hustle taxpayer-financed largesse for their clients; barriers to needed reforms of school quality and discipline; ... [and above all] the smug assumption that Washington knows best how the nation's schools should be run.

While various professional organizations have more or less been required to endorse this bill because, as I have already said, it is an improvement over present law, just last month, USA Today published the results of a poll of 6,000 principals, 80 percent of whom said Federal law interfered with their ability to create safe schools.

My two friends on this side of the aisle used the word "balance." There is no balance in this bill. There is no balance at all. There is no consideration—no consideration, none—of the rights of nondisabled students. Yes, there are 16,000 school districts in this country. That is the genius of our country, that

we solve our problems locally, and yet as far as these are concerned, we should have one school district, one Department of Education that should set one set of rules applicable to everyone under all circumstances and at all times. That is wrong. Let our teachers and our principals and our school boards make the decisions as to how their schools should be operated.

If all time has been taken on the other side, I yield back the balance of my time.

Mr. JEFFORDS. Mr. President, very quickly, the balance has been reached in this bill. The most critical question is, what can you do with the dangerous child? It is very simple: If it is not a matter involved with the disability, that child could be disciplined like any other child. If it is related to the disability, as determined by a hearing officer, then there can be up to 45 days removal in an appropriate educational setting. If the problem still exists and the school can demonstrate that the child may be substantially likely to cause harm to himself or others, the child will remain in an interim alternative educational setting for an additional 45 days, et cetera—tremendous balance, tremendous help to the present situation.

Mr. President, I urge the defeat of the Gorton amendment.

The PRESIDING OFFICER. Do both sides yield back their time?

Mr. JEFFORDS. Yes.

Mr. GORTON. Yes.

Mr. JEFFORDS. I move to table the Gorton amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment 243 offered by the Senator from Washington [Mr. GORTON].

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

The result was announced—yeas 51, nays 48, as follows:

{Rollcall Vote No. 64 Leg.}

YEAS—51

Akaka	Dodd	Lautenberg
Baucus	Domenici	Leahy
Biden	Durbin	Levin
Bingaman	Feingold	Lott
Boxer	Ford	Mack
Breaux	Frist	McConnell
Bumpers	Glenn	Mikulski
Campbell	Harkin	Moseley-Braun
Chafee	Hutchinson	Moynihan
Cleland	Inouye	Murray
Coats	Jeffords	Reed
Collins	Kempthorne	Robb
Coverdell	Kennedy	Sarbanes
Craig	Kerrey	Snowe
D'Amato	Kerry	Stevens
Daschle	Kohl	Wellstone
DeWine	Landrieu	Wyden

NAYS—48

Abraham	Graham	Murkowski
Allard	Gramm	Nickles
Ashcroft	Grams	Reid
Bennett	Grassley	Roberts
Bond	Gregg	Roth
Brownback	Hagel	Santorum
Bryan	Hatch	Sessions
Burns	Helms	Shelby
Byrd	Hollings	Smith (NH)
Cochran	Hutchison	Smith (OR)
Conrad	Inhofe	Specter
Dorgan	Johnson	Thomas
Enzi	Kyl	Thompson
Faircloth	Lieberman	Thurmond
Feinstein	Lugar	Torricelli
Gorton	McCain	Warner

NOT VOTING—1

Rockefeller

The motion to lay on the table the amendment (No. 243) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. May we please have order so that we can continue the Senate's business.

We have several more votes to go. We have some short debate between them. The quicker we have order, the quicker we can continue. Please take your discussions to the Cloakroom or the hallway.

AMENDMENT NO. 245

The question now recurs on amendment No. 245 offered by the Senator from New Hampshire [Mr. SMITH]. There will be 4 minutes of debate equally divided in the usual form. Who yields time?

Mr. SMITH of New Hampshire addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, could I have order, please. The Senate is not in order.

The PRESIDING OFFICER. Please clear the well. Staff please take their seats.

The Senator deserves to be heard. There are 4 minutes of debate equally divided.

The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Like the previous amendment offered by my colleague from Washington, Senator GORTON, this is a very reasonable amendment. It simply requires the courts, when they make an award under IDEA, to take into consideration what impact that award will have on all of the students in the district or in the particular classrooms. For example, we have cases where a \$1,000 IDEA program or plan, educational plan costs \$13,000 or \$14,000 in legal fees. There are millions of dollars in legal fees spent in all 50 States, all over America, that are taken out of the classroom. These are dollars that you cannot use for teachers, you cannot use for computers, you cannot use for textbooks or, frankly, for infrastructure or schools or buildings.

The issue here is whether or not you want to have these dollars go to the

students or go to the lawyers. That is the simple issue. This is a very reasonable amendment. There is nothing unreasonable about it.

I think the process here where we say we cannot amend a bill to strengthen it, to make a better bill is a bad process and one for which I wish we had not set the precedent. I urge my colleagues to think about it because at some point in the not too distant future you are going to have another piece of legislation coming through here, and you are going to be on the other side. You are going to want to offer an amendment and you are going to have to say to yourself, well, when I had the opportunity before, I opposed that opportunity for another colleague. Sure, I can offer the amendment but the deal by the leadership is to oppose the amendment because we have a deal. The answer is very simple. You can vote for my amendment and take dollars out of the pockets of lawyers and put them into the classroom for the students or you can oppose my amendment and favor the lawyers.

I thank the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Vermont.

Mr. JEFFORDS. I yield 30 seconds to the Senator from Tennessee.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee.

Mr. FRIST. Mr. President, this amendment would require a court before awarding attorney fees to prevailing parents to do an analysis of the impact of the award on the local school district. The point is that the court already has the discretion to assess the impact of an award on a school district. Thus, this is unnecessary. Awarding fees today is at the court's discretion. This amendment would actually require a formal cost analysis, an additional bureaucratic burden on a school district. It is unnecessary. It is covered in the underlying bill. I urge opposition to the amendment.

Mr. JEFFORDS. I yield 1 minute to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 1 minute.

Mr. HARKIN. Mr. President, I rise in strong opposition to the Smith amendment which adds limitations on the awarding of attorneys fees to parents of disabled children that are unprecedented in any other fees provision.

The provisions in current law relating to attorneys fees were added by our colleague Senator ORRIN HATCH. He modeled the IDEA fees provisions on provisions in other civil rights laws. On final passage of these provisions he explained that they reflected a carefully crafted compromise that provides for reasonable attorneys fees to a prevailing parent while at the same time protecting against excessive reimbursement.

Let's not upset that carefully crafted compromise. Let's retain the parity between the fees provisions in the IDEA

with the fees provisions in other civil rights statutes. It is inappropriate to establish a double standard for parents with disabled children.

Listening to Senator SMITH, one might get the impression that there is a proliferation of litigation under IDEA. The data does not bear out such an assertion. The number of court cases under IDEA is actually declining from 199 in 1992 to 120 last year. This is out of 5.3 million disabled children. The number of due process hearings in New Hampshire last year was 10. In my State of Iowa, the number was four. In the entire State of California, with almost 600,000 disabled children in the IDEA program, the number of due process hearings was 57—1,289 requests for hearings but the overwhelming majority were resolved in mediation.

Let's reject the Smith amendment.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Let me speak to my colleagues very sincerely.

Last year we came almost to the point where we passed a bill similar to this for the disabled community and for the schools. It broke down at the last minute because there was dissension over one issue. You have had your opportunity this time to show your concern about how the bill goes, but if we have one amendment, then it has to go back and there are those out there now who want to disrupt it. Senator LOTT and Dave Hoppe spent hundreds of hours to bring these communities together to agree on this bill which is a tremendous step forward. If you vote no on the motion to table, you could kill this bill and we could start over again.

Mr. President, I move to table.

The PRESIDING OFFICER. Is there a sufficient second?

