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## Senate

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

### PRAYER

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

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

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

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

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

### PLEDGE OF ALLEGIANCE

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

of New Jersey, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

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

To the Senate:

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

ROBERT C. BYRD,  
President pro tempore.

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

### RESERVATION OF LEADER TIME

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

### SCHEDULE

Mr. REID. Mr. President, on behalf of Senator DASCHLE, the majority leader, I announce that there will be 1 hour of debate divided between Senator HARKIN and Senator SESSIONS. They worked on this amendment last night. Following their presentations, there will be two rollcall votes at approximately 5 after 10 this morning. At 12 noon, we will do morning business for 1 hour as outlined last night in the unanimous consent agreement. They expect the Helms amendment to be brought up immediately

after the rollcall. That would be at approximately 11 o'clock. Votes will occur throughout the day. This bill will be completed today, tonight, or tomorrow. We are going to work until we complete this legislation. If we are able to complete the bill today, of course, there will be no rollcall votes tomorrow.

### BETTER EDUCATION FOR STUDENTS AND TEACHERS ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965.

Pending:

Jeffords amendment No. 358, in the nature of a substitute.

Biden amendment No. 386 (to amendment No. 358), to establish school-based partnerships between local law enforcement agencies and local school systems, by providing school resource officers who operate in and around elementary and secondary schools.

Leahy (for Hatch) amendment No. 424 (to amendment No. 358), to provide for the establishment of additional Boys and Girls Clubs of America.

Helms amendment No. 574 (to amendment No. 358), to prohibit the use of Federal funds by any State or local educational agency or school that discriminates against the Boy Scouts of America in providing equal access to school premises or facilities.

Helms amendment No. 648 (to amendment No. 574), in the nature of a substitute.

Dorgan amendment No. 640 (to amendment No. 358), expressing the sense of the Senate that there should be established a joint committee of the Senate and House of Representatives to investigate the rapidly increasing energy prices across the country and to determine what is causing the increases.

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

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



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S6239

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

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

AMENDMENTS NOS. 604 AND 802

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

Who seeks recognition?

The Senator from Alabama.

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

Mr. REID. That is true.

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

Mr. SESSIONS. On the second vote?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. SESSIONS. Thank you, Mr. President.

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

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

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

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

Anyone who has talked to teachers in recent years—and perhaps forever, but

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

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

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

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

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

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

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

An elementary school principal writes:

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

to all students and therefore all students should share the same disciplinary action.

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

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

Remember this is a special educator.

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

And she goes on.

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

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

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

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

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

Our legislation is a realistic attempt to deal with it.

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

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

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

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

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

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

Over and over again, the letters I receive from teachers tell me they believe it is a bad learning process for a child to believe that they, in the classroom, can do things other children cannot. Then when they get out into the

work world, they are treated like everybody else and end up having trouble on the job or with criminal activity.

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

But that isn't what this amendment is all about. That is not what this is all

about. It is taking children who have, in these instances, a disciplinary problem—and note the words of art related to their particular disability. In fact, if you knock those children out, we know what happens. It is five or six times as likely that they will never come back to education once they lose that continuing education. Those are the statistics. We know what is going to happen. Those children are gone, out.

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

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

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

I withhold the remainder of my time. The PRESIDING OFFICER. Who yields time?

The Senator from Iowa.

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

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

Mr. HARKIN. Mr. President, I want to associate myself fully with the statement just made by the chairman of our committee regarding the amend-

ment I spoke on last night. I intend to speak a few more minutes this morning. First of all, sometimes good things happen, and we ought to take notice of them.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. HARKIN. My amendment.

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

Mr. HARKIN. Right in "(2) Limitation.—(A) In General.—" where you say "shall receive a free appropriate public education which may be provided in an alternative educational setting." My amendment adds the words "pursuant

to Sec 615K" which does provide that. The Senator's amendment does not provide that. I ask him to look at that. That is not provided.

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

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

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

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

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

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

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

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

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

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

wipes that out. Under IDEA, as the law is constituted today, that child will continue to get services.

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. Objection is heard.

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

Mr. SESSIONS. OK. Three on each side?

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

Mr. HARKIN. Sure, that is all right.

Mr. SESSIONS. Three minutes a side is fine.

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

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

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

Mr. SESSIONS. I will take that time.

Let me respond first to the distinguished Senator from Iowa. I know how deeply he cares about this issue. I understand his concerns. We are not try-

ing to undertake anything that would be detrimental to children with disabilities.

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

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

Mr. GREGG. Will the Senator yield?

Mr. SESSIONS. I yield.

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

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

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

“(2) LIMITATION.—

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

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

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

Mr. HARKIN. Will the Senator yield?

Mr. SESSIONS. Yes.

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

Mr. SESSIONS. Our amendment further says:

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

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

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

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

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

Mr. KENNEDY. How much time remains?

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

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

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

Mr. KENNEDY. I thank the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the remainder of my time.

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

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

Mr. ALLEN. Will the Senator yield?

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

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

Mr. ALLEN. Will the Senator yield?

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

Mr. ALLEN. Will the Senator yield?

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

Mr. ALLEN addressed the Chair.

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

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

Mr. KENNEDY. How much time do I have?

The PRESIDING OFFICER. The Senator has 2½ minutes.

Mr. KENNEDY. I yield myself 1½ minutes.

This is what it says:

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

[P]rincipals generally rated their school's special education discipline policies . . . as having a positive or neutral effect on the level on [school] safety and orderliness.

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

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

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

You wanted to wipe that out.

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

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

Mr. KENNEDY. I will take the last minute.

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

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

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

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

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

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

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

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

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

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

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

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

dents, the law may unintentionally harm the educational progress of other students in the classroom.

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

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

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

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

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

I support the provisions in the Harkin amendment that would allow States and local education agencies to

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

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

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

The PRESIDING OFFICER. The Senator from Alabama.

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

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

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

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

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

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

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



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

I yield whatever time I had.

The PRESIDING OFFICER. The Senator from Alabama.

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

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

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

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

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

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

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

Senator KENNEDY says the Federal Government is paying for this. We

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Iowa.

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

The PRESIDING OFFICER. That is correct.

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

I say to the Senator from Alabama that I realize he has good intentions. All of us want discipline in schools. I brought two kids through public schools. Of course, we want discipline in our public schools. None of us wants

our teachers or busdrivers to be subject to violence by kids who may harm them or harm themselves. None of us wants that. We want safe schools.

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

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

The PRESIDING OFFICER. One minute thirty-two seconds.

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

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

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

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

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

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to amendment No. 802.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

[Rollcall Vote No. 187 Leg.]

## YEAS—36

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

## NAYS—64

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

The amendment (No. 802) was rejected.

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

The motion to lay on the table was agreed to.

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

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

## AMENDMENT NO. 604, AS MODIFIED

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

Who yields time?

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

The next thing we need to do is deal with the Federal regulations that are contained in this book that teachers and principals are having to deal with

on a daily basis. Most of you have heard from your teachers and schools. You know the way we are administering the Disabilities Act does not work.

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Alabama.

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

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

Mr. SESSIONS. Yes.

Mr. HARKIN. Yes.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

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

The clerk will call the roll.

The legislative clerk called the roll.

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

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

[Rollcall Vote No. 188 Leg.]

## YEAS—50

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

## NAYS—50

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

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

Mr. REID. I move to reconsider the vote.

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from West Virginia.

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

Mr. REID. Yes, there is.

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

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

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

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

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

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

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

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

Mr. REID. No.

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

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

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

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

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

AMENDMENTS NOS. 574 AND 648

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

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

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

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

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The Senate will be in order.

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

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

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

The PRESIDING OFFICER. That is correct.

Mr. HELMS. I thank the Chair.

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

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

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

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

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

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

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

The PRESIDING OFFICER. If the Senator would like.

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

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

Last June, a year ago, the Supreme Court found it essential to uphold con-

stitutional rights of Boy Scouts of America, oddly enough, to abide by and practice the Boy Scout moral guidelines for membership and leadership, including no obligation to accept homosexuals as Boy Scout members or leaders.

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

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

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

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

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

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

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

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

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

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

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

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

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

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

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

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

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

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

These are all such fine goals. I have watched this organization transform

young men's lives, as the Girl Scouts with girls. They have given them an opportunity to help themselves, to support causes bigger than themselves as the saying goes now, and to improve their community by involvement.

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

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

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

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

Mrs. MURRAY. Ten minutes.

Mrs. BOXER. And then go to Senator INHOFE.

Is that acceptable?

Mr. INHOFE. That would be fine.

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

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

The Senator from California.

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Washington.

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

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

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

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

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

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

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

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

That is the law right now—on the books in black and white. So this

amendment is unnecessary because current Federal law already requires equal access. Not only do groups such as the Boy Scouts already have access under Federal law, the courts are reaffirming that access.

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

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

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

(See exhibit 1.)

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

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

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

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

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

Before I close, I note that I am eager to see how some of my colleagues vote on this amendment which, as I have noted, is not about Scouting. It is about forcing decisions on local schools. In recent years some of my

colleagues have spoken at great length about the importance of local control in educational decisions. Of course, having served on a local school board, I reminded them that most decisions are made at the local level and that there is a limited Federal role for efforts such as helping disadvantaged students and reaching national educational goals. Frankly, I do not see how setting up a special national privilege for just one organization falls in that role.

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

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

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

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

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

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

## EXHIBIT 1

[From the Washington Post, June 1, 2001]

## JUSTICES BACK BIBLE GROUP

## ACCESS TO SCHOOL FACILITIES WIDENED

(By Charles Lane)

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

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

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

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

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

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

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

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

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

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

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

"This is really religious worship directed at young children," said Jeffrey R. Babbin,

an attorney who filed a friend of the court brief on behalf of the Anti-Defamation League of B'nai B'rith, which backed the school. "Our concern is that what can't be done in school shouldn't be done right after. Often kids can't go home right after school."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

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

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

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

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

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

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

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

It is my understanding that the Senator from West Virginia simply wants

to ask a question for someone to answer during the discussion of this amendment; is that right?

Mr. BYRD. The Senator is correct.

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

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

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

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

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

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

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

I will repeat that: “. . . or any other youth group.”

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

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

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

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

Mr. BYRD. I am glad to.

Mr. BROWNBACK. We are working with the primary sponsor of the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. BYRD. If I have time.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. BROWNBAC. Yes, there is.

Mr. WARNER. Is it restricted to this amendment?

Mr. BROWNBAC. We are attempting to restrict it.

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

Mr. BROWNBAC. That is correct.

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

Mr. BROWNBAC. Can the Senator do it afterwards?

Mr. WARNER. I will be delighted to do it after, if the Senator will be kind

enough and indicate in the unanimous consent request for me to do that.

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

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

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

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

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

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

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

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

What does that mean to the school district of the city of Chicago? Hun-

dreds of millions of dollars coming in to help kids. With the Helms amendment, it is gone. It is not just Chicago. Many other States are also affected.

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

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

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

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

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

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

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

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



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

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

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

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

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

Join me in voting no against the Helms amendment.

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

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

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

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

The Senator from Wyoming.

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

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

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

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

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

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

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

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

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

(See Exhibit No. 1.)

Mr. ENZI. Boy Scouts has been a part of my education. I am an Eagle Scout. I am pleased to say my son was in Scouts. He is an Eagle Scout. I say it is part of my education because each of the badges that is earned, each of the merit badges that is earned, is an education. I tell schoolkids as I go across

my State and across my country that even though at times I took courses or merit badges or programs that I didn't see where I would ever have a use for them, by now I have had a use for them and wish I had paid more attention at the time I was doing it.

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

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

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

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

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

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

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

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

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

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

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

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

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

In March of this year, the U.S. District Court for the Southern District of Florida issued a preliminary injunction against the Broward County School

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

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

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

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

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

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

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

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

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

It is something we need to correct. This discussion of the Helms amendment is timely. On Monday of this week, the Supreme Court held that a public school in New York was not allowed to exclude the Good News Club, which is a private Christian organization for gradeschool children, from using public school facilities for the group's afterschool meetings. In the *Good News Club v. Milford Central*

*School*, the Court determined that the school violated the club's first amendment free speech rights by discriminating against the group's viewpoint. The Helms amendment would assure that these free speech protections would also apply to the Boy Scouts of America.

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

#### EXHIBIT No. 1

#### EXAMPLES OF BOY SCOUTS BEING DISCRIMINATED AGAINST

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from California.

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

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

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

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

I appreciate being given this 1 minute.

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

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

Mr. BROWNBACK. Madam President, I think some of the reasons the Sen-

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

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

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

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

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

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

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

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

That is wrong. It is wrong to say to any school district in any State and to any school board that you have to change your policy; that you have to sponsor a group which goes against the very values that you have professed,

which is what we should not do; that is, discriminate against any group of citizens, any children anywhere.

That is why I oppose this amendment.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

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

I rise today to express my disappointment with this amendment.

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

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

So far, this has been an unusually bipartisan debate.

We have been making principled compromises, and real progress.

And now this.

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

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

I oppose Senator HELMS' amendment for two reasons.

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

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

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

This amendment does exactly the opposite.

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

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

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

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

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

If we are saying that having the Boy Scouts either in its present form or

with slight modifications determined by the local parents and the schools would in any way jeopardize all Federal funding, it just absolutely amazes me that people on the other side could make such an argument.

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

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

Thank you, Madam President.

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

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

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

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

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

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

My great frustration is trying to say to the right and to the left: Toleration

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

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

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

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

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

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

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

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

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

says these ideals, these values are valuable still.

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

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

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

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

I yield to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

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

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

was a senior Girl Scout leader, and I was a Boy Scout leader for my son.

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

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

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

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

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

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

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

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

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

I will read the applicable part of the amendment. It is on page 2. It says to any State educational agency, if a school, or schools served by the agency, denies equal access or a fair oppor-

tunity to meet or discriminates against any group affiliated with the Boy Scouts of America or any other youth group that wishes to conduct a meeting within that designated open forum—and that is where the language is being worked on right now—on the basis of the membership or leadership criteria of the Boy Scouts, their funding is limited.

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

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

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

Listen to what is happening.

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

Safe Schools Coalition Asks for Restricted Access for Seattle Scouts.

From the South Florida Sun-Sentinel:

Broward School Board to Review Scouts' Lease.

From the Detroit News:

Plymouth Schools to Vote on Ban on Scout Meetings.

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

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

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

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

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

On my honor I will do my best

To do my duty to God and my country

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

And to obey the Scout law;

To help other people at all times;

To keep myself physically strong,  
mentally awake,  
and morally straight.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**THE PRESIDING OFFICER.** The Senator from North Carolina.