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

The PRESIDING OFFICER. There is a sufficient second. The yeas and nays are ordered.

The question is on agreeing to the motion to table amendment No. 245 offered by the Senator from New Hampshire. The clerk will now call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

The PRESIDING OFFICER (Mr. SESSIONS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 68, nays 31, as follows:

[Rollcall Vote No. 65 Leg.]

YEAS—68

Abraham	Campbell	DeWine
Akaka	Chafee	Dodd
Baucus	Cleland	Dorgan
Biden	Coats	Durbin
Bingaman	Cochran	Feingold
Boxer	Collins	Feinstein
Breaux	Conrad	Ford
Bryan	Coverdell	Frist
Bumpers	Craig	Glenn
Burns	D'Amato	Graham
Byrd	Daschle	Grassley

Harkin	Leahy	Reid
Hollings	Levin	Robb
Hutchinson	Lieberman	Roth
Inouye	Lott	Santorum
Jeffords	Lugar	Sarbanes
Kempthorne	Mack	Smith (OR)
Kennedy	McConnell	Snowe
Kerrey	Mikulski	Stevens
Kerry	Moseley-Braun	Torricelli
Kohl	Moynihan	Wellstone
Landrieu	Murray	Wyden
Lautenberg	Reed	

NAYS—31

Allard	Gregg	Roberts
Ashcroft	Hagel	Sessions
Bennett	Hatch	Shelby
Bond	Helms	Smith (NH)
Brownback	Hutchison	Specter
Domenici	Inhofe	Thomas
Enzi	Johnson	Thompson
Faircloth	Kyl	Thurmond
Gorton	McCain	Warner
Gramm	Murkowski	
Grams	Nickles	

NOT VOTING—1

Rockefeller

The motion to lay on the table the amendment (No. 245) was agreed to.

Mr. BINGAMAN. Mr. President, I would like to take a few moments this morning and talk about this Congress' commitment to education, and special education in particular.

S. 717, the Individuals With Disabilities Education Amendments Act of 1997, is the first piece of major legislation to come out of the Senate Labor Committee since the start of the 105th Congress that directly affects the important issue of education. This piece of legislation before the Senate today is an integral part of providing educational services to over 5 million children across this country. This legislation reminds us of the fundamental importance of the need for strong educational funding at a time when all eyes are focused on budget-balancing.

Mr. President, special education is of critical importance to my home State of New Mexico, in which over 50,000 children receive specialized educational services. In New Mexico over 14 percent of the eligible school age population receive needed educational services from this law. Currently, New Mexico receives over \$26 million in Federal funding to assist the educational needs of special education students. This funding is very important to States like New Mexico that have rural and isolated communities and are working to provide specialized educational services at great distances.

Over the past 2 years especially, and throughout my tenure in the Senate, I have heard numerous stories from New Mexico's students, parents, educators, and administrators about the need for added resources and effective programs for special education students.

I have also heard their concerns about the current Federal law, which include: financial incentives to over-identify students as disabled; lack of standards and performance assessments; the difficulty teachers and administrators face in maintaining classroom discipline; and the concerns of parents who are struggling to find the best possible placement for their child and to ensure that educational services are provided.

However, I believe that the legislation before the Senate begins to address these concerns. This bill:

First, includes language that will increase educational accountability and standards for disabled students.

Second, creates new measures to allow parents and Federal agencies to monitor and assure the adequacy of special education programs.

Third, includes language that aims to increase flexibility for State and local school districts and reduces paperwork for school districts.

Fourth, strengthens teachers' and administrators' abilities to control their classrooms, without ceasing educational services to students.

Fifth, includes language that will ensure access to assistive technology for our special education students and provisions to allow blind and visually handicapped students learn Braille.

Sixth, removes past incentives to encourage the overidentification of children with disabilities.

I am especially happy to see statutory language that requires the inclusion of almost all special education students in testing and accountability programs.

Just recently I heard a story from a special education administrator in New Mexico that expressed the importance of integrating standards in special education and how they promote accountability and improved services.

In Kentucky, for many years, some neighborhood schools were sending their special education students to other schools to receive specialized services. However, when Kentucky started to require assessments for special education students and included these scores in school report cards, some of these neighborhood schools started to educate their special education students within their own schools so as to improve the student's academic levels.

Mr. President, the requirement for inclusion of special education students in academic assessments is a key aspect to ensuring that this legislation will be effectively implemented in schools throughout New Mexico and across the United States.

Mr. President, I plan to support this legislation because I believe it strikes a balance between the different views and needs of many of the stakeholders within the special education community. This legislation begins to address many of my concerns and the concerns that I have heard from my constituents in New Mexico. I am especially pleased to see language included in this legislation that allows states and local districts flexibility in the implementation of IDEA.

Just 2 weeks ago, the President and congressional leaders reached a budget agreement that included increased funding for education. It is imperative that Congress remains committed to providing quality education to our Nation's youth.

For these reasons, I urge my colleagues on both sides of the aisle to

take the bipartisan and bicameral commitment to education that has been exemplified in the reauthorization of IDEA and to focus on increased funding and the development of standards that provide educational opportunities to all students. Mr. President, I applaud the efforts of my colleagues both here in the Senate and in the House of Representatives to reauthorize IDEA and I applaud their commitment to education. This is not the time in our Nation's history to waver on our commitment to educate America's students.

Mr. ENZI. Mr. President, first I want to commend the Senators and staff who have committed so much time to the reauthorization of the Individuals With Disabilities Education Act. It is a good bill that incorporates the insights and experiences of the hundreds of groups who have been involved in the development process. I planned to offer my strong support, however, for the amendment that was to have been offered by Senator GREGG because I believe the underlying bill would be better if it contained a strong commitment on Federal funding—for a number of reasons.

I am familiar with education spending at the State level because I come to this process as a former State Legislator. I served the State of Wyoming for 10 years—5 years in the State House and 5 years in the State Senate. During that time, in my tenure as chairman of the Senate Revenue Committee, I felt all of the constraints in the State budget. The most difficult one, however—the one that was always fraught with protestation and controversy—was how we spent money on education, where it came from and where it went. Elementary and secondary education is my State's largest single expenditure.

In the 1995-96 school year, the Wyoming State Government expended \$237 million, or 44 percent, of the total amount of money spent on K-12 education in Wyoming. Fifty percent of the funding, or \$280 million, came from local sources. I am proud of that commitment. The people in my State invest over \$5,800 per student, per year, and that is the second highest amount in the country as a percentage of State income. But let me focus for a minute on the other 6 percent—the Federal contribution.

Federal support for elementary and secondary education is a sensitive issue in Wyoming. Federal dollars always come with Washington strings attached and that is a problem for me and for a great number of my constituents. I believe we should leave more of our tax revenue in the States and let the people who live there make the decisions about education.

Special education is different, however, because the strings are already in place. The distinction is that they don't come with much money. Wyoming's State and local taxpayers spent \$58 million for special education last year. That was matched by only \$5 million in Federal funds—about 8 percent.

Mr. President, IDEA is a good law. It protects disabled kids from discrimination in public education. It is an issue that needs national attention, coordination, and support. We should recognize why this law exists, why these services are mandated, and understand why there should be an assurance of strong Federal funding. The Gregg amendment would have made that commitment. It would say that we, as a body, believe the Federal Government should pay more for special education.

Why is this amendment so important? Because Congress has failed to support its share of the cost for 20 years. Without this amendment, the States really have no reason to expect that the situation is going to change. To add insult to injury, the bill places a new maintenance of effort requirement on State education agencies. That is a difficult pill to swallow when the Federal maintenance of effort has been so clearly lacking.

I would have objected to the new State maintenance of effort because my State currently pays 85 percent of special education costs. The local relief provided in this bill will do little to offset the State's heavy burden. The bill does, however, allow for a waiver if the State can show it is providing all kids with a free appropriate public education. That is an important consideration and I think it adds enough flexibility to the law to make it acceptable. But it does not solve all the problems.

This legislation will also require States to provide some new services. Without a guarantee of additional Federal funding, the States are going to have to bear that cost. One expense will be the mandate to provide alternative education for kids who are expelled due to disciplinary problems. There is also a requirement to provide State mediation as an alternative to due process. I support these changes. I hope they will actually reduce costs in the long run. But if we cannot even pay the Federal share for current mandates, then we should not be adding new ones. Congress needs to ante up the Federal share. If we are unable to do that, then this bill loses some of its luster.

The Gregg amendment would have made that commitment. I understand the problems a conference might present on this bill. I sympathize with Members who have spent so many hours working to reach consensus, but I believe the Gregg amendment is important enough to deserve conference consideration.

Mr. President, I do support the bill. It makes some sorely-needed improvements to the law—particularly in the areas of discipline, State coordination, and legal fees. We have before us a compromise that will improve current law, but it still lacks a strong funding resolution. That would have been an important part of this legislation that I think members of both parties would have supported.

If we are going to help States live up to their responsibility in providing a free appropriate public education to all kids, then we need to do it. And that means more than just piling on regulations.

Mr. WYDEN. Mr. President, all children should have access to a quality education, regardless of whether they have disabilities. The importance of the Individuals With Disabilities Education Act [IDEA] is that it enables parents to acquire special educational assistance for their children who may be fully capable of becoming productive members of society, but may need some extra help along the way. I am pleased that Members of Congress on a bipartisan, bicameral basis have worked out a compromise that allows us to reauthorize this important piece of legislation.

While I generally support the compromise on the IDEA bill that is before us today, I want to touch briefly on an issue that some school nurses have raised with regard to this legislation.

I have heard from many Oregon school nurses about the importance of including nurses in the individual education program [IEP] development process. Under current IDEA regulations, school nurses are considered qualified health professionals and are considered fully capable of assessing a student's disabilities during the IEP process. The school nurses had asked to be mentioned specifically in the statute as "related service providers" in a disabled child's multidisciplinary team. While this could not be worked out, I understand that the committee report addresses this issue, and I want to convey my support for the inclusion of school nurses as part of the IEP process.

In this country we frequently underestimate the excellent quality of care provided by this Nation's nurses. School nurses have the training and provide the supervision to safely deliver specialized health services. For children with chronic or special health care needs, the school nurse is often a crucial member of the multidisciplinary team that enables children with disabilities to participate fully in their educational program. As long as they are fully qualified to make an assessment of a child's disability, there should be no reason that localities should discriminate against nurses.

Again, I complement my colleagues for breaking through the logjam on this important reauthorization, and I want to reemphasize my support for the school nurses who play such an important role in the care of children with disabilities.

PERSONNEL STANDARDS

Mr. HARKIN. Mr. President, there is a new policy with respect to personnel standards in section 612(a)(15)(c) of the bill that sets forth parameters by which a State may deal with a documented shortage of qualified personnel. In that subparagraph, I want to clarify that the reference "consistent with

state law," is intended to be applicable to those State laws governing the profession or discipline. I offer this statement to provide guidance at the U.S. Department of Education to help them in implementing the reauthorization.

Mr. JEFFORDS. I agree with that interpretation and thank the Senator for this clarification.

Mr. GRASSLEY. Mr. President, I rise today in support of S. 717. I support this bill because it has become clear to me that the status quo in special education is not acceptable.

Even though Iowans have done a good job under existing law, it is time to make changes. These changes are necessary in order to keep pace with the challenges facing educators today. Students with a variety of special needs are now in the schools. They have needs we couldn't even imagine when the first special education law was passed.

At this time I will address only two aspects of S. 717 that are sufficient reasons for supporting it. First of all, this bill would give schools and parents additional tools to improve education for all children.

In response to school complaints, clearer guidance is given for actions to assure the safety of all students in the classroom. I believe all of us here today recognize the need to do this.

For parents, the right to participate in decisions about their child's education is given more support. This is done through attendance at evaluation and assessment meetings and at any meeting at which the placement of their child might be decided.

And for students, in this bill we send a clear message that we have high expectations for all students—including students in special education. More accountability for progress on IEP's would be required. Participation in statewide and districtwide measures of school performance would be required. Stronger linkages to the regular education curriculum would be required for these students. We expect success from special education programs under this bill, and we expect that success to be measurable.

The second aspect of S. 717 I want to address is this. This bill clarifies that schools are not the only agencies that should pay for the services special education students need. This proposal does not retreat from the principle that all children have the right to an education, no matter what their needs are. What this bill does is require that Governors work to assure that all sources of funding for services are used to support these students.

This will be of particular importance to schools and families in Iowa.

Last week, I had a visit from a school superintendent in Iowa. His district has about 15,000 students; 2,000 of those students are in special education. Of those students there are about six or seven kids a year who require substantial medical support in order to attend school.

The school district hires nurses and other professionals in order to assure that these students can get an education. But this superintendent has been unable to get other agencies and programs to contribute to the costs of providing health services to these students. And this school year approximately \$2 million will be spent by this school system on health services for these few students, some of whom are eligible for Medicaid.

Clearly these costs are beyond what we should be asking schools to pay. And that is one reason why S. 717 is important. It provides clear direction that these costs are not the primary responsibility of educators. They are instead the responsibility of other programs that have been created to support students and families. I am happy to provide such support to that school superintendent in his efforts to secure all the services his students need.

That superintendent represents a strong tradition in Iowa.

Education for students with disabilities in Iowa was mandated 6 years before the predecessor to IDEA was passed by Congress in the 1970's. At that time, when I chaired the Education Committee in the Iowa House, a State mandate for special education was passed. Following that, we developed a system of area education agencies that still serves Iowans today. It took us 2 years to get the area agency legislation passed; we were successful in 1974. That system is still the basis for delivering special education services to students all over Iowa, particularly in rural areas.

Regarding this bill, S. 717, my colleagues have enumerated positive aspects of this compromise proposal other than those I have mentioned. I have followed the progress of the work group closely and now provide my support for this landmark legislation.

Mr. MCCONNELL. Mr. President, since 1966, the Federal Government has supported special education services for America's disabled children. Today, school districts depend on the Individuals with Disabilities Education Act [IDEA] for assistance in assuring that children with special needs receive a comprehensive education in a supportive environment. In Kentucky alone, over 85,000 children benefitted from IDEA during the 1996-97 school year.

Today, the U.S. Senate takes a historic step forward in its consideration of S. 717, a bicameral, bipartisan bill to reauthorize IDEA. Over the last two decades, changes in educational resources and the needs of students have impaired the ability of schools to meet IDEA's goal of a free, appropriate education for disabled students. This measure seeks to ensure that the Federal statute effectively addresses the special education issues of today's classrooms and is prepared for the future needs of educators, parents, and students involved in special education.

This bipartisan, bicameral legislation achieves these objectives by build-

ing upon three primary goals: To focus on the successful education of children with disabilities, instead of rote completion of paperwork; to assure increased parental participation; and to give teachers the tools they need in order to teach all children.

S. 717 helps schools improve the delivery of special education services by eliminating unnecessary paperwork, streamlining data collection, and enhancing program flexibility and service integration. Schools also assume greater accountability for the educational progress of special education students through their inclusion in States and district-wide assessments.

S. 717 reduces the financial strain on school districts and parents by including mediation as an option for resolving disputes. The revised funding formula delivers more IDEA dollars directly to local education agencies, and the bill also requires interagency agreements so other responsible agencies pay their fair share of the service delivery costs for disabled students. As a cosponsor of S. 1, I look forward to working with my colleagues in fulfilling its promise of an additional \$10 billion for IDEA over the next 7 years.