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

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

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

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

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

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

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

The ACLU executive director said:

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

What goes on here? Is this not really an attack by one group on the Boy

Scouts of America? Of course, it is. Why do you think these people have been standing up and telling how long they served in the Girl Scouts in a tearful sort of way? The goal here is the goal of the organized lesbians and homosexuals in this country of ours.

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

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

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

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

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

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

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

**THE PRESIDING OFFICER.** The Senator from Arizona.

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

I respect the message of the Boy Scouts and respect their commitment to instilling these ethical and moral values in young boys. Unfortunately,

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

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

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

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

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

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

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

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

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

court, and the Boy Scouts won the initial victory.

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

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

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

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

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

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

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

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

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

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

The Helms amendment ensures they are not going to have to go to court to

protect their rights. They will continue to be able to meet and teach young boys strong moral values. I hope others will join in supporting this very important and needed amendment to this bill.

The PRESIDING OFFICER. The Senator from Alabama.

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

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

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

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

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

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

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

Several years ago my friend, Senator ENZI from Wyoming, talked about being an Eagle Scout, as is his son. He told a story about the Washington zoo in the U.S. capital. The Washington zoo would not allow the Boy Scouts to have a Court of Honor. And, by the way, one of the founders of the Wash-

ington zoo was one of the founders of Boy Scouts. They were not allowed because they discriminate against atheists. The oath required that boys do their duty to God. They said if you were an atheist, you could not take the oath; therefore, you were a discriminatory organization and you could not use the property at the Washington zoo to have a Court of Honor.

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

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

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

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

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

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



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

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

I yield the floor.

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

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

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by the Senator from North Carolina, Senator HELMS. This amendment, the Boy Scouts of America Equal Access Act, is very clear in its purpose, which is "To prohibit the use of Federal funds by any State or local educational agency or school that discriminates against the Boy Scouts of America in providing equal access to school premises or facilities." I am pleased to be a cosponsor of this amendment.

It is appropriate that this amendment be considered and adopted on this education bill. Since its founding in 1910, the Boy Scouts of America, BSA, has complemented youth education

with a program that teaches skills and values that will help those youth throughout their lifetimes. Over the past 91 years, more than 100 million young men and women have been served by Scouting. For those young people, Scouting has provided a program of values and leadership, joined with an opportunity to improve themselves by helping others.

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

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

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

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

Mr. LEAHY. Mr. President, the amendment offered by Senator HELMS entitled the "Boy Scouts of America Equal Access Act" aims to ensure that the Boy Scouts of America has access

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

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

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

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

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

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

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

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

DEAR SENATOR FEINSTEIN:

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

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

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

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

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

Our tax dollars should not be used to support the discrimination that the "Boys Scouts Equal Access Act" is trying to affirm. We urge you to help to defeat this act and to help to hold the [Boy Scouts of Amer-

ica] to the same standards that the country as a whole is striving for. The [Boys Scout of America] is a great American institution and we hope that it can continue to be so following the same non-discriminatory rules as the rest of the country.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Nevada is recognized.

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

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

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

But I also wanted to add a few words. We do not want to be gay bashing around this Chamber. At least I do not believe we should be. People have the right to live their lives as they choose

to live their lives. But I believe in freedom in America. I believe, for instance, if there was a group of people who believe in a gay lifestyle, they may require that same lifestyle or belief of their leadership. I believe that group should be allowed all of its constitutional rights; the right to require that their leaders have their same beliefs. This is, to me, a matter of freedom.

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

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

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

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

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

I yield the floor.

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

We want to make sure everyone has every opportunity to speak and let the

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

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

The PRESIDING OFFICER. The Senator from New Hampshire.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

mentally awake,  
and morally straight.

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

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

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

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

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

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

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

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

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

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

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

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

The teacher wrote to the State attorney general:

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

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

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

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

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

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

Americans marked Memorial Day with solemn remembrance by making pilgrimages to grave sides, bearing flowers and flags to honor soldiers who sacrificed their lives in battle.

"It means a lot to me, coming out here and seeing the veterans," said Boy Scout Lee Booker, 15, as he helped place miniature American flags at the foot of 46,850 veterans headstones at the Memphis National Cemetery in Tennessee.

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

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

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

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

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

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

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

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

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

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

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

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

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

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

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

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

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

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

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

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

The legislative clerk called the roll.

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

[Rollcall Vote No. 189 Leg.]

YEAS—51

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

NAYS—49

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

The amendment (No. 648) was agreed to.

CHANGE OF VOTE

Ms. LANDRIEU. Madam President, on rollcall vote 189, I voted yea. It was my intention to vote nay. Therefore, I ask unanimous consent I be permitted to change the vote since it will not affect the outcome.

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

(The foregoing tally has been changed to reflect the above order.)

Mr. BROWNBACK. I move to reconsider the vote.

Mr. SMITH of Oregon. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mrs. CARNAHAN). The Senator from West Virginia.

Mr. BYRD. Madam President, may we have order in the Senate.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. I ask unanimous consent to explain my vote. I ask unanimous consent for 3 minutes.

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

Mr. BYRD. Madam President, the Senate is not in order. I will not proceed until it is in order. This was a very important vote.

Madam President, I want Senators to get out of the well. I am entitled to be heard, and I want other Senators to have the same respect and same entitlement.

This was not an easy vote for me. I believe just as strongly as any Senator on that side of the aisle about the rights of the Boy Scouts and about the respect we ought to show the Boy Scouts. I was ashamed and embarrassed by the actions of some people—

not by the Democratic Party—by some people at the Democratic Convention who may or may not have been delegates, in showing disrespect for the Scouts.

Having said that, I had some concerns about this language, and I took those concerns to the author of the amendment, Mr. HELMS. He indicated he would try to have that language changed. Several other Members on that side of the aisle voiced their sentiments as being equal and square with mine: That the language needed to be clarified and modified.

The language was this language: "Any other youth group." Similar language is used in at least one other place in the amendment.

My question was: What is the definition of "youth group" as it is being used in this amendment? The definition in the amendment reads as follows:

Youth Group—the term "youth group" means any group or organization intended to serve young people under the age of 21.

That can be a Black Panthers group. That can be a skinhead group. That can be a Ku Klux Klan group. I do not mind speaking on that subject. I detest the Klan. I have been a member of it. That is not news. Everybody in this Senate knows that, and I do not carry that badge with pride. But I do not want the Ku Klux Klan or any other hate group in our schools. So, I thought there ought to be a clarification and better definition of "youth group."

I came to the floor when the vote occurred. Nobody came to me and said: With regard to your concern, we have changed the language, or, we have not. Nobody said that.

When I saw on the television screen that the vote on the amendment was in progress, I came to the floor, and I went to Senator HELMS. I said: Was there a modification of that language?

He said: No.

He was in accord with having a modification but he said, "they didn't want it modified." I do not know who "they" were. But in any event, faced with having to vote up or down on this amendment, I voted for it, but I am still concerned that the definition of "youth group" was not changed. I am concerned because that request, which I think was a reasonable request, was somehow rejected by somebody. I voted for the amendment.

I take the floor now to say I hope that in conference that language will be changed. The distinguished Senator from Oregon, Mr. SMITH, earlier suggested that it be changed to mean groups that have national charters. I believe I am correct in the way he stated it—groups that are nationally chartered. That would be fine with me. But that change was not made.

I only take the floor now to explain my vote and to express my regrets that what I thought was a very reasonable request was apparently just rejected out of hand.

I hope that attention will be given in conference to changing this language to make it clear that the term "other groups" pertains to groups that are nationally chartered.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. I ask unanimous consent that the amendment of Senator HELMS that just passed be allowed to be amended as Senator BYRD has explained it and as some Members lobbied to have it changed. I think it will be a better amendment. If it is not done here, it ought to be done in the conference committee. We all understand that. No one wants this opened up to skinheads, Nazis, the Ku Klux Klan, or any other hate group, but we want to say the standards of the Boy Scouts of America are standards and values that are valuable still.

Mr. REID. Madam President, did the Senator make a unanimous consent request?

The PRESIDING OFFICER. Yes.

Mr. REID. Reserving the right to object, we, in good faith, during the 8 weeks of this debate have been doing amendments side by side. If your side has an amendment, we have an amendment. We have been doing that and have done it 25 times. We certainly have done it the last week many times. I personally—and I don't know how anyone else feels—think that is not a bad idea as long as we have the opportunity to have our amendment debated, if we have an amendment we believe is an appropriate amendment, and we would be happy to show it to any Member who wants to see it and we have a right to vote on the Helms amendment, which has already been voted on. If you want to modify, that is fine, but we want an opportunity to have an up-or-down vote. We have done it for weeks and I don't see why this amendment should be any different.

Mr. SMITH of Oregon. I withdraw my request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. KENNEDY. I listened to the Senator from West Virginia. A similar amendment has already passed in the House of Representatives, so we have the House language and this language. It is identical. If we follow past precedence, there is not the flexibility to take into consideration what the Senator from West Virginia has requested. That, I think, is part of the reality in terms of the way these institutions run. They have passed a similar amendment by a voice vote, we passed an amendment, and for all intents and purposes that is what will be before the conference. If we follow the precedent, that flexibility that the Senator had mentioned would not be before the conference.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Madam President, I ask unanimous consent the order for the quorum call be dispensed with.

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

Mr. DASCHLE. Madam President, we have been discussing this matter over the last few moments. I ask, after I have given a description of our circumstances, that Senator BYRD be recognized for a unanimous consent agreement.

Just for the notification of our colleagues, we would then recognize Senator BOXER who has the right to offer a second-degree amendment. It is a free-standing, side-by-side amendment.

Mrs. BOXER. To my own amendment.

Mr. DASCHLE. That will be offered. Then we will also have the Sessions amendment vote.

Ms. LANDRIEU. Reserving the right to object, Madam President.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. May I inquire if we could amend the consent request, if Senator BYRD would allow me to be recognized for 30 seconds prior to his statement?

Mr. LOTT. Madam President, reserving the right to object, and I do not object to the request of the Senator, but just to make sure I understood, was there an original request? Did Senator DASCHLE make a unanimous consent request?

Mr. DASCHLE. I only asked Senator BYRD be recognized to make the unanimous consent request. Following that, we would go to a vote on the Sessions amendment. After the Sessions amendment is disposed of, we would recognize Senator BOXER for purposes of offering another amendment.

Mrs. BOXER. A second-degree.

Mr. LOTT. You were just announcing the intention with regard to how to proceed? The UC was to allow Senator BYRD to offer a modification, and then I believe the Senator just wanted 30 seconds to speak?

Ms. LANDRIEU. Prior to Senator BYRD.

Mr. LOTT. I withdraw my reservation.

Mr. BYRD. Madam President, may we have order in the Senate?

Madam President, in an effort to help the Senate to reach the best possible product of the amendment's status at this point, so that a consensus of minds in this body may come to a conclusion as to what in their judgment seems to be the best outcome, I ask unanimous consent that on page 2 of the amendment, section 2 titled "equal access" subsection (a), paragraph (2), line 12 thereof, be amended as follows: To insert the words, following the word "group": "listed in title 36 of the United States Code as a patriotic society," and I ask unanimous consent further that I may be allowed, additionally, to amend the amendment, as

modified, which is presently pending, in a second place.

The second place being on page 4 under section (C), titled "Youth Group," on line 8 strike the comma following the numerals "21" and insert the following: "and which is listed in title 36 of the United States Code as a patriotic society."

So I am asking to amend the bill in two places with the amendment—I am asking to amend the pending amendment, as modified, in two places and as I have outlined.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The majority leader.

Mr. DASCHLE. Madam President, is it now not in order to move to the Sessions amendment?

The PRESIDING OFFICER. The Senate must first adopt the Helms amendment, as amended and modified.

Mr. DASCHLE. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment, No. 574, as modified.

The amendment (No. 574), as modified, was agreed to.

Mr. HELMS. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DASCHLE. Madam President, as I understand, each side now has 1 minute to make their presentation prior to the vote on the Sessions amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Alabama.

Mr. SESSIONS. Madam President, we are on the verge and so close to making a realistic and fair and just step in dealing with the complications and frustrations our school systems are wrestling with every day involving disciplinary situations with disabled students. Anyone who talks to them knows it is a very real problem.

Our legislation is a middle-ground position. It is more cautious than the Gorton amendment which got almost 50 votes. It is more modest than the House amendment that passed. It simply says, if a child is disabled and commits a violation of discipline rules that would result in discipline for them, they would be treated as any other child, unless and only after a hearing has been held to ensure that the misbehavior the child committed was not connected to that disability—because some children have emotional problems and have difficulty containing themselves. Those children would not be able to be disciplined like other students.

We think this is a fair and progressive step. I urge your support. I believe with the Vice President we would be able to pass this. I urge its consideration.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Madam President, the Senator from Iowa is not here. I will take one moment.

We have fought for 25 years to try to mainstream disabled children. I remember when there were 5 million who were kept in the closets and shut away. IDEA may not be perfect, but we have a GAO study, which is an authoritative study, that says the changes that were made 2 years ago on discipline seem to be working.

The previous vote was 50–50. We are divided.

Next year we are going to have a complete reauthorization of IDEA. Why have a major step backward in terms of assisting the children in this country?

If we have to change it, let's do it at the time we have the reauthorization—not on the basis of a 50–50 vote or 1 hour of debate and discussion on this measure.

Make no mistake about it. If we accept the Sessions amendment, history will record this as the first major step backward instead of forward with regard to disabled children.

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

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider. Is there a sufficient second?

There is a sufficient second. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUE) is necessarily absent.

Mr. NICKLES. I announce that the Senator from New Hampshire (Mr. SMITH) is necessarily absent.

I further announce that if present and voting, the Senator from New Hampshire (Mr. SMITH would vote "yea."

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

The result was announced—yeas 51, nays 47, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—51

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

NAYS—47

Akaka	Cantwell	Corzine
Baucus	Carnahan	Daschle
Bayh	Carper	Dayton
Biden	Chafee	DeWine
Bingaman	Cleland	Dodd
Boxer	Clinton	Edwards
Byrd	Collins	Feingold

Feinstein	Levin	Rockefeller
Graham	Lieberman	Sarbanes
Harkin	Lincoln	Schumer
Hollings	Mikulski	Snowe
Jeffords	Murray	Specter
Kennedy	Nelson (FL)	Stabenow
Kerry	Nelson (NE)	Wellstone
Kohl	Reed	Wyden
Leahy	Reid	

NOT VOTING—2

Inouye  
Smith (NH)

The motion was agreed to.  
The PRESIDING OFFICER. The question is on agreeing upon reconsideration to amendment No. 604 offered by the Senator from Alabama. The yeas and nays are automatic.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, I ask unanimous consent that the matter before us, the Sessions amendment, be handled on a voice vote.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. It takes unanimous consent to vitiate the yeas and nays. I ask unanimous consent that we vitiate the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 604) was agreed to.