Further, S. 717 expands the ability of parents to participate in the planning of special education services for their child. The bill seeks to provide parents with the information they need to effectively work with their local school system by improving the preparation and dissemination of school notices and requiring student progress reports.

Teacher preparation for the successful delivery of special education services is also a priority in this legislation. Educators also receive greater freedom to coordinate instruction between special and regular education students. Finally, S. 717 offers a sound compromise solution for managing the disciplinary concerns of educators, parents, and students with disabilities.

I am also pleased that the bicameral, bipartisan working group responded to my request and the request of other committee members that this reauthorization include reforms specifically focused on the braille literacy needs of blind and visually impaired children. Since 1968, the percentage of blind students who lack reading or writing skills grew from 9 to 40 percent. This measure takes a two-pronged approach to this serious educational need by focusing on the importance of including appropriate braille instruction in a qualified student's individual education plan and emphasizing the need to enhance teacher preparation in the use and instruction of braille. I want to thank the Members of the working group for their leadership in addressing this key educational issue for our Nation's blind and visually impaired children.

IDEA's guarantee of a free, appropriate public education for children with disabilities remains one of our Nation's greatest accomplishments in civil rights. After 2½ years of work,

this final legislative proposal demonstrates the firm commitment of America's educators, parents, disability advocates, and this Congress to provide every child with an opportunity for educational success. Mr. President, I am proud to join as an original cosponsor of S. 717, and I encourage my colleagues to vote in favor of this worthwhile education measure.

Mr. HATCH. Mr. President, I am pleased to support the reauthorization of the Individuals With Disabilities Education Act [IDEA]. For over 20 years, IDEA has been assisting children with disabilities overcome obstacles and become successful students who go on to become productive citizens.

I commend the efforts of Chairman JEFFORDS, Senator HARKIN, and Senator FRIST. The Labor and Human Resources Committee has crafted a bill which is the product of hours and hours of consultation and discussion on both a bipartisan and bicameral basis. I also understand that Majority Leader LOTT has taken a special interest in this bill as well, and I appreciate his leadership in the effort to enact this legislation.

I have personally been assisted throughout this process by my Utah Advisory Committee on Disability Policy, and specifically by Dr. Steve Kukic, director of the Utah State Office of Education's Services for Students At Risk. Early on in this process, Dr. Kukic presented testimony to the Senate Labor and Human Resources Committee and identified what I believe is a key factor in this ultimately successful reauthorization which is a balanced system of accountability. Crucial to the success of IDEA is a framework where parents, advocates, school administrators and educators all work together to ensure that children are appropriately served.

I appreciate that parents, advocates, school administrators, and educators may have different and strongly held opinions about how to accomplish the goal of delivering educational services to all children, particularly with regard to disciplinary actions and attorneys fees. I believe that central to the intention of this reauthorization was the attainment of balance between the objective of these interested parties. I also believe that this reauthorization, by and large, achieves this balance.

I concur with several of the points raised by Senator GREGG, particularly the notion that if the Federal Government fulfilled its commitment to funding IDEA at an appropriate amount, then resources would be available on the state level to fund projects deemed necessary by the State.

However, as has often been stated in the Senate, we should not allow the perfect to become the enemy of the good. It is vital that we move ahead with the reauthorization of IDEA. This program makes a tremendous difference in the lives of children with disabilities.

I again want to commend all senators who participated in bringing this legis-

lation to the floor. And, I would also like to single out a couple of staff members for their dedication to this goal. Pat Morrissey with Senator JEFFORDS and Robert Silverstein with Senator HARKIN deserve special kudos for hanging in there for the duration.

I am pleased that both the Senate and House of Representatives have ensured that the services provided under IDEA will continue, and I am pleased to vote in support of final passage. I urge the President to sign it promptly.

Mr. KOHL. Mr. President, I rise in strong support of the Individuals With Disabilities Education Act Amendments.

The bill before us today serves as a shining example of what Congress and the administration can do when working together in a bipartisan basis to address the concerns of diverse interests. In this case, these interests include parents, teachers, disability advocates, and school administrators. Too often these groups have been pitted against one another and have risked losing sight of a goal they all share—providing the best education for children with disabilities. This bill helps clear away problems that have obstructed that goal and reaffirms a child's right to a free appropriate education.

Since the inception of the Education for All Handicapped Children Act in 1975, later changed to the Individuals With Disabilities Education Act [IDEA], our education system has undergone significant changes. Prior to this monumental legislation, children with disabilities were often shunned from traditional schools and relegated to State institutions. Today, special needs children are learning in the classroom side by side with their peers. This would not have been possible without IDEA.

Advances in technology, teaching methods, and understanding of childhood development have changed the way we approach education in general, and special education in particular. But this progress has not been painless. School districts face enormous challenges in meeting the needs of all children. Given the intense resources often required to help keep special needs children in the classroom, schools and states have struggled with rising costs. Along with the financial burden, schools have been faced with growing societal pressures.

I have been troubled by reports from parents, teachers, and administrators in Wisconsin about violence in the classroom. Some of these cases have involved students with disabilities. Although often a reflection of inadequate resources directed to the special needs of the disabled student, disruptions affect the entire classroom. No student should have to learn in a classroom of fear and no teacher should be forced to choose between educating a special needs student and the rest of the class. And Mr. President, no student should be denied an appropriate education.

I am also troubled that despite IDEA, some disabled students are not be get-

ting the education they deserve. Procedures and resources may vary tremendously from State to State and even between school districts within States. Clarification is needed to help schools and States conform with the goals of IDEA. This bill provides that clarification.

The bill makes numerous improvements to the current provisions of IDEA, while maintaining key principles. To address concerns with litigation, the bill encourages use of mediation and parent training centers, which are effective resources that provide low-cost dispute resolution between parents and schools. Paperwork burdens faced by schools and States are also addressed. Although documentation is a necessity, educators should concentrate on teaching, not paperwork. Important, parents rights are maintained and each child is still guaranteed an appropriate education.

I am particularly pleased that this legislation will intensify the focus on early intervention services for infants and toddlers with disabilities. As we know from the growing body of scientific evidence on brain development, the most important time to influence a child's learning capacity is in the zero to 3 age range. This section of IDEA recognizes the need for early intervention and represents one of the very few areas of Federal investment in this critical age group.

Finally, Mr. President, this bill helps resolve two very contentious issues involving special education—discipline and due process. This compromise will ensure that disabled children retain access to special education services while giving school districts greater ability to maintain order and safety in the classroom. If students pose a threat to themselves or others, there is new authority to allow removing the child from the class to an alternative educational setting. But the student cannot be shut out of school doors because of behavioral problems relating to the child's disability. In addition, parents will maintain a key role in their child's education and retain legal rights if a child's education is neglected.

Although these changes may not please everyone, I believe they represent a fair compromise to a very delicate area of law. Overall, this bill is a balanced attempt to enable infants, toddlers, and children with disabilities to receive a high-quality education and helps schools provide that education.

Mr. President, this compromise was a long time coming and will have an impact for a long time to come. I urge my colleagues to support this consensus legislation.

Mr. KEMPTHORNE. Mr. President, I rise today to express my support for S. 717, the Individuals With Disabilities Education Act reauthorization [IDEA].

Over the last 2½ years or so, this body has worked diligently to reauthorize IDEA. I commend Senators JEFFORDS, HARKIN, LOTT, COATS, FRIST, and KENNEDY, and all of the others who

have contributed to the development of this legislation and to the debate here on the Senate floor this week. The education of our children, including those with disabilities, is an important issue, and not one which may be taken lightly. The efforts of the Senators I just mentioned demonstrate the high level of concern which exists on this matter.

I would like to begin by addressing a matter which I have heard discussed several times over the last couple of days. That matter is unfunded mandates. As the author of the Unfunded Mandates Reform Act, I am well aware of this issue. In fact, I have worked on the question of whether or not IDEA, or similar legislation, should fall under the definition of an unfunded mandate since well before my legislation became law.

Early in my work on unfunded mandates legislation, I included specific limitations on the application of such a law. Among those limitations were exceptions for a Federal statute or regulation which establishes or enforces any statutory rights that prohibit discrimination on the basis of race, religion, gender, national origin, handicapped, or disability status. Let me again say, an exception is included to protect the statutory rights of numerous groups, including the handicapped and disabled. Clearly, IDEA is designed to protect the rights of disabled students. Given these two very specific facts, I believe it is inescapably obvious that IDEA is not an unfunded mandate as defined by the Unfunded Mandates Reform Act, Public Law 104-4.

One aspect of the Unfunded Mandates Reform Act which did impact IDEA was the provision which called for the Advisory Commission on Intergovernmental Relations [ACIR] to explore any law which placed an enforceable duty on State or local governments. Among the laws which the ACIR reviewed was IDEA. At the time, many groups contacted me in firm opposition to any consideration of IDEA in ACIR's report. I maintained that we should have no sacred cows, that reviewing IDEA in the report could play an important role in reauthorizing this legislation. While many people expressed numerous concerns about the final ACIR report, I think one aspect of that report was particularly notable. That part mentioned that the Federal Government needed to finally start picking up its fair share of the costs of IDEA, that we should contribute the 40-percent of the costs that were originally promised. I am sure my colleagues would not be surprised to find out that no one expressed any opposition to that specific recommendation.

And I am pleased to note that the ACIR recommendation on funding has not been ignored. From the very beginning of the 105th Congress additional attention has been focused on the need for increased federal funding for IDEA. S. 1, the Safe and Affordable Schools Act of 1997, contained increased authorizations for IDEA to finally reach

the 40-percent federal share for which we have aimed. In addition, earlier this year, Senator GREGG took the lead in circulating a letter to President Clinton, later signed by myself and 20 of our colleagues, requesting his cooperation in fully funding special education. Now that the issue of IDEA funding has been raised, I believe the increased consciousness about this issue will result in Congress soon achieving full funding for this important program.

Mr. President, while we may have many different approaches on this issue, I believe we share exactly the same goal—providing our children, regardless of their level of disability, with the best possible education. Does S. 717 reach this goal? Quite honestly, the answer is no. This legislation is not perfect. No bill ever is. But S. 717 gets us closer to our goal. Through untold hours of hard work on the part of Members of Congress and various groups affected by IDEA, a compromise was reached. Because of this effort, we now have before us legislation which will make IDEA better.

I believe S. 717 improves the implementation of IDEA for all affected parties—students, parents, teachers, and school administrators. The bill takes significant steps to reduce the paperwork associated with the current law and to increase the flexibility available to teachers and school administrators, allowing schools to focus on what should be their first priority—educating young people. It improves the ability of schools to discipline disabled students in appropriate circumstances, most notably in any situation involving the possession of a weapon or controlled substance. It requires mediation as an option to taking disputes between parents and schools to the courts. It also enhances the ability of parents to participate in educational decisions which affect their child. All of these things together will help us provide better educational opportunities to students, both the disabled and non-disabled, and will ease some of the burden on schools which exist in the current law.

Mr. President, as I stated before, the bill before us today is the result of a great deal of lengthy and painstaking negotiations. While it is likely that no one would say this is the bill they would choose if the decision was entirely up to them, it is the bill on which often opposing sides were finally able to come to an agreement. After all the work which went in to creating this delicate balance, I believe altering the bill would be detrimental to the fragile agreement which was finally built. With this in mind, I will oppose the amendments which have been offered on this legislation. While I understand the concerns expressed by these amendments, and commend the amendments' sponsors for their concern about the needs of school districts, I cannot support any amendment which could unravel the current consensus which has been forged.

Mr. President, the legislation we have before us today will increase flexibility for schools, improve educational opportunities for students, and encourage parents, teachers and school administrators to work more closely together to address concerns about the education of the disabled. I am pleased to support this bill and urge its passage.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the clerk will report the House companion bill.

The legislative clerk read as follows:

A bill (H.R. 5) to amend the Individuals With Disabilities Education Act, to reauthorize and make improvements to that Act, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. There will now be 4 minutes of debate equally divided between the two managers prior to the vote on passage of the bill.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, first, I thank my colleagues. I understand the difficulties when we are asked to do things that common sense tells us otherwise. I know how hard it is to vote against amendments that are common sense and also express ourselves on how we feel about some of the problems we have had with the special education legislation.

I deeply appreciate the vote on the last amendment to move this bill forward. As my colleagues know, we are now on the House bill which passed with only three dissenting votes yesterday. I hope the Senate will do likewise.

I yield 30 seconds to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, this bill is a clear improvement over present law. Nevertheless, it remains a \$35 billion per year almost totally unfunded mandate on the school districts of our country. It takes away control over quality of education that they can provide and, regrettably, in spite of the fact that it is a slight improvement, I am constrained to vote against it.

Mr. JEFFORDS. I yield to Senator KENNEDY.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 30 seconds.

Mr. KENNEDY. Mr. President, I join in paying special tribute to Senator FRIST. As a new Member, he took over the responsibilities in this area and has made an enormous contribution to bringing us where we are; also, Senator COATS, and, in particular, the chairman of the committee, Senator JEFFORDS, who has exercised leadership.

I also thank TOM HARKIN. This act was passed 22 years ago. I remember when 5½ million children were pushed aside and lacked any kind of hope and opportunity. Senator HARKIN has been a giant in the Senate for all those who have been disabled in our country. Today is a victory for children, it is a victory for the parents of these children, and it is a victory for our country. I think, quite frankly, it is the finest moment we have had in this session. I commend those who made it possible to make a difference for disabled children.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank Senator KENNEDY for his kind remarks, for his leadership in this area. I thank Senator JEFFORDS and especially Senator FRIST, who had the first hearing on this 2 years ago, May 9, 1995. It has been a long process. We have worked with all groups.

We worked with all groups, and we have a very balanced, fair, and forward looking bill.

To sum it up, Mr. President, what this bill says is that prior to 1974, almost 1 million kids were totally excluded from not receiving education only because they were disabled. Now they are in school, they are learning, they are becoming productive citizens, they are working. They are taxpayers, not tax consumers. They are not in institutions any longer.

Are there problems out there? Yes, but we are meeting those problems, and we are a better and stronger country because of what we did 22 years ago. This bill moves us into the 21st century by saying that we are going to strengthen this law and we are going to provide that this country meets its obligations to all of our children, including children with disabilities.

Again, this is a bill that reaches out and lifts up everyone in this country. I urge its passage.

Mr. LOTT. Mr. President, we are now going to vote on the Individuals with Disabilities Education Act Amendments of 1997. The Individuals with Disabilities Education Act, referred to as IDEA, has been on the books for 22 years.

The obligation to provide children with disabilities a free and appropriate education is grounded in the 14th amendment to the Constitution, title V of the Rehabilitation Act, the Americans with Disabilities Act, and by the laws of every State. IDEA is one additional civil rights tool that guarantees children with disabilities the right to receive a quality education. IDEA is the only Federal civil rights statute that provides funds to assist States in meeting the obligation to educate all children. This bill is about the educational future of 5.4 million children.

From my perspective, IDEA is a voluntary grant-in-aid program. It provides funds to States to assist them in making available a free appropriate public education to 5.4 million children

with disabilities from 3 through 21. If a State elects to take its allotment of funds appropriated for IDEA in any year, it must provide a free appropriate public education to these children as prescribed by the law. Today, every State is participating in the IDEA grant-in-aid program, and 49 States have elected to participate in and comply with IDEA since 1975.