Mr. NICKLES. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

AMENDMENT NO. 562 TO AMENDMENT NO. 358

Mrs. BOXER. Madam President, I send amendment No. 562 to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:  
The Senator from California [Mrs. BOXER] proposes an amendment numbered 562.

The amendment is as follows:

(Purpose: To express the sense of the Senate regarding, and authorize appropriations for, part F of title I of the Elementary and Secondary Education Act of 1965)

At the end of title IX, add the following:

SEC. 902. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate makes the following findings:

(1) The afterschool programs provided through 21st Century Community Learning Centers grants are proven strategies that should be encouraged.

(2) The demand for afterschool education is very high, with over 7,000,000 children without afterschool opportunities.

(3) Afterschool programs improve education achievement and have widespread

support, with over 80 percent of the American people supporting such programs.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) Congress should continue toward the goal of providing the necessary funding for afterschool program by appropriating the authorized level of \$1,500,000,000 for fiscal year 2002 to carry out part F title I of the Elementary and Secondary Education Act of 1965; and

(2) such funding should be the benchmark for future years in order to reach the goal of providing academically enriched activities during after school hours for the 7,000,000 children in need.

AMENDMENT NO. 803 TO AMENDMENT NO. 562

Mrs. BOXER. Madam President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 803 to amendment No. 562.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 1. SHORT TITLE.

This title may be cited as the "Equal Access to Public School Facilities Act."

SEC. 2. EQUAL ACCESS.

IN GENERAL.—No public elementary school, public secondary school, local educational agency, or State educational agency, may deny equal access or a fair opportunity to meet after school in a designated open forum to any youth group, including the Boy Scouts of America, based on that group's favorable or unfavorable position concerning sexual orientation.

Mrs. BOXER. Madam President, I need literally a minute.

In this amendment, we are codifying what the Supreme Court has said, and that is every group, including the Boy Scouts, has equal access to school facilities. It is very simple. It is very straightforward. It stays away from the can of worms we believe was opened in the Helms amendment.

I hope all of our colleagues, 100 strong, will vote in favor of this simple, straightforward statement that all groups, regardless of their viewpoint, be allowed equal access to the public schools.

I yield the floor. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Madam President, I rise in opposition to this amendment, and I wish to express some concerns regarding it.

We just adopted an amendment which I think addressed the issue at the core, and that was concerning the treatment of the Boy Scouts of America.

The Boy Scouts of America, as many people know, has been recently pursued by a number of organizations saying they were not going to allow them to

participate and use public schools for Boy Scout meetings. That was the direction of the amendment on which we worked.

I will point out what some of the organizations and schools are pursuing with the Boy Scouts. They are saying: Look, we do not want to allow them to have access to our schools. We do not want to allow them to meet.

Listen to some of these examples:

On May 11, 2001, the Associated Press reported the Iowa City School Board voted to prohibit the Boy Scouts of America from distributing any information in schools because of the Scouts membership criteria. Greg Shields, the national spokesman for Boy Scouts of America, said:

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

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

On February 7, 2001, the Arizona Republic reported that the Sunnyside School District in Tucson decided to charge the Boy Scouts of America fees to use school facilities, even though no other groups have to pay fees.

The ACLU executive director said:

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

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

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

I have several more pages of examples. The reason I wanted to point these out is to show what the problem is, and that is, the Boy Scouts are being threatened to have access to public schools denied. That is the reason for the amendment. That was the reason for the Helms amendment.

The Boy Scouts is a 90-year-old organization with millions of members in the country. My guess is a fair number of Members of this body were Boy Scouts or their children are Boy Scouts. Senator NELSON of Nebraska was an Eagle Scout. Senator SMITH of Oregon was an Eagle Scout. Senator ENZI's son was an Eagle Scout. Senator LANDRIEU's family members were Eagle Scouts.

My point in saying this is here is an organization that has been next to God and country and mom and apple pie for as long as we can think of, and it is being pursued. It is being pursued, being castigated. The ACLU executive director mentioned the Boy Scouts in the same sentence as atheists, Nazis, and satanists. They are trying to categorize them in a dark category, a negative category, and all they want to do is do a good deed daily. That is their motto. They are being pursued.

What did we do? What was the response this body voted on by a bare margin of victory? This body said we are not going to tolerate them being pursued or kept out of school buildings. We said in this amendment: If you are going to try to keep them out of school buildings, then we are going to review the Federal funding for you because we so strongly believe in this organization—90 years old, basic value training, character training in which many people in this body participated.

The Senator from California then proposes an additional amendment apparently trying to address much of the same topic. In that amendment, she puts forward:

No public elementary school, public secondary school, local educational agency, or State educational agency, may deny equal access to meet after school in designated open forum to any youth group, including the Boy Scouts of America, based on that group's favorable or unfavorable viewpoint concerning sexual orientation.

She is trying to cover it. The problem is it does not cover it. It does not cover this for the Boy Scouts. It does not have any enforcement mechanism for the Boy Scouts. They are going to have to go into court with this language the same as they would right now to try to get access to public schools in school districts across the country that are trying to deny them access.

What we did instead was flip the burden. We flipped it to the school districts, saying: If you are going to deny the Boy Scouts, you are going to have to state why and clearly to the Federal educational agency if you are going to continue to get Federal funds. We put the onus and burden on the school districts in the Helms amendment, which is the proper and appropriate place to put it, instead of draining these private coffers of the Boy Scouts of America to pursue lawsuit after lawsuit in various jurisdictions to simply get access to public schools.

What do you want to do? The Boxer amendment, while on its face would look fine, puts the burden back on the Boy Scouts. It says the Boy Scouts are going to have to go to court to get access. You have this law, yes; you have the Supreme Court ruling; but you are going to have to go to court and spend thousands and, at the end of the day, millions of dollars to get access to public schools for the Boy Scouts of America. Let's deny apple pie access to public schools next. They are going to

make the Boy Scouts spend millions of dollars to get in and have a meeting at the public school.

That is not appropriate. That is not the right place, to put this burden on the Boy Scouts. They raise private moneys to do character education and do what all of us laud, I believe, in this body. I believe all of us laud the Boy Scouts and what they are after and what they are doing. Maybe that is not the case. Maybe some do not. I hope everybody supports the Boy Scouts.

This is not the right way to go. The Boxer amendment puts the burden back on the Boy Scouts to spend millions of dollars to fight their way into public schools. We should not do that. We do not need to do that. I would rather the Boy Scouts spend millions of dollars on camping, doing things as a scouting troop, as my son did when he was a part of the Boy Scouts, as some of the Eagle Scouts here did. I would rather they buy campgrounds and land to explore and take care of underprivileged youth, as Boy Scouts do across the country. I would rather they take underprivileged youth from inner cities as part of the Boy Scouts, take them to the countryside and camp and spend millions of dollars doing that rather than millions of dollars in court simply to gain access to the public educational institutions in our country for which we provide substantial funding.

That is why this amendment is flawed and should fail and why I oppose this amendment.

I urge my colleagues to oppose and vote against this amendment because we are shifting the burden back to the Boy Scouts and making them fight their way into the public schools. We really do not need to do that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. With all due respect to my distinguished colleague, I don't quite understand the argument that the Boy Scouts will have to fight their way into the schools. Constitutionally, they cannot be denied access to the schools now. They cannot be denied access. I suspect if one argues that you are going to have to fight your way in, there is the implication a lot of schools are trying to keep the Boy Scouts out.

Second, since *Brown v. The Board*, you cannot keep black kids from going to school. If we had an amendment that took the language out of *Brown*, parroted it, as my distinguished colleague from California does, from the 1998 Supreme Court case that sets out this principle—we cannot do this—it means every black child has to spend thousands of dollars to fight their way into the schools.

One of the things that distinguishes the United States of America, when the Supreme Court of the United States speaks clearly, and particularly when the Senate then legislatively parrots the exact language that the Supreme Court uses—guess what. The American



people, even those who do not agree, obey. That is the pattern we have in this country.

The idea that there will be Boy Scouts—and I was a Boy Scout and proud of it; I was an Explorer Scout; I support the Scouts; I will match my merit badges against my colleague's merit badges—Boy Scouts standing with tin cups in front of schools saying, "We need to raise money to go to Federal court to make sure we can get in," is not going to happen. Theoretically, it could happen, just as theoretically today a school in the State of Delaware, or Kansas, could say, "We will not let black folks in." Theoretically, that can happen. Guess what. The black parents have to go to court.

This is as much a threat to the Boy Scouts having to raise millions and millions of dollars as black folks having to raise millions and millions to get access to public schools. There is a constitutional amendment.

My friend—and he knows he is my friend—Senator HELMS from North Carolina, has an amendment that I voted against. I think it got pretty well cleaned up by the Byrd amendment, but it has some arcane problems. I will not take the time of Senators and bore them, but the reason it is probably still unconstitutional, although I have no objection to the way it got cleaned up—the reason it is arguably still unconstitutional is it is not content neutral because—and this is a constitutional principle—we will deny a school district funds—money—if in fact they discriminate, they violate the Constitution, by not letting in Boy Scouts or like organizations that determine their leadership based on criteria that are their own, to which others may object.

The problem with that is, technically, constitutionally, it does not include every group in the world. It does not include every group in the world. It is no longer viewpoint neutral. It says we are only going to penalize school districts that discriminate against one type of organization as opposed to all. I know that is not my friend's intention, but that is why the amendment is still probably flawed, although I am willing to take a chance on it.

As I said to my friend from California, I am not sure this amendment is needed. I will support it. I think we all should support it. All we are doing is supporting the Supreme Court decision.

On this idea that we have to go further, then it seems to me you should say, okay, we will cut off all moneys to all schools that violate the Supreme Court's rulings that you are not allowed to have organized prayer. How about that one? Does anybody want to sign up on that one? Same folks who want to sign up on this want to sign up on that? I don't think so. I don't think we will have people running across the aisle saying, look, if that school district or that school allowed organized

prayer—and I am not opposed to prayer, obviously, but that is what the Supreme Court said, in a Supreme Court decision.

What is done if a school violates the decision? Bring an action. Very few schools violate. But to make the Helms amendment content neutral—and I did not want to start playing games, and I know occasionally it is suggested I am too constitutional. The mistake I make is I teach constitutional law. My mother would say a little bit of knowledge is a dangerous thing.

The truth is, if you wanted to make the Helms amendment pass constitutional muster, you could arguably say, OK, as long as you do not discriminate, you deny school funds to any school district that violated any constitutional right of anybody. That is why technically it is not constitutional. It doesn't do that. It protects only one viewpoint as opposed to all viewpoints.

I don't want to get into that because the truth is, we all know on this floor, nobody, if we are a private citizen, is going to go home to the school district and say, by the way, I don't like the fact that the Boy Scouts don't allow homosexual Scout leaders so I will go to the school board meeting tomorrow and insist they be blocked access to my school.

This is a bit of a charade. Everybody on the floor supports the Boy Scouts. We may disagree whether they should or should not allow homosexuals to be members. And I think they should. We may disagree on that. But no one disagrees on the ruling of the Supreme Court which says you cannot discriminate against them because the Court ruled it is OK for this organization to say we don't want homosexual Scout leaders. That is what the Supreme Court said. It is OK. I accept that. It is the Supreme Court of the United States of America.

I also accept the fact that the Supreme Court says you cannot discriminate against the Boy Scouts because of the decision they made.

I think it is Kafkaesque. We are arguing about something on which we don't disagree. This is about politics. This is a political game we are playing. It is a joke—who is more Boy Scout. I am as big a Boy Scout as anyone here. We can all compare merit badges and our support for the Boy Scouts. So let's not make a mockery of this thing.

The fact is there is a technical, legal, constitutional argument that the last amendment is unconstitutional. That is the core of the objection of those who voted for it before it got amended. After it has been amended, it is arguably still unconstitutional. I am willing to take a chance on it. I am satisfied to let it go at that.

This clearly is constitutional. This clearly restates what I thought we all want. No school district can deny Boy Scouts access if they have access for anybody.

Again, I conclude by saying the idea this could cost the Boy Scouts millions of dollars I find a bit of a stretch.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I rise in opposition to the amendment and point out one of the real values of Boy Scouts is that it isn't designed to be competitive. It isn't designed to see who is the best Boy Scout, who has the most merit badges, who has better merit badges. It is designed to teach young men good values. It is designed to teach young men about the world. It is designed to teach young men about possible careers. That is being thwarted.

I will not repeat everything I said this morning. I am sure that is a relief. I hope Members look at the record. I am convinced they did not pay attention when I spoke earlier. An important point: The record of five cases a year ago, where the Boy Scouts had to go to court. We are not talking hypothetical; we are not talking about the possibility that somebody's constitutional rights were violated. We are talking about actual situations. Some of those will be resolved over the years at great cost. We are not talking hypothetical on the cost either.

I am not going to pretend to be a constitutional lawyer because I am one of the few people here who is not a lawyer at all. But I was a Boy Scout. I am watching what is happening to the Boy Scouts in this country.

Five times in the year 2000, this instance came up. I have to tell you, already this year, eight times. That is just ones that I was able to find, which means they are ones that made national press. It doesn't mean it is all the instances of it happening.

The five last year and the eight this year are cases where it happened in school. I am not talking about all of the discrimination that there is out there against the Boy Scouts. I am just talking about in school.

We cleared up the definitional problem that I think would have made that a near unanimous vote before. It should have made it a near unanimous vote before. Now we have an amendment that tries to eliminate anything that the Helms amendment could have done. Here is how it eliminates it. It does it in two ways.

It eliminates the enforcement mechanism. There was not anything in the Helms amendment that automatically took money away from schools. There was a review process. If the review process said they discriminated, there was the possibility that they would lose their funds.

Enforcement: There is no enforcement in this amendment. It may say what the Constitution says, but it doesn't provide enforcement. The amendment we agreed to before, that provides enforcement.

The second problem is this one allows discrimination against the Boy Scouts. The wording in here does not preclude—this is a big problem with the school—does not preclude charging them exorbitant rates. They would still

have equal access; they would have, depending on how you took it to court, a fair opportunity. But it would not be the same thing as in the Helms amendment where you could not be charged discriminatory fees to keep the Scouts out. Every one of those things would require another court action.

I am not an attorney. I am told a lot, when I go back to Wyoming, that one of the problems in this country is we have too many attorneys. They talk about the old towns in the West where the first attorney came to town and he went broke. In other towns the first attorney came to town, he was accompanied by another attorney, and they both did very well. That is what is happening to the Boy Scouts. We have enough attorneys; they can all do very well at the expense of the Boy Scouts.