The history of these IDEA amendments precedes the 105th Congress. In the last Congress our colleagues on the Labor and Human Resources Committee attempted to move a bipartisan reauthorization of IDEA through the Senate. Their bill, S. 1578, did not make it to the floor before that Congress ended. Those of us involved in the last minutes of the 104th Congress, especially the distinguished Senator from Tennessee, Dr. FRIST, and Mr. HARKIN from Iowa, the authors of S. 1578, Senator JEFFORDS and myself, pledged to make the reauthorization of IDEA one of our top legislative priorities in this Congress. We are here again with a bipartisan approach. And, actions speak louder than words.

Since January of this year, Senate and House staff, as well as representatives from the administration have been meeting daily to craft our bipartisan bill and to bring this legislation to the floor as quickly as possible. Those involved in crafting this legislation included not only Senators and Labor and Human Resources Committee staff, but also our House counterparts, especially Chairman GOODLING, Mr. RIGGS, Mr. GRAY, and Mr. MARTINEZ. Officials from the U.S. Department of Education, particularly Judith Heumann, Assistant Secretary for Special Education and Rehabilitative Services, and White House representative, Lucia Wyman, also participated in the process. The range of expertise and knowledge brought to bear in developing this bill as well as the spirit of bipartisan, bicameral cooperation demonstrated in writing it is unprecedented. I have seen nothing like this in my 24 years in Congress. In fact, the Senate Labor and Human Resources Committee and the House Committee on Education and the Workforce, unanimously reported out identical legislation, S. 717 and H.R. 5 respectfully, on the same day, May 7, 1997. Moreover, the committees collaborated with each other in developing their respective reports.

The frequency, scope, and type of input we sought and received in putting together this final product was extraordinary. Almost every week for 3 months we held public meetings using a town hall format. This permitted those interested in our progress in drafting the IDEA bill to offer feedback and input. Students, educators, advocates, and parents traveled from all over the country to provide comments on our proposals. Often, more than 100 people would speak at an individual meeting. No effort was made to limit the amount of people that testified or limit the time they could speak. Many

told personal stories that were oftentimes both heart warming and heart wrenching. Their recommendations came from the real education front lines. Our inclusive process, although unorthodox, has paid off. As of today, we have heard from over 30 groups that support our moving this legislation without amendment. They view our 5-month effort as worthy of their unequivocal support.

Many of you in this Chamber and your constituents, who are involved in this issue, appreciate the delicate balance this bill represents. It is built on principles, it is built on consensus, and it is built on compromise.

I acknowledge that States need additional Federal funding to fully implement IDEA the way it is intended. We have said in S. 1, the Safe and Affordable Schools Act of 1997, that we will increase funding, from the current \$3.2 billion to \$13.2 billion in 7 years. More Federal dollars for IDEA is an appropriations issue that we will turn to after we pass this important legislation. I am confident that dollars spent today for the education of children with disabilities is money well spent. When all children are provided a quality education, they stand a better chance of becoming productive and contributing adults in our society. IDEA is an important investment in the future of children with disabilities.

Another benefit that IDEA provides is that it offers everyone one set of rules on how to go about providing an education to children with disabilities. Prior to 1975, 35 States, through Federal courts, State courts, and State legislatures, were grappling with how to define the provision of an education to children with disabilities. Individual States and the country as a whole did not need, did not want 35 interpretations of what constituted an education for children with disabilities. Everyone wanted one rule book. That is why IDEA originally passed. That is why today, with States educating 5.4 million children with disabilities, less than one-half of 1 percent of disagreements between parents and school districts, over a disabled child's education, end up in court. Do we want to step backward? Do we want to reset the clock and create a legal free-for-all? I don't believe we do.

I would like to make another observation. I, as much as anyone else in this Chamber, want Federal IDEA dollars to be spent on educating children with disabilities, not on attorneys' fees. I am convinced that this bill makes that happen. Could we have put more limitations on when attorneys could be used or when parents, who prevail against a school district in a legal dispute, could be reimbursed? You bet. Could we have gotten here today having done so? No. Most of the limitations on attorneys' fees were put in the statute by our colleague from Utah, Senator HATCH in 1986. They are in this bill.

The Individuals With Disabilities Education Act Amendments of 1997 is,

in my view, an important legislative accomplishment. The process we implemented to develop this legislation provides us with a new standard for how we can work together. This bill sends a message to the country that we care about education, that we care about children, that we care about families, and that we care about the future. This is a powerful and positive message. Please join me and the rest of my colleagues who have worked long and hard to get here, in supporting this bill. The President is waiting. He is ready to sign the IDEA.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I thank my colleagues for their tolerance. This is an incredibly important piece of legislation that will do so much to straighten out the problems that we have with respect to special education in our schools. It allows much more flexibility in discipline in the schools. It takes care of the numerous problems that we have had.

I will point out that Senator LOTT and Dave Hoppe spent an infinite number of hours bringing these groups together. Senator FRIST did so much last year to prepare us, but it fell apart at the last minute. Senator COATS also worked very hard on this.

I commend all colleagues for their support. I point out that this passed the House yesterday 420 to 3. I hope we can do even better on this side. I thank all the staff who have helped us.

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.

The PRESIDING OFFICER. Under the previous order, the bill is considered read three times.

The question is, Shall the bill, H.R. 5, pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from West Virginia [Mr. ROCKEFELLER] is necessarily absent.

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 66 Leg.]

YEAS—98

Abraham	Collins	Grassley
Akaka	Conrad	Gregg
Allard	Coverdell	Hagel
Ashcroft	Craig	Harkin
Baucus	D'Amato	Hatch
Bennett	Daschle	Helms
Biden	DeWine	Hollings
Bingaman	Dodd	Hutchinson
Bond	Domenici	Hutchison
Boxer	Dorgan	Inhofe
Breaux	Durbin	Inouye
Brownback	Enzi	Jeffords
Bryan	Faircloth	Johnson
Bumpers	Feingold	Kemthorne
Burns	Feinstein	Kennedy
Byrd	Ford	Kerrey
Campbell	Frist	Kerry
Chafee	Glenn	Kohl
Cleland	Graham	Kyl
Coats	Gramm	Landrieu
Cochran	Grams	Lautenberg

Leahy	Murray	Smith (OR)
Levin	Nickles	Snowe
Lieberman	Reed	Specter
Lott	Reid	Stevens
Lugar	Robb	Thomas
Mack	Roberts	Thompson
McCain	Roth	Thurmond
McConnell	Santorum	Torricelli
Mikulski	Sarbanes	Warner
Moseley-Braun	Sessions	Wellstone
Moynihan	Shelby	Wyden
Murkowski	Smith (NH)	

NAYS—1

Gorton

NOT VOTING—1

Rockefeller

The bill (H.R. 5) was passed.

Mr. JEFFORDS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. JEFFORDS. Mr. President, I want to thank my colleagues for the tremendous vote and support for the legislation. This has been an incredible endeavor: So much effort, so much time. The vote that we have is certainly, percentage-wise, perhaps at least identical to the House, and certainly with only one dissenting vote is a tremendous tribute to all those who worked to put this bill together.

In particular, I wish to thank Senator FRIST, who brought it almost to this point last year, and it fell apart at the last minute. His efforts were so paramount in bringing this bill to us this year.

I thank the majority leader and Dave Hoppe for their help in getting all the groups together, and thank as well the work of both sides of the aisle, Senator HARKIN, Senator KENNEDY, all on my side, certainly Senator COATS and, as I mentioned, Senator FRIST and Senator LOTT, and all who have worked so hard—Senator GREGG in particular on the funding—this past year. We have had a real joint effort. And I am blessed and thank Pat Morrissey and Jim Downing of my staff who also did tremendous work, and also the staff on the majority side and the minority side.