The dollars being spent on litigation ought to be spent on good programs for youth. We have been talking throughout the education bill about the need to do things for youth, the need to have kids taken care of after school. This is an organization where you do not take care of the kids after school, the kids help take care of us after school. We are talking about a communitarianism group, a group focused on helping their community through their volunteer efforts.

In order to get your Eagle award you have to do a community project—not a personal project, not a family project. It has to be a community project. So these kids get to find out what voluntarism is. It is not voluntarism for them. It is that grand distinction; it is for other people, that chance to do something for other people.

We need to make sure every time we can get a free program such as the Boy Scouts that will teach character and take care of the community, we do everything we can to promote it. We have taken care of this through the Helms amendment. We can destroy it through the Boxer amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, as soon as Senator REID is done, I will claim the floor.

Mr. REID. Madam President, I wanted to ask a question of the manager. I am speaking to a Chamber empty on the minority side.

The question we have on this side is, When, if at all, are we going to vote on this? Does anybody know? Maybe one of the managers is in the back. It is now 4 o'clock, approximately. We have an amendment that says:

No public elementary school, public secondary school, local educational agency, or State education agency, may deny equal access or a fair opportunity to meet after school in a designated open forum to any youth group, including the Boy Scouts of America, based on that group's favorable or unfavorable viewpoint concerning sexual orientation.

A little different from my friend from Wyoming, I am a lawyer. If there is something wrong with this legally, I

suggest voting against it as some did on the underlying amendment that passed. It does not seem to me, at this late time, we are going to benefit by continuing to talk about this. So I would like to get something from the minority.

This morning I talked to Senator HELMS. He said he wanted 4 more hours. That at least gives people an idea how much time it will take. Does anyone have any idea how much longer the minority wishes to debate this 1-paragraph amendment?

Mr. GRAMM. Madam President, as far as I am aware, I am the last speaker. I was just waiting to get an opportunity to speak.

I do not know. There may be someone else over here who is welling up in their chest with a speech, but as far as I know, I am it.

Mr. REID. I will say to my friend, if they are not now, they will after your speech.

Mr. GRAMM. Maybe there will be a rush of people on your side, although I do not think so. I would not want to defend this amendment.

Mr. REID. The Senator from California yielded to me. I apologize to my friend from Texas. I return the floor to the Senator from California.

Mrs. BOXER. I say thank you to my friend from Texas. I will only speak for about 60 seconds, and then I am happy to yield the floor.

There are some days when I wonder where I am and what I am doing. This is really one of those days.

I have an amendment that simply codifies a Court decision that was a victory for the Boy Scouts of America. When it was announced, everyone said: OK, in our Nation, regardless of an organization's viewpoint, they have a right to equal access to our public schools; freedom of speech. For those people, and I count myself among them, who believe we are all God's children, and I abhor discrimination against anyone for any reason, including their sexual orientation, I thought: This is tough because if a school district really has a strong feeling and they believe this to be a fight for civil rights, they are still going to have to let the Boy Scouts in. But that is America. We allow equal access and that is the way it is.

Now I have an amendment that simply guarantees this equal access, that says the Senate agrees on equal access for all groups, whatever their view is on sexual orientation. And I have people who stand up and say I am undoing the Boy Scouts.

Again, my most enduring memory of my little girl, who is now a mother herself, is her in her little outfit when she was a little Brownie, and the character building that went with that. So no one can get up on the other side and say Members on this side do not care. We do care.

This amendment, again—and then I will yield the floor to my friend because I know he has reasons that he is

against this, and I am interested to hear his explanation—simply says what the Supreme Court said: Equal access for the Boy Scouts to every single public school in America because every group, regardless of their viewpoint, has a right to have such equal access.

So I am kind of glad I proposed this amendment. I am kind of stunned that anyone would be against it. But that is their right, their privilege. As a matter of fact, it is their duty if they find something wrong with it. But I thought the Supreme Court decision was cheered by the Boy Scouts, and I am a little stunned that my Republican friends somehow do not view it that way.

I hope we will have a bipartisan vote in favor of this amendment.

I yield the floor.

Mr. GRAMM. Madam President, if someone showed up from Mars and listened to this discussion, I am sure they would be convinced that this was somehow a simple amendment that was protecting the Boy Scouts. But they would be convinced only if they showed up in the last 30 minutes, because we spent much of this day debating and voting on an amendment by Senator HELMS that said if a school system denied access of facilities on a nondiscriminatory basis to the Boy Scouts of America, they would lose Federal funds.

In listening to our dear colleague from California, you would think Boy Scouts using public schools would be a noncontroversial amendment. Maybe if you came from Mars 30 minutes ago you would be convinced of that. But if you came from Mars an hour ago, you would realize that after a lengthy debate 49 Members of the Senate voted to not deny Federal funds to school systems that discriminate against the Boy Scouts of America. We had a vote on exactly this subject. The vote was 51-49.

What is wrong with the amendment that is before us? There are several things that are wrong with it. I think I can explain it pretty simply.

First of all, we have an unequivocal statement in the bill right now with a Helms amendment that says you lose Federal funds if you deny the Boy Scouts of America the ability to use your facilities after school on a nondiscriminatory basis.

How does the Helms amendment work? It has an enforcement mechanism. That enforcement mechanism is, you lose Federal funds. So the Boy Scouts of America don't have to go out and hire a lawyer, go to the district court, the circuit court, and the Supreme Court to get to use the local schools for Scout meetings after school. The Helms amendment has an enforcement mechanism in it.

Second, the Helms amendment says the Boy Scouts can use the schoolhouse on a nondiscriminatory basis, which means they cannot be charged a higher fee than anybody else. They cannot face separate rules than anybody else, where they could be denied

the right to hand out material, for example. That is the Helms amendment. That is the position of the education bill as it now stands.

We voted on that issue. The vote was 51-49. Where I come from, that is about as close as you can get and have a determinant result.

Now in comes this amendment which says no public elementary school or public secondary school or local education agency or State agency may deny equal access. No one is opposed to this freestanding, but this now clouds the position of the underlying bill.

Why is this amendment a very weak amendment which does virtually nothing to protect the Boy Scouts? Let me explain why.

First of all, there is no enforcement mechanism. Unlike the Helms amendment, which is currently part of this bill, there is no enforcement mechanism if a school violates the law. What would that force the Boy Scouts of America to do? It would force the local troop to hire a lawyer and to go to court. You could literally dissipate the assets of the Boy Scouts of America in trying to enforce a bill that has no enforcement clause in it.

The amendment which is now in the bill, which is undercut by adding this amendment to it, has an enforcement mechanism, because you lose funding, and any school faced with giving up Federal funding is going to allow the Boy Scouts to use their facility.

Second, this amendment does not guarantee that the Boy Scouts would be able to use the facility on an equal basis. They couldn't discriminate against the Boy Scouts or anybody else in terms of using it. But it does not have a provision, as the Helms amendment does, to guarantee that you don't have to pay a higher fee or that you wouldn't get to use it on an equal basis or you wouldn't be able to hand out materials.

I am not saying this is a bad amendment. If this had been offered freestanding, if we had not debated the other amendment all day long, I think some might have found some merit in it.

My point is, we have a provision in the bill that has an enforcement mechanism, which this does not. We have an unequivocal statement in the bill that was passed 51-49. My basic position is that this actually weakens the bill by putting two provisions in it, one which is strong and enforceable and has an enforcement mechanism, and one which does not.

Therefore, my view is, with all due respect, that we have already decided this on a 51-49 vote, and if your objective is to guarantee that the Boy Scouts of America get to use the schoolhouse like other organizations, then the thing to do would be to leave the provision which is currently in the bill there and to reject this amendment.

If we adopt this amendment, then we have two amendments in the bill that

are very different. Then you are going to leave it up to conferees to decide which one they want to take.

If your objective is to have the strongest possible language for the Boy Scouts, I assert—this is a free country, and people have their own opinions—that the way to keep the strongest language is to not dilute it by putting weaker language without an enforcement mechanism next to it. With all due respect, that is why I am going to vote no on it.

I would be very happy to yield to my dear friend.

Mr. BIDEN. Madam President, if the Senator will yield for a brief comment and question, my objective is to make sure the Boy Scouts have access to the school.

My worry is, having been the guy who wrote the statutory language on flag burning, the Supreme Court is going to rule unconstitutional the Helms amendment, if you pass it. Ask any conservative or liberal lawyer. There is a 60-percent chance that will happen.

I view it in the exact opposite way, although approaching it with the same objective as my friend from Texas does. The reason to include this other provision is to have a fail-safe constitutional guarantee because what the Court is going to say on the Helms amendment—which I support as amended—is the following. It is going to say that you do not have a guarantee to take away funds from any school district that denies homosexual organizations the right to be in the school. You do not deny funds to any organization or any school that denies or permits prayer in school, which is unconstitutional.

The Court is going to look at it and say it is not content neutral. That is what I mean. I know my friend from Texas knows as well. That is why—it is not content neutral—the same rationale that declared my constitutional statute against flag burning unconstitutional. It was not content neutral.

I argue, for those of you who truly want to make sure the Boy Scouts have access, even if you voted for and support the Helms amendment—which I think is a reasonable position—you should vote for this amendment as well because it guarantees you double protection.

This is clearly, unequivocally constitutional. The Helms amendment, as amended, is unquestionably constitutional.

I yield the floor. I thank my colleague.

Mr. GRAMM. Madam President, responding very briefly, first of all, if you believe a provision is unconstitutional, in my opinion, you ought to vote against it. We sort of hide behind this idea of "let the Supreme Court decide." But when we put our hand on the Bible and swear to uphold, protect, and defend the Constitution, in my opinion, we are swearing to do that.

I personally do not believe the Helms amendment is unconstitutional. We

have passed amendments and bills all the time that deny or grant Federal funds based on what a school system does. But everybody has their own opinion about that.

My basic position is that the Helms amendment is quite strong and has an enforcement mechanism. This amendment would require that the Boy Scout troops all over America get lawyers and go to court on an individual basis. It would be really unenforceable, except with the expenditure of tremendous amounts of money that the Boy Scouts don't have.

I think we have a strong measure in the bill now. Fifty-one Members voted for it. My suggestion is, keep it strong if you want the Boy Scouts in schools, and I would vote no on this. Obviously, people have other opinions. That is why—

Mr. NICKLES. Will the Senator from Texas yield for a question?

Mr. GRAMM. I am happy to yield.

Mr. NICKLES. I appreciate the Senator yielding. I also appreciate the discussion on the amendment.

I may be off base, but I am reading the amendment, and it says:

... State educational agency, may deny equal access or a fair opportunity to meet after school in a designated open forum to any youth group, including the Boy Scouts of America, based on that group's favorable or unfavorable position concerning sexual orientation.

Maybe I am misreading that, but it looks to me as if it is an invitation for gay activist groups, for all kinds of groups, to meet. If you give access to the Boy Scouts, then you have to give access to gay activists in elementary schools, grade schools, schools up to the 12th grade, senior high schools.

Mr. GRAMM. May I respond to that?

Mr. NICKLES. Please do.

Mr. GRAMM. Let me respond by saying, remember Senator BYRD got up and asked that we change the Helms amendment because it had language in it that said "or other groups." So the argument was made by Senator BYRD that the language in the Helms amendment that said "other groups" was so vague that it could include Nazis, skinheads.

My point is, this language is at least as broad as the language we took out of the Helms amendment because this requires that they open it up to any youth group, including the Boy Scouts. And the question is, Do we want to force public schools to open up to skinheads? Or to the Ku Klux Klan? I do not think we do.

Senator BYRD made the point. I supported him in changing the Helms amendment because it said: Boy Scouts or other groups. And we made that change by unanimous consent.

Now we have this amendment before us that says that we open it up "to any youth group, including the Boy Scouts" without regard to their view on sexual orientation. But what about their view on America or race or numerous other things?

I am saying that the criticism Senator BYRD raised of the Helms amendment—that it opened it up for all these hate groups—that same criticism can, and I think should, be leveled against this amendment. Maybe it should be corrected by modifying these other youth groups to assure they are groups that have a Federal patent, for example.

But I simply say that the point Senator BYRD made was as valid against this amendment as it was against the Helms amendment and we changed the Helms amendment.

AMENDMENT NO. 803, AS MODIFIED

Mrs. BOXER. Mr. President, I ask unanimous consent to make that modification, as we allowed that modification to be made in the Helms amendment, to mirror that.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Is there objection?

Mr. BROWNBACK. Reserving the right to object.

Mr. GRAMM. No, let's not object.

Mr. BROWNBACK. I just want to understand.

Mrs. BOXER. Instead of saying "other youth groups," we would say that have a national charter. It would mirror the Helms amendment.

Mr. BROWNBACK. OK. So you would insert that language? You would strike the language "any other youth group" and instead insert those in section 36?

Mrs. BOXER. That is absolutely correct. We would do it the same way we allowed you to modify yours.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment, as modified, is as follows:

In lieu of the matter proposed to be inserted insert the following:

**SEC. 1. SHORT TITLE**

This title may be cited as the "Equal Access to Public School Facilities Act."

**SEC. 2. EQUAL ACCESS**

IN GENERAL.—No public elementary school, public secondary school, local educational agency, or State educational agency, may deny equal access or a fair opportunity to meet after school in a designated open forum to any youth group, listed in title 36 of the U.S. Code as a patriotic society, including the Boy Scouts of America, based on that group's favorable or unfavorable position concerning sexual orientation.

Mrs. BOXER. I thank my colleague for making that point.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I am glad that correction was made, but that does not change any of the other points I made. There is no enforcement mechanism here. We have a provision in the bill that does have an enforcement mechanism. So we are weakening our commitment to it by putting this amendment in the bill.

Secondly, we do not have any guarantees that the Boy Scouts—while they might be permitted to come to the school grounds, they might be charged a higher fee or separate conditions may be imposed on them. And for both

those reasons, I believe this amendment ought to be rejected.

We have already acted on it. It was a tough vote. It was 51–49 as to who wanted to guarantee the right to the Boy Scouts. I think we have spoken. I think this is a weaker amendment.

I hope we will not move away from the strong, unequivocal position we took that the Boy Scouts of America, and their commitment to God and country, is a commitment we believe belongs in every schoolhouse in America where they want to operate. So I urge my colleagues to reject the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, this week, this month, we have been seeking to redefine the role of the Federal Government in education in our country.

For much of this day we have spent our time in this Chamber trying to make sure that Boy Scouts have the opportunity to have their meetings and their activities in our public schools.

As a number of my colleagues, I was a Boy Scout. As a number of our colleagues, I am the father of not one Boy Scout but two Boy Scouts. One just made Star this past week, two steps away from Eagle. The other guy is a new guy, brand new, just was a Weeblo, just crossed over. He is going camping tomorrow night with Troop 67 to Lum's Pond outside Newark, DE.

My friends, we have talked about this long enough today. I suggest that we call a halt to this debate and go ahead and vote. There are those of us who want to go camping with the Boy Scouts this weekend. I don't want to be here tomorrow night talking about this issue; I want to be camping.

Mr. REID. I would ask we vote.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I have a couple comments I would like to make regarding this amendment.

We have talked in the abstract on this issue of: Will the Boy Scouts have to sue to get into schools or will they not? There have been some allegations made. Several Members have said this is not the case.

I want to put a real case in front of us. On January 11, 2001, the News & Observer reported that the Chapel Hill-Carboro school board voted to give Scouts until June to either go against the rule of their organization or lose their sponsorship and meeting places in schools.

That was January of this year. That school board says: By June, you either change—go against the Boy Scouts organization—or lose your privileges to get into the schools.

We have two different proposals in front of us: the Helms amendment that was adopted and the Boxer amendment that is being proposed.

Under the Helms amendment that was adopted, the school board in this

district would be the one that would have to say: This is why we are blocking the Boy Scouts from being in this school. This is what we are doing. And if they don't, if they don't have the rationale, then they are going to lose their Federal funding.

Under the Boxer amendment, which is basically the current law, the Boy Scouts have to sue to say: We have a right to be in this school. That is the law today. The Boxer amendment just basically renews the law as it is currently today. The Boy Scouts would have to sue to say: Look, we are not going to go against our Federal charter, and we still want into the school. This is current law, what this school district did. The Boxer amendment basically puts forward current law again. So the Boy Scouts would have to hire a bunch of lawyers to go against the school district—in this situation as well as in hundreds of thousands of situations across the country—to get into the school.

That is a real live case. That is an example of what we are talking about. The Boxer amendment does not cure that.

On the other hand, the Helms amendment that was adopted—by a very tight vote, a close vote—would say that the Department of Education goes to the Chapel Hill School District and says: Why are you blocking the Boy Scouts? And if you are going to continue down this road, we are going to pull Federal funding. So then it is on the school districts, in that particular case, to defend as to why they are blocking the Boy Scouts or they will get their Federal funding pulled.

The Boy Scouts have an access to be able to get in. They have a tool to be able to get there. On the other side, they have to fight their way through court. And for those who are saying: You are dreaming up cases, here is an example:

I read five others when I took the floor earlier. There are more that I could read. The simple point of this is, thankfully, the amendment is being changed some, so it is not all organizations—skinheads and others, but the fact of it is, who are you going to put the burden on, on the school district or are you going to put it on the Boy Scouts?

The Boxer amendment puts it on the Boy Scouts. The Helms amendment puts it on the school district. I hope we will all say we want the Boy Scouts in the schools. We don't want to charge them a bunch of money to get there. We don't want to charge undue fees. We don't want to charge them more to be able to get into the schools. That is the point.

I urge my colleagues to vote against the Boxer amendment, if they support the Boy Scouts and keeping them from having to spend a lot of money just to get into the schools, places where they presently deserve to be.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 803, as modified.

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

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUE) is necessarily absent.

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

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—52

Akaka	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Edwards	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Boxer	Graham	Reed
Breaux	Harbin	Reid
Cantwell	Hutchison	Rockefeller
Carnahan	Jeffords	Sarbanes
Carper	Johnson	Schumer
Chafee	Kennedy	Snowe
Cleland	Kerry	Specter
Clinton	Kohl	Stabenow
Conrad	Landrieu	Torricelli
Corzine	Leahy	Torricelli
Daschle	Levin	Wellstone
Dayton	Lieberman	Wyden
Dodd	Lincoln	

NAYS—47

Allard	Enzi	McConnell
Allen	Fitzgerald	Murkowski
Bennett	Frist	Nickles
Bond	Gramm	Roberts
Brownback	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Hagel	Shelby
Byrd	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Cochran	Hollings	Stevens
Collins	Hutchinson	Thomas
Craig	Inhofe	Thompson
Crapo	Kyl	Thurmond
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Ensign	McCain	

NOT VOTING—1

Inouye

The amendment (No. 803), as modified, was agreed to.

Mrs. BOXER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 562, as amended.

The amendment (No. 562), as amended, was agreed to.

Mr. KENNEDY. Mr. President, this might not be the case, but there is a possibility that it might be the case, and that is, to my knowledge, Senator CLINTON is going to speak for 1 to 2 minutes on her amendment, and I understand it is going to be accepted.

I suggest the absence of a quorum.

Mr. DOMENICI. Will the Senator let me speak?

Mr. KENNEDY. I withhold the request.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I rise today to discuss the Better Education for Students and Teachers Act.

Education no longer simply involves students learning the fundamentals of

reading, writing, and arithmetic. Rather, students must possess the resources to compete and succeed as we proceed into the new, highly technical millennium. The computer and the Internet have become integrated into every aspect of our lives, and are becoming essential teaching tools in our schools and a basic component of any classroom.

To meet this challenge, we must strive for innovative ideas and to determine exactly how we can maximize the Federal Government's resources because: Even on its best day the Federal Government can never be a replacement for local administrators, educators, and parents.

Simply put, New Mexicans are in a far better position to know exactly what our schools and students need than government officials here in Washington.

Most Washingtonians probably do not know the Corona School District has 82 students, the Deming School District has 5,300 students, and the Albuquerque School District has 85,000 students. Additionally, the Gallup School District encompasses nearly 5,000 square miles, an area greater than Rhode Island and Delaware combined.

My point is simple, a one-size-fits-all approach cannot work in New Mexico and will not work in many areas of our country. Consequently, we must have solutions that are flexible and meet the diverse needs of our States, school districts, and schools.

I want to take a couple of minutes and provide my perspective on how we arrive at the point we are today with the BEST bill.

Not too long ago during the mid 1990's a number of us came to the conclusion that the current K-12 education status quo could no longer be maintained. I think this realization may have been spurred by Senator FRIST's excellent work as the chair of the Senate Budget Committee Task Force on Education. The task force produced: "Prospects for Reform: The State of American Education and the Federal role."

The report asked the simple question of "how well are our children doing?" The answer was mediocre at best because student achievement had stagnated over the past two decades even though America had established a record of near universal access and completion of high school. Thus, the report concluded that we must address the issue of a quality educational system. In other words the need for academic competence and rigor.

Building upon the excellent work of the Task Force, Senator FRIST soon introduced the Education Flexibility Partnership Act of 1999 commonly referred to as Ed-Flex. The bill simply said: one size does not fit all and thus, States should be allowed to waive-out of the regulations pertaining to certain Federal K-12 education programs.

Ed-Flex already existed as part of a demonstration program and Senator

FRIST's bill merely sought to provide all 50 States within that same flexibility. The Senate passed the bill overwhelmingly by a vote of 98-1 and within a month the President had signed the measure into law. Unfortunately, after the passage of Ed-Flex for a variety of reasons there was not any further fundamental changes made to our K-12 system. Instead, since the last reauthorization of the ESEA in 1994 there is no approach that we learned is a complete failure: merely providing more funding.

In 1996 the Federal Government spend about \$23 billion on education and within a few short years the number ballooned to over \$42 billion in FY 2001. The logical conclusion is that a near doubling of educational funding would result in dramatic improvements in student achievement. Sadly, for all of our funding we simply do not have the matching results.

For instance, in 1996 the average reading score for a 4th grader was 212 and the Federal Government spent about \$11 billion on the ESEA. Five years later, Federal spending on the ESEA has nearly doubled to \$20 million, while the average reading score of a 4th grader remained at 212.

In New Mexico, the number of 4th graders testing at or above proficient in reading actually fell from 23 percent in 1992 to 22 percent in 1998. I submit that we are not receiving a very good return on our investment, a near doubling of funding with no corresponding improvement. Imagine savings a greater and greater portion of your paycheck each week and after 5 years actually having less money. I think it is fair to say that very few individuals would stand for these results, if instead of students we were talking about our retirement savings.

Thus, we are now debating the BEST bill because many of us believe we simply must have a new approach to measuring academic success. The bill fundamentally alters the practice of Washington deciding the best educational practices and then distributing increasingly greater and greater sums of money without any accountability.

Make no mistake, we have not abandoned our commitment to providing the necessary resources to our States and school districts. In fiscal year 2001 ESEA spending totaled \$18.4 billion.

President Bush's fiscal year 2002 budget proposal requested a \$19.1 billion authorization for ESEA for fiscal year 2002, a 9-percent increase.

Building upon the President's proposal, the FY 2002 budget resolution includes the President's 9-percent increase in federal education spending for reading education, the Individuals and Disabilities Education Act, IDEA, and teacher training.

I think it is also important to note that on May 3 when the Senate began debate, the BEST bill already authorized \$27.7 billion for ESEA in FY 2002, a 57-percent increase over 2001 and nearly

\$190 billion over the authorization period of FY 2002-2008.

If one does not believe that is enough then you will be interested to hear how much spending we have added since May 3:

\$11 billion in ESEA and other education spending for a total of \$38.8 billion in FY 2002, an increase of 120 percent over FY 2001.

\$211 billion in ESEA and other education spending for a total of \$416 billion over the seven year authorization period of the bill.

And of that total, \$112 billion is mandatory spending under the Individuals with Disabilities Education Act.

With the preceding as a backdrop, I believe the BEST bill follows the President's promise to leave no child behind by ensuring academic success through a fresh approach to education like: Accountability.

Our schools will be held accountable for their progress in educating our children through high standards, testing, and consequences for failure.

Every child in grades 3-8 will be tested in reading and math proficiency annually. In New Mexico alone about 151,000 students will be tested. Also, the State will receive an additional \$4.5 million next year and more than \$33 million over the next 7 years to offset any new costs.

Instead of simply continuing to receive increased Federal funding in the face of failure, schools will now face consequences for persistent failure.

Schools failing to demonstrate improvement will face corrective action, parents will be given the option of public school choice and supplemental services for their children, and ultimately a school's persistent failure could lead to reconstitution.

Consolidation of duplicative education programs will provide maximum local flexibility to focus on improving student achievement. For instance, title II of the BEST bill created a new State teacher development grant program with a substantially larger pot of money by combining all of the current teacher funding. States will have the option to use the funding for professional development, teacher mentoring, merit pay, teacher testing, as well as recruiting and training high-quality teachers.

For example, New Mexico maintains a commendable student-teacher ratio of 15.2 and under the bill will no longer be required to use a portion of these funds for class size reduction. Instead, New Mexico will have the option to use that money for teacher recruitment and retention programs or maybe additional training.

The new accountability provisions will ensure that historic increases in Federal education funding will be based upon school performance. The bill includes the President's Reading First initiative to ensure all children and kindergarten through third grade become proficient readers by the end of third grade. The bill also includes pro-

grams to create Math and Science Partnerships, Strengthen After-School Care, and provide for Early Childhood Reading Instruction.

Parents and the public will be given detailed school-by-school report cards on the performance of their schools. Parents will have the option to transfer their child from a failing public school to an effective public school with transportation provided or to redirect their child's share of federal funds towards tutoring or after-school academic services. Parents will be given the option to transfer their child out of a persistently unsafe public school to another public school of their choice.

As Congress proceeds, one of its primary missions will be to determine what is working, what is not working, and what can be improved to give our children a better chance of succeeding in the future.

Before I conclude, I want to briefly talk about several provisions that are of personal importance to me:

First, Senator DODD and a bipartisan group of Senators joined me earlier this year to introduce the Strong Character for Strong Schools Act. I think it is important to note that reform does not only apply math, science, and reading; instead we must also reform the culture of our schools.

Our bill will be part of an amendment offered by Senator COCHRAN and seeks to encourage the creation of character education programs at the State and local level by providing grants to eligible entities. I believe our bill builds upon the highly successful demonstration program to increase character education that was contained in the last ESEA bill.

Since 1994, the Department Of Education has made \$25 million in "seed money" grants available to 28 States to develop character education programs. Currently, there are 36 States that have either received federal funding, or have enacted their own laws mandating or encouraging character education. Thus, the time is now to ensure that there is a permanent and dedicated funding source available for character education programs.

I also believe schools must not only have the resources for core missions like teaching reading, writing, math, and the sciences, but the additional resources to face emerging challenges.

Thus, I am extremely pleased the Senate has accepted an amendment authored by Senator KENNEDY and I to increase student access to mental health services by developing links between school districts and the local mental health system.

School districts would partner with mental health agencies, juvenile justice authorities, and any other relevant entities to better coordinate mental health services by: Improving preventive, diagnostic, and treatment services available to students; providing crisis intervention services and appropriate referrals for students in

need of mental health services and continuing mental health services; and educating teachers, principals, administrators, and other school personnel about the services.

Finally, we must provide our school districts and schools with the resources to both recruit and retain the best available teachers for our children.

Earlier this year I introduced the Teacher Recruitment, Development, and Retention Act of 2001. I am very pleased to see elements of that bill included in the pending legislation. I am also grateful the Senate has accepted my amendment that will allow States the option of using Teacher Quality funds for the creation of Teacher Recruitment Centers. Teacher Recruitment Centers will serve as statewide clearinghouses for the recruitment and placement of K-12 teachers. The centers would also be responsible for creating programs to further teacher recruitment and retention within the state.

Thank you and I look forward to the working with my colleagues on this important issue and final passage of this bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KYL. Mr. President, before turning to my tuition tax credit amendment, I am pleased to inform the people of Arizona that an agreement has been reached to allow the T.J. Pappas School to remain open and eligible for federal funds, including homeless education funds.

As I understand it, a modified version of the amendment I have offered to secure this objective will be incorporated into the bill shortly.

The Pappas School is well-known and well-regarded in the greater Phoenix area because it combines a high-quality education with essential social services required by the homeless students who attend.

I have visited the school and I believe that the work that they are doing is good work. I also believe that it would be a grave disservice to children who have already borne significant misfortune if the Federal Government deprived them of the opportunity to attend an institution that serves them so well.

Last fall, President Bush visited the school and came away impressed by the commitment of the staff and the hope that those dedicated professionals have instilled in their students.

The agreement that was hammered out by my self, Senator FEINSTEIN, Senator MURRAY, and Senator BOXER, revises the language in the underlying bill to allow Pappas and a number of

other worthy schools to continue serving children in need. It also ensures that essential safeguards for homeless students and their families are protected.

Of course, a homeless child should be able to attend any school he or she wishes—whether it be the school he or she attended before becoming homeless, or a school like Pappas that addresses their distinct needs on a transitional basis with the objective of enabling them to return to a mainstream school.

I am very pleased that despite some fundamental philosophical differences, it was possible to reach this agreement.

Mr. President, I want to make a brief statement on behalf of Senator MCCAIN and myself and others who have worked out the language of an amendment which will permit some schools for homeless children to continue to operate.