I yield to Senator HARKIN.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Iowa.

Mr. HARKIN. Mr. President, I want to take a couple minutes to thank a lot of people because this has been indeed a long journey and a tough journey.

It started, as I said, 2 years ago, on May 9, 1995, when Senator FRIST had the first hearing on the reauthorization of the bill. And it has taken us 2 long years of working literally, if not every day, every week on this, and lately every day on it for the last several months.

So I want to express my heartfelt appreciation to the people who have made it possible to reach this passage of S. 717. There are many people with a deep commitment to improving educational results for disabled children who stayed the course throughout this very

long, tough journey. And today we can now point with satisfaction to a well-balanced, bipartisan bill that makes the kinds of improvements we are seeking in reauthorizing IDEA.

Twenty-two years ago, as we have all said, with the enactment of Public Law 94-142, Congress took steps to ensure children with disabilities would no longer be excluded from school and would be guaranteed access to a free appropriate public education.

Today, we have taken another major step by ensuring that the disabled children will now have the opportunity to enjoy the same expectations in the general curriculum as enjoyed by their nondisabled peers. And that success will be judged by the same high standards applicable to others.

So first I would like to thank Judy Heumann, the Assistant Secretary for the Office of Special Education and Rehabilitative Services. Ms. Heumann, who has polio and herself was excluded from school, has successfully overcome diversity and discrimination. She sued the New York City Board of Education for the right to teach from her wheelchair in that city. She won. And she taught. And she has devoted her adult life to advocating for the rights of disabled persons.

I think it is especially significant to point out in 1975, Judy worked for Senator Harrison Williams, who was one of the sponsors of Public Law 94-142. In her role with the Department of Education, she and Dr. Tom Hehir, Director of the Office of Special Education Programs, together with Secretary Riley, and their respective staffs crafted a reauthorization bill that has served as the framework and foundation for what we have just passed.

So I express my appreciation to Secretary Riley, Ms. Heumann, and Tom Hehir. I want to give special thanks to their respective staffs who continuously provided crucial technical assistance and leadership throughout this entire reauthorization process.

I would especially, Mr. President, like to commend our majority leader, Senator LOTT, for his deep commitment to ensuring passage of the IDEA reauthorization bill as soon as possible in this legislative session. The majority leader demonstrated the extent of his commitment by arranging for his own chief of staff, David Hoppe, to facilitate the bipartisan, bicameral working group that has worked so hard over the last 10 weeks to develop this final bill.

I simply cannot say enough to express my appreciation to Senator LOTT's chief of staff, David Hoppe, for his enormous contribution to this reauthorization process. We would not have had a bill today without his involvement. Mr. Hoppe brought to this process a strong sense of integrity, superb negotiating skills, a sense of humor, and a stick-to-itiveness. It was a continuous exercise of all of these attributes in facilitating the working group that resulted in the bill we passed today.

As I said, Mr. President, it was 2 years ago this week that Senator FRIST, as chairman of the Subcommittee on Disability Policy brought to order the 20th anniversary joint House-Senate informational hearing on IDEA. And following that hearing, Senator FRIST worked diligently to secure passage of the bill before the end of the 104th Congress. Well, although it was not possible to fully meet that goal, the groundwork laid by Senator FRIST, and his unending devotion to making sure we passed it, was of significant help to the working group this year in crafting again the bill we just passed.

It was a pleasure and a privilege for me to work as the ranking minority member on the Disability Policy Subcommittee with Senator FRIST in this effort. I want to thank Senator FRIST for his tireless leadership and contribution to this bill.

Let me pay tribute to a friend of longstanding from House days, and now in the Senate, who now stands across the aisle from me as the chairman of the Committee on Labor and Human Resources, Senator JEFFORDS of Vermont, for his commitment over a lifetime, for developing quality education for all of our children—for all of our children. Senator JEFFORDS has always been in the forefront of the fight. I thank him especially for his leadership in supporting passage of this bill.

Senator JEFFORDS' long commitment, not only to education of all kinds, but especially for kids with disabilities, also played a key role in the enactment of 94-142 in 1975. And I thank him publicly for that lifetime of work and dedication.

I also especially want to thank Senator KENNEDY for the tremendous contribution he made to this. Throughout his tenure with this body, Senator KENNEDY has continually provided the leadership we have needed in championing all civil rights issues. He has consistently worked with me to support various laws ensuring the rights of individuals with disabilities.

Through Senator KENNEDY's diligence, he ensured that stronger enforcement requirements would be added to S. 717 to help ensure that States and local school districts would be in full compliance with IDEA.

Let me pay tribute also to Senator COATS and Senator DODD for their contribution to the successful passage of this bill, and all of my colleagues in the House who worked with us in a very unique arrangement.

I say to my friend from Vermont, it was so successful. We had to spin this off from other bills. We pulled together not only bipartisanship here in the Senate, but it was bicameral. And we worked together with the House Republicans and Democrats, jointly, day after day in developing this bill.

And I would just mention—hopefully without excluding too many people—Representatives GOODLING, of course, and MARTINEZ, Representatives RIGGS and MILLER, CASTLE and SCOTT. So this

bill has truly been a bipartisan, bicameral effort. And I am proud to have been a part of that effort.

But now let me also thank all of the staff members of the working group. As I said, they were here every day, all week, weekends, late Fridays, Saturdays. I would get phone calls on Saturday night and Sunday afternoons, and they were still working. I hate to admit it, I was home. They were working.

But I have to first thank Bobby Silverstein for his leadership on this bill, and going back for many, many years, first when he worked for Congressman Williams in the House and then saw the light and came over to the Senate to work on my staff on the Disability Policy Subcommittee in the mid-1980's. And it was through Bobby Silverstein's lifetime, long and deep commitment to ensuring the rights of people with disabilities that we got through the Americans With Disabilities Act in 1990. And it was through his efforts that we were able to finally pull together all of the working people on this bill and the reauthorization of Individuals With Disabilities Education Act. So to Bobby Silverstein, I thank him for many years of service on this committee and for his service for making this country more fair and just for all people. I thank Tom Irvin of my own staff, on detail from the Department of Education. I thank Pat Morrissey, who took over the leadership on the staff in the subcommittee 2 years ago with Senator FRIST. Again, Pat has been a stalwart, always there, always working, no matter what hour, no matter what day. I want to thank Pat again for all of her work in ensuring the passage of this bill. Also, Jim Downing, Senator JEFFORDS' staff, again, Jim, I thank you again for everything you have done. You have always been there. Thank you to Townsend Lang of Senator COATS' staff, Dave Larsen of Senator FRIST's staff, and Kate Powers, Connie Garner, and Danica Petroschius of Senator KENNEDY's staff. I also commend the hard work of the House staff, including Sally Lovejoy and Todd Jones of the House committee majority staff, Alex Nock of the House subcommittee minority staff, Theresa Thompson of Representative SCOTT's staff and Charlie Barone of Representative MILLER's staff.

Finally, Mr. President, most importantly—most importantly—I want to thank all of the members of the disability community and the general education community who stuck with this process through 2 long years. It was up and it was down, up and down, all the time. We thought we had agreements, then it would fall back. We kept bringing them together, bringing them together. It was a deep commitment by those who understand the need for a balance.

I am sympathetic, as I said many times, with teachers who find themselves in a classroom and perhaps they have children there that they do not

know how to handle. They are at their wits' end, and principals maybe get to their wits' end. I have a lot of sympathy for them. That is why we have to meet more of our obligations in providing more funds to the States for teacher training and supportive services for those teachers so they can do what is right and proper and meet their obligations.