I ask unanimous consent to print in the RECORD an article from the Arizona Republic of June 14, 2001, relating to just one of the success stories of this school, the Thomas J. Pappas School.

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

“From the Arizona Republic, June 14, 2001”

PAPPAS VALEDICTORY?

SOLE GRADUATE MAY BE LAST FOR SCHOOL  
(By Karina Bland)

Crystal Sumlin is all there is to the Class of 2001, graduating tonight from the Thomas J. Pappas School for homeless children.

She is the school's first—and possibly last—graduate depending on a vote expected today in Congress to ban federal funding for homeless schools. The School is under fire for segregating kids from their public school peers.

“If it weren't for Pappas, I don't think I would have made it to graduation,” Sumlin said. “And I know I wouldn't be going to college.” The school, open for more than a decade, added a high school three years ago, so its oldest students are juniors. But Sumlin, 17, who has almost straight A's—she got a C in trigonometry—finished her course work a year early.

Despite the uproar in Congress over her school, Sumlin is thinking only of finishing up a report on Arizona's unemployment rate and the new dress she'll wear under her black cap and gown.

Sumlin, her three younger sisters and little brother have been at Pappas for three years after a lifetime of switching schools. One year, she switched schools seven times.

She said her family moves about every three months, usually because the rent is too high, the landlord complains of too many kids, or her brother Jason, 16 and in a detention center, sometimes gets into trouble.

But they've been in the same place since November, the longest most of the kids remember without a move. They've lived in a shelter, cheap motels and apartments.

“I hate moving,” Sumlin said. “When I got older, I thought I wanted to travel, but, now, I don't know. I think I'll find a place and stay in it.”

EYE ON THE BALL

Shy at first, Sumlin starts talking and her plans spill out: Arizona State University in the fall. Maybe a class this summer to start. She wants to be an attorney.

School officials are helping her apply for financial aid and promising a scholarship.

“I'm going to be somebody,” she said.

She is determined, said Mary Michaelis, the school's student services coordinator. And, unlike many kids at Pappas, Sumlin is pushed by her mother, Velma Williams, to do well.

“She is too big on school, my mom is,” Sumlin said. “She says I'm not going to drop out if she has anything to do with it.”

MOM HELPS OUT

Williams has everything to do with it. She volunteers at the school and stops by regularly to check on her kids.

“I push my kids a little harder than most people push their kids so that they make something of their lives and not have to work a job like I'm working now,” Williams said.

She works 40 to 50 hours for less than \$300 a week, collecting bills for a telemarketing company.

She knows about unpaid bills. Her phone doesn't work because she spent the money on new shoes, stockings and a rented limousine for Pappas', and the girls', first prom.

They'll eat bologna for a week.

She is raising six kids. Her oldest, Chris, 21, is on his own in school in Seattle, with no government assistance and no child support. The kids have no contact with their fathers.

All the kids need new shoes. She'll buy two pairs this week, two the week after and two more after that.

“I have always taught them if you want something, you work for it,” Williams said. “You don't expect the next person to hand it to you.”

PAPPAS PICKS UP THE SLACK

Pappas is the only place her kids have had a chance to do well, she said. Now, no matter how often they move, they stay put at school—the same teachers, the same friends.

It is the one stable thing in their lives, their mother said.

Most schools require kids to live within attending boundaries or get there on the their own. Pappas buses travel hundreds of miles a day, picking up kids wherever they live.

Kids can eat, get clothes and even medical treatment there.

Pappas could lose \$850,000, almost two-thirds of its annual budget, if Congress decides today to pull its federal funding.

Maricopa County Schools Superintendent Sandra Dowling said she'd come up with the money somehow rather than lose the school at Fifth Avenue and Van Buren Street.

HOLDING DOWN THE FORT

Sumlin is in charge in her family's two-bedroom townhouse near 24th Street and McDowell Road until Mom gets off work, sometimes 8 or 9 p.m.

In the long afternoons, she weaves complicated braids in her sister's hair. They listen to music, singing along with Mariah Carey.

“We don't have vocal skills,” Sumlin said, laughing. “But we do it anyway.”

Michael, 9, the youngest and only boy at home, has hazel eyes and girlfriends in sixth and eighth grades. He wants to be a firefighter.

Report cards are out. The kids pass them proudly. Berry a tubby Basset hound, rolls belly up.

Sumlin cooks for the kids, often making spaghetti or chicken and Rice-A-Roni.

She hopes her family stays put awhile, though she plans to live in a dormitory at ASU.

Sumlin is nervous about going to college but said, “I think I'll be all right as long as I can come home and visit.”

No matter where home may be.

Mr. KYL. Mr. President, I will briefly explain what we accomplished in this amendment. An agreement was reached to allow the Thomas J. Pappas School in Arizona to remain open and eligible for Federal funds, including these homeless education funds. A modified version of the amendment I offered to accomplish this will be incorporated into the bill shortly.

For the information of my colleagues, the Pappas School is well known and very well regarded in the greater Phoenix area because it combines a high-quality education with essential social services required by the homeless students who attend the school.

I have visited the school, and I know the work they are doing is very good. I also think it would be a grave disservice to the children who have already borne significant misfortune in their lives if the Federal Government deprived them of the opportunity to attend an institution that has served them so well.

Last fall, president Bush visited the school and came away very impressed by the commitment of the staff and the hope those dedicated professionals have instilled in their students.

The agreement I speak of was hammered out by Senator FEINSTEIN, Senator MURRAY, Senator BOXER, Senator MCCAIN, and myself, and revises the language in the underlying bill to allow the Pappas School and a number of other worthy schools to continue serving children in need.

It ensures essential safeguards for homeless students, and their families are protected. Of course, a homeless child should be able to attend any school, whether it is the school he or she attended before becoming homeless or a school that addresses their distinct needs on a transitional basis with the objective of enabling them to return to a mainstream school.

I am very pleased, despite fundamental philosophical differences, it was possible to reach this agreement. We have done something for homeless children, and for that I think we should be rightly proud.

Secondly, Mr. President, I would like to offer a few words about an amendment that I will not be offering. I believe that these comments will go some distance toward explaining the reasons why I plan to vote against final passage of the bill before us.

Mr. President, I appreciate the opportunity to say a few words about my amendment number 580.

I will not be offering this amendment so that there will be no blue slip problems with the House.

This amendment, like the Gregg amendment, that—unfortunately—was defeated earlier this week, would make real reforms that address the urgent need to improve elementary and secondary education in our country.

The tax bill that we passed last month takes a very important first step along these same lines by allowing

the Coverdell education IRAs to be used not only to facilitate savings for college education but for grades K through 12 as well.

While the administration of our schools is and should remain a local responsibility, we have a compelling national interest in improving the quality of K through 12 education.

And there are ways to discharge that responsibility without adding to the bureaucracy in Washington and without adding new mandates.

As has been noted repeatedly during debate on this bill: It is a fact that America is currently not educating the workforce it needs for the economy of the 21st century. Raising overall achievement will enhance America's competitiveness.

It is a fact that international tests reveal that American high school seniors rank 19th out of 21 industrialized nations in mathematics achievement and 16th out of 21 nations in science achievement.

Ironically, this threat to our competitiveness is the result of our failure to apply the very principles undergirding our economy's success in the area of education.

Our Nation has thrived because our leading industries and institutions have been challenged by constant pressure to improve and to innovate. The source of that pressure is vigorous competition among producers of a service or a good for the allegiance of their potential customers or consumers.

So why not promote innovation by producers and choice for consumers in the field of education?

The quasi-monopoly of public education today discourages this innovation.

We must find a way to promote innovation and opportunity through greater choice of parents. Those are the concepts that have built this country through our great free market economic system, and it is the same concept that can improve our educational system.

The other problem with our education system is that too many of our children are literally being left behind.

Anyone who has followed this debate has heard the particulars, but they demand our repeated attention: Thirty-seven percent of American fourth graders' tests show that they are essentially unable to read. For Hispanic fourth graders, the proportion is 58 percent, and for African-American fourth graders, it is 63 percent.

As President Bush has repeatedly noted, far too many of America's most disadvantaged youngsters pass through public schools without receiving an adequate education. It is intolerable that millions of children are trapped in unsafe and failing schools.

Parents should have a right in the United States of America to get the best education possible for their children as they see it, and the amendment I offer today will help secure that right.

My amendment would provide a \$250 tax credit, \$500 for joint filers, to partially offset the cost of donations to tuition scholarship organizations.

These organizations—usually founded by business leaders—that provide tuition scholarships to enable needy youngsters to attend a school of their families' choosing. The idea first came to light about a decade ago when the first one was founded in Indianapolis. Now there are more than 80 such programs serving more than 50,000 students nationwide.

For families who benefit, these programs are a godsend. A study that was just released by the Kennedy School of Government found that 68 percent of parents awarded scholarships are very satisfied with academics at their child's school compared with only 23 percent of parents not awarded scholarships.

I should pause on that point to observe if this amendment became law and scholarships were to become more widely available, the schools these students left would have a much greater incentive to improve than is the case today.

Because we anticipate that the tax credit would foster competition, we anticipate that its adoption will bring improvement of all schools, not just a few.

But today, the problem is that demand for scholarships far outstrips supply, even though these low-income families must agree to contribute a significant portion of the total cost of tuition.

For example, in 1997, 1,000 partial tuition scholarships were offered to needy families in the District of Columbia. Nearly 8,000 applications were received.

Another example: In 1999, 1.25 million applied for 40,000 scholarships in a national lottery. Clearly, there is a huge unmet demand for this kind of assistance.

In 1997, Arizona implemented an innovative plan to meet that demand in our State: A \$500 tax credit to offset donations to organizations that provide tuition scholarships to elementary and secondary students. The results: Upwards of \$40 million in donations to tuition scholarship organizations.

The number of school tuition organizations operating in my State of Arizona is up from 2 to 33, and the organizations have a very wide range of emphasis and orientations. For example, they range from the Jewish Community Day School Scholarship Fund to the Fund for Native Scholarship Enrichment and Resources to the Foundation for Montessori Scholarships.

Nearly 15,000 Arizona students, nearly all of them from disadvantaged backgrounds, have received this scholarship assistance.

While some have charged that the law was unconstitutional—particularly given the explicit prohibition on direct aid to parochial schools in Arizona's constitution—our State supreme court recognized that allowing taxpayers to

use their own money to support education is a different matter and upheld the program.

And consistent with previous holdings on the subject, the U.S. Supreme Court declined to review the decision.

In other words, the Arizona tax credit should be embraced by those concerned that Federal dollars going to vouchers which students would then take to the school of their choice could possibly be unconstitutional.

In Arizona, you do not have public dollars being given to students in the form of vouchers which are then taken to the school of their choice.

Instead, what we provide is that if people want to contribute money to a duly qualifying scholarship fund, that scholarship fund can then give that scholarship to needy students and those students can take that scholarship to whatever school in which they want to be educated and the donors receive a tax credit.

That is constitutional. It does not violate any notion of separation of church and state.

And yet it permits people to help those who need the help the most to have the flexibility that only the most wealthy in our society have today: the ability to take their kids to the school of their choice.

I have come to believe that it offers the best possible way to resolve this problem of choice and innovation.

It meets the constitutional challenges; it involves the private sector; it involves personal donations; it does not give the Federal Government the task of funding and administering a large voucher program.

Yet it gets the benefits to the students who need it the most, who are willing to contribute part of their own income to match that scholarship and pay the tuition at the school of their choice.

Now when I brought this amendment up during the debate on the tax bill, I listened carefully to the arguments that were offered in opposition by my colleague, Senator BINGAMAN.

In his remarks, my colleagues made two basic contentions.

First he said:

What we are saying [if we pass this amendment] is we will not appropriate money directly to those schools, but we will give each taxpayer a \$250 credit if they will give that \$250 to the private school. That, to men, seems to be a pretty direct way of providing Federal support for private and parochial schools.

But as Arizona Republic columnist Robert Robb noted, this argument equating tax credits with direct appropriations "ultimately rests on the odious theory that government is entitled to all your money, and anything it doesn't grab is in fact expended."

Senator BINGAMAN went on to argue that it would be imprudent to enact a proposal this "costly" at a time "when we are unable to make [a comparable] commitment to the public schools."

But the recent history of the bill before us today rebuts the premise of that argument.



The Joint Committee on Taxation has estimated this credit could cost the Federal Treasury \$43.4 billion over a 10-year period.

Meanwhile, the Budget Committee's staff report that, as of last week, the Senate has added \$211 billion to this bill for a total seven-year price tag of \$417 billion.

And given the concern about public schools, it is also worth noting that this tax credit is neutral as to whether scholarships should be used at public or non-public schools.

Scholarships could be used to offset tuition costs at a private school, or to pay the tuition costs families in most states must pay to enroll a child in a school across district boundaries.

I hope that my colleagues will think about what a magnitude of difference that money would make in the lives of our children: \$43 billion would finance 12.4 million \$3,500 scholarships.

Think of the opportunity provided to those 12.4 million students with a \$3,500 scholarship to take them out of the condition of education they are in now, out of the failing school, out of the unsafe school, and to a school where they can achieve, where they can learn, where they can be competitive, where they can learn their full potential.

I have said many times that if we can get education right, almost everything else in this country will follow. By "we," I do not just mean the Federal Government. In fact, I mean primarily the parents and local school folks.

First, it will help people realize their full potential.

Second, it will make them more qualified to compete for the kinds of jobs that are going to exist in the future.

Third, it will help our Nation compete. We are going to need to compete in a world environment.

Fourth, it is going to make us more secure because we are going to have the kind of young students who can invent the things that are going to help us keep our technological edge when it comes to national security.

Fifth, it is going to make us better citizens.

I have been somewhat appalled at what some of our schools do not teach about the history of this great country of ours, about the foundation for the self-governance we have, about the need for people, especially young people, to participate in our democratic Republic.

I fear that generations of Americans are growing up not being taught the fundamentals of our society, our Government, and our free-market system that we were taught, and I think fairly well.

If we go a couple generations without teaching our children accurately and adequately in subjects from math and reading to history to government to economics and all the other subjects that students in this complex world have to master, then we are not going to progress as a nation and be the leading

superpower and the leader of the world we are today, in economic terms or in terms of human rights, democratic principles, and other societal values.

If we get education right, we can flourish in all of these areas, and if we stay 19th out of 21 countries on these tests, then Americans are not going to be as well educated and we will be overtaken by other nations.

We have led the world in foreign aid and assistance. We have led the world in our insistence on human rights.

In other words, America stands for what is good on this Earth, and for us to continue to be the leader of the world to promote these values requires an educated citizenry, a citizenry that will be educated and committed to these ideals, to these propositions.

We cannot sustain that kind of education with the system we have today. The scholarship tuition credits I am proposing with this amendment will enable parents to allow their children to be educated in the very best schools for those students and to enable them to escape the kind of system we have today to one where each child can grow to their full potential. We must demand nothing less of our system.

This scholarship tax credit is an idea whose time has come, and that is why I have pressed it repeatedly and will continue to do so.

AMENDMENTS NOS. 571 AS MODIFIED, 527 AS MODIFIED, 457 AS MODIFIED, 582 AS MODIFIED, 432 AS MODIFIED, 585 AS MODIFIED, 586, 587 AS MODIFIED, 588, 589, 590, 591, 592 AS MODIFIED, 593, 595, 512 AS MODIFIED, 435 AS MODIFIED, 386, 424, 516, 804, EN BLOC, TO AMENDMENT NO. 538

Mr. KENNEDY. Mr. President, we are in a position to clear amendments by consent. I ask unanimous consent to consider these amendments en bloc, the amendments be agreed to en bloc, and the motion to reconsider be laid upon the table.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 571, AS MODIFIED

(Purpose: To provide grants to states with high growth rates in Title I children)

Beginning on page 141, strike line 23 through line 13 on page 142, and insert the following:

“(A) IN GENERAL.—Notwithstanding any other provision of this Act, the amount made available for each local educational agency under sections 1124 and 1124A for the fiscal year shall not be less than the greater of—

“(i) 100 percent of the amount the local educational agency received for fiscal year 2001 under sections 1124 and 1124A, respectively; or

“(ii) 100 percent of the amount calculated for the local educational agency for the fiscal year under sections 1124 and 1124A, respectively, determined without applying the hold harmless provisions of this subparagraph.

“(C) APPLICABILITY.—Notwithstanding any other provision of law, the Secretary shall not take into consideration the hold harmless provisions of this subsection for any fiscal year for purposes of calculating State or local allocations for the fiscal year under any program administered by the Secretary other than a program authorized under this part.

“(D) POPULATION UPDATES.—

“(i) IN GENERAL.—Notwithstanding paragraph (4), in fiscal year 2001 and each subsequent year, the Secretary shall use updated data, for purposes of carrying out section 1124, on the number of children, aged 5 to 17, inclusive, from families below the poverty level for counties or local educational agencies, published by the Department of Commerce, unless the Secretary and the Secretary of Commerce determine that use of the updated population data would be inappropriate or unreliable.

“(ii) INAPPROPRIATE OR UNRELIABLE DATA.—If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this subparagraph are inappropriate or unreliable, the Secretary and the Secretary of Commerce shall—

“(I) publicly disclose their reasons;

“(II) provide an opportunity for States to submit updated data on the number of children described in clause (i); and

“(III) review the data and, if the data are appropriate and reliable, use the data, for the purposes of section 1124, to determine the number of children described in clause (i).

“(iii) CRITERIA OF POVERTY.—In determining the families that are below the poverty level, the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, as the criteria have been updated by increases in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics.

“(iv) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for each fiscal year such sums as may be necessary to update the data described in clause (i).

AMENDMENT NO. 527, AS MODIFIED

(Purpose: To establish an exception to the prohibition on segregating homeless students)

On page 284, strike lines 6 through 13 and insert the following:

“(3) PROHIBITION ON SEGREGATING HOMELESS STUDENTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B) and section 723(a)(2)(B)(ii), in providing a free public education to a homeless child or youth, no State receiving funds under this subtitle shall segregate such child or youth, either in a separate school, or in a separate program within a school, based on such child's or youth's status as homeless.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), paragraphs (1)(H) and (3) of subsection (g), section 723(a)(2), and any other provision of this subtitle relating to the placement of homeless children or youth in schools, a State that has a separate school for homeless children or youth that was operated in fiscal year 2000 in a covered county shall be eligible to receive funds under this subtitle for programs carried out in such school if—

“(i) the school meets the requirements of subparagraph (C);

“(ii) any local educational agency serving a school that the homeless children and youth enrolled in the separate school are eligible to attend meets the requirements of subparagraph (E); and

“(iii) the State is otherwise eligible to receive funds under this subtitle.

“(C) SCHOOL REQUIREMENTS.—For the State to be eligible to receive the funds, the school shall—

“(i) provide written notice, at the time any child or youth seeks enrollment in such school, and at least twice annually while the child or youth is enrolled in such school, to

the parent or guardian of the child or youth (or, in the case of an unaccompanied youth, the youth) that—

“(I) shall be signed by the parent or guardian (or, in the case of an unaccompanied youth, the youth);

“(II) reviews the general rights provided under this subtitle; and

“(III) specifically states—

“(aa) the choice of schools homeless children and youth are eligible to attend, as provided in subsection (g)(3)(A);

“(bb) that no homeless child or youth is required to attend a separate school for homeless children or youth;

“(cc) that homeless children and youth shall be provided comparable services described in subsection (g)(4), including transportation services, educational services, and meals through school meals programs;

“(dd) that homeless children and youth should not be stigmatized by school personnel; and

“(ee) contact information for the local liaison for homeless children and youth and State Coordinator for Education of Homeless Children and Youth;

“(ii)(aa) provide assistance to the parent or guardian of each homeless child or youth (or, in the case of an unaccompanied youth, the youth) to exercise the right to attend the parent's or guardian's (or youth's) choice of schools, as provided in subsection (g)(3)(A); and

“(bb) coordinate with the local educational agency with jurisdiction for the school selected by the parent or guardian (or youth), to provide transportation and other necessary services;

“(iii) ensure that the parent or guardian (or youth) shall receive the information required by this subparagraph in a manner and form understandable to such parent or guardian (or youth), including, if necessary and to the extent feasible, in the native language of such parent or guardian (or youth); and

“(iv) demonstrate in the school's application for funds under this subtitle that such school—

“(I) is complying with clauses (i) and (ii); and

“(II) is meeting (as of the date of submission of the application) the same Federal and State standards, regulations, and mandates as other public schools in the State (such as complying with sections 1111 and 1116 of the Elementary and Secondary Education Act of 1965 and providing a full range of education and related services, including services applicable to students with disabilities).

“(D) SCHOOL INELIGIBILITY.—A separate school described in subparagraph (B) that fails to meet the standards, regulations, and mandates described in subparagraph (C)(iv)(II) shall not be eligible to receive funds under this subtitle for programs carried out in such school after the first date of such failure.

“(E) LOCAL EDUCATIONAL AGENCY REQUIREMENTS.—For the State to be eligible to receive the funds described in subparagraph (B), the local educational agency described in subparagraph (B) shall—

“(i) implement a coordinated system for ensuring that homeless children and youth—

“(I) are advised of the choice of schools provided in subsection (g)(3)(A);

“(II) are immediately enrolled in the school selected in accordance with subsection (g)(3)(C); and

“(III) are provided necessary services, including transportation, promptly to allow homeless children and youth to exercise their choices of schools in accordance with subsection (g)(4);

“(ii) document that written notice has been provided—

“(I) in accordance with subparagraph (C)(i) for each child or youth enrolled in a separate school described in subparagraph (B); and

“(II) in accordance with subsection (g)(1)(H)(ii);

“(iii) prohibit schools within the agency's jurisdiction from referring homeless children or youth to, or requiring homeless children and youth to enroll in or attend, a separate school described in subparagraph (B);

“(iv) identify and remove any barriers that exist in schools within the agency's jurisdiction that may have contributed to the creation or existence of separate schools described in subparagraph (B); and

“(v) not use funds received under this subtitle to establish—

“(I) new or additional separate schools for homeless children or youth, other than schools described in subparagraph (B); or

“(II) new or additional sites for separate schools for homeless children or youth, other than the sites occupied by the schools described in subparagraph (B) in fiscal year 2000.

“(F) REPORT.—

“(i) PREPARATION.—

“(I) IN GENERAL.—The Secretary shall prepare a report on the separate schools and local educational agencies described in subparagraph (B) that receive funds under this subtitle in accordance with this paragraph.

“(II) CONTENTS.—The report shall contain, at a minimum, information on—

“(aa) compliance with all requirements of this paragraph;

“(bb) barriers to school access in the school districts served by the local educational agencies; and

“(cc) the progress the separate schools are making in integrating homeless children and youth into the mainstream school environment, including the average length of student enrollment in such schools.

“(ii) COMPLIANCE WITH INFORMATION REQUESTS.—For purposes of enabling the Secretary to prepare the report, the separate schools and local educational agencies shall cooperate with the Secretary and the State Coordinators for the Education of Homeless Children and Youth, and shall comply with any requests for information by the Secretary and State Coordinators.

“(iii) SUBMISSION.—Not later than 2 years after the date of enactment of the Better Education for Students and Teachers Act, the Secretary shall submit the report described in clause (i) to—

“(I) the President;

“(II) the Committee on Education and the Workforce of the House of Representatives; and

“(III) the Committee on Health, Education, Labor, and Pensions of the Senate.

“(G) DEFINITION.—In this paragraph, the term ‘covered county’ means—

“(i) San Joaquin County, CA;

“(ii) Orange County, CA;

“(iii) San Diego County, CA; and

“(iv) Maricopa County, AZ.”

#### AMENDMENT NO. 457, AS MODIFIED

(Purpose: To increase parental involvement and protect student privacy)

On page 778, after line 21, add the following:

#### **PART C—INCREASING PARENTAL INVOLVEMENT AND PROTECTING STUDENT PRIVACY**

##### **“SEC. 6301. INTENT.**

“It is the purpose of this part to provide parents with notice of and opportunity to make informed decisions regarding the collection of information for commercial purposes occurring in their children's classrooms.

##### **“SEC. 6302. COMMERCIALIZATION POLICIES AND PRIVACY FOR STUDENTS.**

“(a) PROHIBITION.—Except as provided in subsection (b), no State educational agency or local educational agency that is a recipient of funds under this Act may—

“(1) disclose data or information the agency gathered from a student to a person or entity that seeks disclosure of the data or information for the purpose of benefiting the person or entity's commercial interests; or

“(2) permit a person or entity to gather from a student, or assist a person or entity in gathering from a student, data or information, if the purpose of gathering the data or information is to benefit the commercial interests of the person or entity.

“(b) PARENTAL CONSENT.—

“(1) DISCLOSURE.—A State educational agency or local educational agency that is a recipient of funds under this Act may disclose data or information under subsection (a)(1) if the agency, prior to the disclosure—

“(A) explains to the student's parent, in writing, what data or information will be disclosed, to which person or entity the data or information will be disclosed, the amount of class time, if any, that will be consumed by the disclosure, and how the person or entity will use the data or information; and

“(B) obtains the parent's written permission for the disclosure.

“(2) GATHERING.—A State educational agency or local educational agency that is a recipient of funds under this Act may permit or assist a person or entity with the gathering of data or information under subsection (a)(2) if the agency, prior to the gathering—

“(A) explains to the student's parent, in writing, what data or information will be gathered including whether any of the information is personally identifiable, which person or entity will gather the data or information, the amount of class time if any, that will be consumed by the gathering, and how the person or entity will use the data or information; and

“(B) obtains the parent's written permission for the gathering.

“(c) DEFINITIONS.—In this part:

“(1) STUDENT.—The term ‘student’ means a student under the age of 18.

“(2) COMMERCIAL INTEREST.—The term ‘commercial interest’ does not include the interest of a person or entity in developing, evaluating, or providing educational products or services for or to students or educational institutions, such as—

“(A) college and other post-secondary education recruiting;

“(B) book clubs and other programs providing access to low cost books or other related literary products;

“(C) curriculum and instructional materials used by elementary and secondary schools to teach if—

“(i) the information is not used to sell or advertise another product;

“(ii) the information is not used to develop another product that is not covered by the exemption from commercial interest in this paragraph; and

“(iii) the curriculum and instructional materials are used in accordance with applicable Federal, State, and local policies, if any; and

“(D) the development and administration of tests and assessments used by elementary and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of aggregate data if—

“(i) the information is not used to sell or advertise another product;

“(ii) the information is not used to develop another product that is not covered by the exemption from commercial interest in this paragraph; and

“(iii) the tests are conducted in accordance with applicable Federal, State, and local policies, if any.

“(d) **LOCALLY DEVELOPED EXCEPTIONS.**—A local educational agency, in consultation with parents, may develop appropriate exceptions to the consent requirements contained in this part if—

“(1) the information to be collected is not personally identifiable;

“(2) the local educational agency provides written notice to all parents of its policy regarding data or information collection activities for commercial purposes; and

“(3) with respect to any particular data or information gathering or disclosure, the agency provides written notice to all parents of—

“(A) the data or information to be collected;

“(B) the person or entity to whom the data or information will be disclosed;

“(C) the amount of class time, if any, that will be consumed by the collection activities; and

“(D) the manner in which the person or entity will use the data or information.

“(e) **FUNDING.**—A State educational agency or local educational agency may use funds provided under subpart 4 of part B of title V to enhance parental involvement in areas affecting children’s in-school privacy.

“(f) **TECHNICAL ASSISTANCE.**—Upon the request of a State educational agency or local educational agency, the Secretary shall provide technical assistance to such an agency concerning compliance with this part.

“(g) **ENFORCEMENT.**—The Secretary shall take appropriate actions to enforce, and address violations of, this section, in accordance with this chapter.

“(h) **OFFICE, FUNCTIONS.**—The Secretary shall designate an office to enforce this section and to provide technical assistance.

“(i) **RULE OF CONSTRUCTION.**—Nothing in this section shall be construed to supersede the Family Educational Rights and Privacy Act (20 U.S.C. 1232g).”

AMENDMENT NO. 582, AS MODIFIED

(Purpose: To protect student privacy)

On page 778, after line 21, add the following:

**SEC. . GUIDELINES FOR STUDENT PRIVACY.**

(a) **DEVELOPMENT OF STUDENT PRIVACY GUIDELINES.**—A State or local educational agency that receives funds under this Act shall develop and adopt guidelines regarding arrangements to protect student privacy that are entered into by the agency with public and private entities that are not schools.

(b) **NOTIFICATION OF PARENTS OF PRIVACY GUIDELINES.**—The guidelines developed by an educational agency under subsection (a) shall provide for a reasonable notice of the adoption of such guidelines to be given, by the agency or a school under the agency’s supervision, to the parents and guardians of students under the jurisdiction of such agency or school. Such notice shall be provided at least annually and within a reasonable period of time after any change in such guidelines.

(c) **EXCEPTIONS.**—This section shall not apply to the development, evaluation, or provision of educational products or services for or to students or educational institutions, such as the following:

(1) College or other post-secondary education recruitment or military recruitment.

(2) Book clubs, magazines, and programs providing access to other literary products.

(3) Curriculum and instructional materials used by elementary and secondary schools to teach.

(4) The development and administration of tests and assessments used by elementary and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of aggregate data.