Well, what those who wanted a bill in the education community did and the disability community did over the last couple of years, they said, "We will forget all the anecdotes. Everyone has a horror story." You can always find a horror story someplace no matter which side you are on. If you are on the disability side, you can find horror stories about teachers or principals who did bad things to kids with disabilities. If you are on the education side, you can find horrible things—maybe somebody claimed they had a disability and they did not. But we cannot legislate by anecdote. We cannot legislate by one, two, or three horror stories. We have to do what is right for the entire Nation. We have to cut through the fog and the haze and the one or two stories that keep cropping up. We have to cut through the misconceptions.

I do not know how many times I keep hearing this is an unfunded mandate when we all know it is not an unfunded mandate. So we have to keep cutting through, cutting through, all the time. That is what some of the leaders in the general education community and the disability community did for the last couple of years.

I thank them, not those who wanted to throw a hand grenade in periodically because they had a horror story, but those who understood that we had to reach a consensus, we had to strike a balance. That is what this bill is.

In closing, I hope and believe the bill we passed today, the Individuals With Disabilities Education Act Amendments of 1997, will clearly enhance equal educational opportunities for all children with disabilities as we enter the 21st century. We promised that in 1975. We have met a lot of those promises—not all of them. We have a lot of promises to keep.

I thank the Senator for yielding me this time.

Mr. JEFFORDS. I will take a moment and thank the Senator from Iowa for his most eloquent statement. I think for those of us who were involved in the original writing of it back in 1975, I think only we, perhaps, had the legal understanding of what has happened over the last 20-odd years now as to improving the lives of individuals with disabilities and to improve the confidence of our educational system in giving an appropriate education to all our students.

I yield to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, I rise very briefly to say that this bill is about

education. This bill is about children. Today we have seen a real victory for the over 40 million individuals with disabilities in this country, but especially the 5 million children, individuals with disabilities, who will benefit—who will benefit—from this modernized, updated Individuals With Disabilities Education Act.

The bipartisan vote of 98-1 shows the Republicans and Democrats are working together, have worked together, and will continue to work together to ensure that individuals with disabilities have the same opportunities that every other American has to achieve the utmost potential for themselves. It was a bicameral bill. I am delighted the House passed it, the exact same bill, just 2 days ago.

I want to thank people from my staff, including Sue Swenson, Dave Egnor, Robert Stodden, Dave Larson, Pat Morrissey, Bob Silverstein, and Tom Irvin from the minority staff who helped me so much over the last 2 years, and once again, I thank Dave Hoppe, Senator JEFFORDS, and Senator HARKIN for their leadership, for their experience, and their wisdom in passing this bill today. It is a victory for education, a victory for children, a victory for all Americans.

Mr. JEFFORDS. Thank you, Senator. Mr. President, last evening the House adopted H.R. 5 by a recorded vote of 420 to 3. Today we have voted 98-1. In the last week Congress has demonstrated once again, its willingness to invest in human capital—the children of today and the taxpayers of tomorrow, children with disabilities and children, who, if not helped, might develop disabilities. We have said in H.R. 5: children with disabilities will continue to receive a free appropriate public education, we do expect them to succeed in the general education curriculum, and we will be accountable for their progress. That is a clear, simple message, a message of power, potential, and promise.

We invested in human capital in another way in H.R. 5. We recognized the range of decisions and obligations that fall to local school districts on a daily basis. We gave them flexible, practical guidelines on how and when they may discipline children with known disabilities. We gave them greater access to Federal dollars and greater discretion in how those dollars may be used. We directed more resources to personnel preparation and to technical assistance. We reshaped procedural requirements so school personnel may concentrate on children and teaching them.

We invested in human capital through incentives for partnership between State educational agencies and local education agencies, and between parents and professionals. These partnerships will not only foster cooperative planning and problem solving, but innovation and expanded opportunities for children, with and without disabilities, to benefit from school.

The process by which we arrived here today, for this vote, may be unprecedented and never be repeated, but it allowed us to achieve a consensus on a fundamental point. All children are entitled to a good education, we reaffirm that, and make it more likely for children with disabilities in H.R. 5.

Although others may characterize our efforts differently, I would say that we were guided by the premise that special education is not a place but an attitude. It is an attitude that says children need not fail in order to be helped; that communication and partnership with parents is a commitment, not an accident; and that solutions to problems do not come from mandates, but from reaching common ground.

I wish to thank my colleagues for their support in the passage of this historic legislation.

IDEA REAUTHORIZATION

Mr. BURNS. Mr. President, I rise to express my gratitude to all the folks who made possible the passage of the Individuals With Disabilities Education Act reauthorization bill. It's been a real struggle over the last 2 years, but a concerted effort led by David Hoppe of Majority Leader LOTT's staff has resulted in a compromise bill that received near unanimous support in both the House and the Senate. I was among those voting for this bill.

Mr. President, Montana's schools are breathing a sigh of relief that they will have more flexibility in dealing with disruptive students who pose a threat to teachers and other students. At the same time, the bill preserves the right of disabled students to a free appropriate public education.

However, as with all compromises, there is something in this bill for everyone to dislike. I don't think the bill goes far enough in giving local educational agencies the ability to remove and expel dangerous students. I supported Senator GORTON's amendment to allow local agencies to develop their own policies on disciplining students. This amendment was defeated.

I also have serious concerns about the costs of implementing this bill, costs which fall directly on the States and the school districts. Make no mistake: at current Federal funding levels, this bill is an unfunded mandate on the States. The Federal Government funds less than 10 percent of the bill's costs, though it has promised to pay 40 percent. This bill does not set funding levels—it is not an appropriations bill. We will have a separate debate on funding later in the year. But I want to point out that we are mandating that our local schools take specific actions which are very expensive and getting even more so every year. We must take more responsibility for our actions, and I hope we will do that when we debate funding later this year.

Mr. JEFFORDS. Mr. President, I ask unanimous consent S. 717 be returned to the calendar.

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business.

The Senator from Alaska [Mr. STEVENS], is recognized to speak for up to 45 minutes.

R.S. 2447 RIGHTS OF WAY AND ALASKA

Mr. STEVENS. Mr. President, when I came to the Senate, I brought with me a little sign I used to keep on my desk as a lawyer. It was the four-way test of the Rotary Clubs of America. It says, "Of the things we think, say, or do, is it the truth? Is it fair to all concerned? Will it build good will and better friendships? Will it be beneficial to all concerned?"

A little over 10 years ago, I stood on this floor and I had in my hand a flier that had been issued by the Wilderness Society. It had a picture of Mount McKinley National Park and Wonder Lake—that is in the park—on the front of it, with the word "sold" stamped on it. That indicates somehow or other that logging was going on in Mount McKinley National Park near Wonder Lake.

There is another picture that talked about logging 800-year-old hemlock trees in a rain forest. As a matter of fact, those photographs were of redwood logs on trucks in California, on a California highway, and we identified the highway. To his great credit, the former Senator from Wisconsin, Senator Gaylord Nelson, withdrew that pamphlet and called me and told me he was doing that.

Last week, after the debate on the supplemental appropriations bill, I came to the office in the morning and I found on my desk an AP story written by Jim Abrams, Associated Press writer. It started with this line: "Legislation making it easier to build roads through Federal parks and wilderness area survived a Senate challenge Wednesday and headed toward a possible showdown with the White House. The measure, pushed by Alaska and Utah Senators, inserted in a crucial bill to provide billions to victims of natural disasters, would give the Federal Government less say in what constitutes a valid right-of-way under a 130-year-old law."

Another AP story came to my attention later that day by Mr. H. Josef Hebert of the Associated Press. It goes further in asserting that we have presented to the Senate a bill that would intrude upon national parks and wildlife refuges. Interestingly enough, issued out of the AP office in Salt Lake City, was this article: "White House move opponents claimed could block access to rural byways in Utah and Alaska has been narrowly defeated by the Senate."

It goes on to state the issue from the point of view of someone who knows what he is talking about.