(5) The sale by students of products or services to raise funds for school- or education-related activities.

(6) Student recognition programs.

(d) **INFORMATION ACTIVITIES BY THE SECRETARY.**—Once each year, the Secretary shall inform each State educational agency and each local educational agency of the educational agency’s obligations under section 438 of the General Education Provisions Act (added by the Family Educational Rights and Privacy Act of 1974; 20 U.S.C. 1232g) and the Children’s Online Privacy Protection Act of 1998 (15 U.S.C. 6501 et seq.).

(e) **FUNDING.**—A State educational agency or local educational agency may use funds provided under subpart 4 of Part B of title V of the Elementary and Secondary Education Act of 1965 to enhance parental involvement in areas affecting children’s in-school privacy.

(f) **DEFINITIONS.**—In this section, the terms “elementary school”, “local educational agency”, “secondary school”, “Secretary”, and “State educational agency” have the meanings given those terms in section 3 of the Elementary and Secondary Education Act of 1965.

AMENDMENT NO. 432, AS MODIFIED

(Purpose: To broaden local applications, and for other purposes)

On page 324, between lines 10 and 11, insert the following:

“(11) A description of how the local educational agency will provide training to enable teachers to—

“(A) address the needs of students with disabilities, students with limited English proficiency, and other students with special needs;

“(B) involve parents in their child’s education; and

“(C) understand and use data and assessments to improve classroom practice and student learning.

On page 326, line 2, strike “and”.

On page 326, line 7, strike the period and insert “; and”.

On page 326, between lines 7 and 8, insert the following:

“(D) effective instructional practices that involve collaborative groups of teachers and administrators, using such strategies as—

“(i) provision of dedicated time for collaborative lesson planning and curriculum development meetings;

“(ii) consultation with exemplary teachers;

“(iii) team teaching, peer observation, and coaching;

“(iv) provision of short-term and long-term visits to classrooms and schools;

“(v) establishment and maintenance of local professional development networks that provide a forum for interaction among teachers and administrators about content knowledge and teaching and leadership skills; and

“(vi) the provision of release time as needed for the activities;

“(E) teacher advancement initiatives that promote professional growth and emphasize multiple career paths (such as career teacher, mentor teacher, and master teacher career paths) and pay differentiation.”

AMENDMENT NO. 585, AS MODIFIED

(Purpose: To improve the Early Reading First Program)

On page 207, strike line 8 and all that follows through page 212, line 15, and insert the following:

“**Subpart 3—Early Reading First**

“**SEC. 1241. PURPOSES.**

“The purposes of this subpart are as follows:

“(1) To support local efforts to enhance the early language, literacy, and prereading development of preschool age children, particularly those from low-income families, through strategies and professional development that are based on scientifically based research.

“(2) To provide preschool age children with cognitive learning opportunities in high-quality language and literature-rich environments, so that the children can attain the fundamental knowledge and skills necessary for optimal reading development in kindergarten and beyond.

“(3) To demonstrate language and literacy activities based on scientifically based research that support the age-appropriate development of—

“(A) spoken language and oral comprehension abilities;

“(B) understanding that spoken language can be analyzed into discrete words, and awareness that words can be broken into sequences of syllables and phonemes;

“(C) automatic recognition of letters of the alphabet and understanding that letters or groups of letters systematically represent the component sounds of the language; and

“(D) knowledge of the purposes and conventions of print.

“(4) To integrate these learning opportunities with learning opportunities at preschools, child care agencies, and Head Start agencies, and with family literacy services.

“**SEC. 1242. LOCAL EARLY READING FIRST GRANTS.**

“(a) **PROGRAM AUTHORIZED.**—From amounts appropriated under section 1002(b)(3), the Secretary shall award grants, on a competitive basis, for periods of not more than 5 years, to eligible applicants to enable the eligible applicants to carry out the authorized activities described in subsection (e).

“(b) **DEFINITION OF ELIGIBLE APPLICANT.**—In this subpart the term ‘eligible applicant’ means—

“(1) one or more local educational agencies that are eligible to receive a subgrant under subpart 2;

“(2) one or more public or private organizations or agencies, acting on behalf of 1 or more programs that serve preschool age children (such as a program at a Head Start center, a child care program, or a family literacy program), which organizations or agencies shall be located in a community served by a local educational agency described in paragraph (1); or

“(3) one or more local educational agencies described in paragraph (1) in collaboration with one or more organizations or agencies described in paragraph (2).

“(c) **APPLICATIONS.**—An eligible applicant that desires to receive a grant under this section shall submit an application to the Secretary which shall include a description of—

“(1) the programs to be served by the proposed project, including demographic and socioeconomic information on the preschool age children enrolled in the programs;

“(2) how the proposed project will prepare and provide ongoing assistance to staff in the programs, through professional development and other support, to provide high-

quality language, literacy and prereading activities using scientifically based research, for preschool age children;

“(3) how the proposed project will provide services and utilize materials that are based on scientifically based research on early language acquisition, prereading activities, and the development of spoken language skills;

“(4) how the proposed project will help staff in the programs to meet the diverse needs of preschool age children in the community better, including such children with limited English proficiency, disabilities, or other special needs;

“(5) how the proposed project will help preschool age children, particularly such children experiencing difficulty with spoken language, prereading, and literacy skills, to make the transition from preschool to formal classroom instruction in school;

“(6) if the eligible applicant has received a subgrant under subpart 2, how the activities conducted under this subpart will be coordinated with the eligible applicant’s activities under subpart 2 at the kindergarten through third-grade level;

“(7) how the proposed project will evaluate the success of the activities supported under this subpart in enhancing the early language, literacy, and prereading development of preschool age children served by the project; and

“(8) such other information as the Secretary may require.

“(d) APPROVAL OF APPLICATIONS.—The Secretary shall select applicants for funding under this subpart on the basis of the quality of the applications, in consultation with the National Institute for Child Health and Human Development, the National Institute for Literacy, and the National Academy of Sciences. The Secretary shall select applications for approval under this subpart on the basis of a peer review process.

“(e) AUTHORIZED ACTIVITIES.— An eligible applicant that receives a grant under this subpart shall use the funds provided under the grant to carry out the following activities:

“(A) Providing preschool age children with high-quality oral language and literature-rich environments in which to acquire language and prereading skills.

“(B) Providing professional development that is based on scientifically based research knowledge of early language and reading development for the staff of the eligible applicant and that will assist in developing the preschool age children’s—

“(i) spoken language (including vocabulary, the contextual use of speech, and syntax) and oral comprehension abilities;

“(ii) understanding that spoken language can be analyzed into discrete words, and awareness that words can be broken into sequences of syllables and phonemes;

“(iii) automatic recognition of letters of the alphabet and understanding that letters or groups of letters systematically represent the component sounds of the language; and

“(iv) knowledge of the purposes and conventions of print.

“(C) Identifying and providing activities and instructional materials that are based on scientifically based research for use in developing the skills and abilities described in subparagraph (B).

“(D) Acquiring, providing training for, and implementing screening tools or other appropriate measures that are based on scientifically based research to determine whether preschool age children are developing the skills described in this subsection.

“(E) Integrating such instructional materials, activities, tools, and measures into the programs offered by the eligible applicant.

“(f) AWARD AMOUNTS.—The Secretary may establish a maximum award amount, or

ranges of award amounts, for grants under this subpart.

**“SEC. 1243. FEDERAL ADMINISTRATION.**

“The Secretary shall consult with the Secretary of Health and Human Services in order to coordinate the activities undertaken under this subpart with preschool age programs administered by the Department of Health and Human Services.

**“SEC. 1244. INFORMATION DISSEMINATION.**

“From the funds the National Institute for Literacy receives under section 1227, the National Institute for Literacy, in consultation with the Secretary, shall disseminate information regarding projects assisted under this subpart that have proven effective.

**“SEC. 1245. REPORTING REQUIREMENTS.**

“Each eligible applicant receiving a grant under this subpart shall report annually to the Secretary regarding the eligible applicant’s progress in addressing the purposes of this subpart. Such report shall include, at a minimum, a description of—

“(1) the activities, materials, tools, and measures used by the eligible applicant;

“(2) the professional development activities offered to the staff of the eligible applicant who serve preschool age children and the amount of such professional development;

“(3) the types of programs and ages of children served; and

“(4) the results of the evaluation described in section 1242(c)(7).

**“SEC. 1246. EVALUATIONS.**

“From the total amount appropriated under section 1002(b)(3) for the period beginning October 1, 2002 and ending September 30, 2008, the Secretary shall reserve not more than \$5,000,000 to conduct an independent evaluation of the effectiveness of this subpart.

**“SEC. 1247. ADDITIONAL RESEARCH.**

“From the amount appropriated under section 1002(b)(3) for each of the fiscal years 2002 through 2006, the Secretary shall reserve not more than \$3,000,000 to conduct, in consultation with National Institute for Child Health and Human Development, the National Institute for Literacy, and the Department of Health and Human Services, additional research on language and literacy development for preschool age children.”

AMENDMENT NO. 586

(Purpose: To improve the Pupil Safety and Family School Choice Program)

On page 83, strike lines 3 through 9.

AMENDMENT NO. 587, AS MODIFIED

(Purpose: To refine the Improving Academic Achievement Program)

On page 774 strike line 1 and all that follows through page 778, line 21, and insert the following:

**“PART B—IMPROVING ACADEMIC ACHIEVEMENT**

**“SEC. 6201. EDUCATION AWARDS.**

“(a) ACHIEVEMENT IN EDUCATION AWARDS.—

“(1) IN GENERAL.—The Secretary may make awards, to be known as ‘Achievement in Education Awards’, using a peer review process, to the States that, beginning with the 2002–2003 school year, make the most progress in improving educational achievement.

“(2) CRITERIA.—

“(A) IN GENERAL.—The Secretary shall make the awards on the basis of criteria consisting of—

“(i) the progress of each of the categories of students described in section 1111(b)(2)(B)(v)(II)—

“(I) towards the goal of all such students reaching the proficient level of performance; and

“(II) beginning with the 2nd year for which data are available for all States, on State assessments under the National Assessment of Educational Progress of 4th and 8th grade reading and mathematics skills;

“(ii) the progress of all students in the State towards the goal of all students reaching the proficient level of performance, and (beginning with the 2nd year for which data are available for all States) the progress of all students on the assessments described in clause (i)(II);

“(iii) the progress of the State in improving the English proficiency of students who enter school with limited English proficiency;

“(iv) the progress of the State in increasing the percentage of students who graduate from secondary school; and

“(v) the progress of the State in increasing the percentage of students who take advanced coursework, such as advanced placement and international baccalaureate courses, and who pass advanced placement and international baccalaureate tests.

“(B) WEIGHT.—In applying the criteria described in subparagraph (A), the Secretary shall give the greatest weight to the criterion described in subparagraph (A)(i).

“(b) ASSESSMENT COMPLETION BONUSES.—The Secretary may make 1-time bonus payments to States that complete the development of assessments required by section 1111 in advance of the schedule specified in such section.

“(c) NO CHILD LEFT BEHIND AWARDS.—The Secretary may make awards, to be known as ‘No Child Left Behind Awards’ to the schools that—

“(1) are nominated by the States in which the schools are located; and

“(2) have made the greatest progress in improving the educational achievement of economically disadvantaged students.

“(d) FUND TO IMPROVE EDUCATION ACHIEVEMENT.—The Secretary may make awards for activities other than the activities described in subsections (a) through (c), such as character education, that are designed to promote the improvement of elementary and secondary education nationally.

**“SEC. 6202. LOSS OF ADMINISTRATIVE FUNDS.**

“(a) 2 YEARS OF INSUFFICIENT PROGRESS.—

“(1) REDUCTION.—If the Secretary makes the determinations described in paragraph (2) for 2 consecutive years, the Secretary shall reduce, by not more than 30 percent, the amount of funds that the State may reserve for the subsequent fiscal year for State administration under the programs authorized by this Act that the Secretary determines are formula grant programs.

“(2) DETERMINATIONS.—The determinations referred to in paragraph (1) are determinations, made primarily on the basis of data from the State assessment system described in section 1111 and data from State assessments under the National Assessment of Educational Progress of 4th and 8th grade reading and mathematics skills, that—

“(A) the State has failed to make adequate yearly progress as defined under section 1111(b)(2) (B) and (D) for all students and for each of the categories of students described in section 1111(b)(2)(B)(v)(II);

“(B) beginning with the 2nd year for which data are available on State assessments under the National Assessment of Educational Progress of 4th and 8th grade reading and mathematics, the State has failed to demonstrate an increase in the achievement of each of the categories of students described in section 1111(b)(2)(B)(v)(II); and

“(C) the State has failed to meet its annual measurable performance objectives, for helping limited English proficient students develop proficiency in English, that are required to be developed under section 3329.

“(b) 3 OR MORE YEARS OF INSUFFICIENT PROGRESS.—If the Secretary makes the determinations described in subsection (a)(2) for a third or subsequent consecutive year, the Secretary shall reduce, by not more than 75 percent, the amount of funds that the State may reserve for the subsequent fiscal year for State administration under the programs authorized by this Act that the Secretary determines are formula grant programs.

**“SEC. 6203. GRANTS FOR STATE ASSESSMENTS AND RELATED ACTIVITIES.**

“(a) STATE GRANTS AUTHORIZED.—From amounts appropriated under subsection (c) the Secretary shall award grants to States to enable the States to pay the costs of—

“(1) developing assessments and standards required by amendments made to this Act by the Better Education for Students and Teachers Act;

“(2) working in voluntary partnerships with other States to develop such assessments and standards; and

“(3) other activities described in this part or related to ensuring accountability for results in the State’s public elementary schools or secondary schools, and local educational agencies, such as—

“(A) developing content and performance standards, and aligned assessments, in subjects other than those assessments that were required by amendments made to section 1111 by the Better Education for Students and Teachers Act; and

“(B) administering the assessments required by amendments made to section 1111 by the Better Education for Students and Teachers Act.

“(b) ALLOCATIONS TO STATES.—

“(1) IN GENERAL.—From the amount appropriated to carry out this section for any fiscal year, the Secretary first shall allocate \$3,000,000 to each State.

“(2) REMAINDER.—The Secretary shall allocate any remaining funds among the States on the basis of their respective numbers of children enrolled in grades 3 through 8 in public elementary schools and secondary schools.

“(3) DEFINITION OF STATE.—For the purpose of this subsection, the term ‘State’ means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

“(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this section, there are authorized to be appropriated \$400,000,000 for fiscal year 2002, and such sums as may be necessary for each of the succeeding 6 fiscal years.

**“SEC. 6204. AUTHORIZATION OF APPROPRIATIONS.**

“(a) NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.—For the purpose of administering the State assessments under the National Assessment of Educational Progress, there are authorized to be appropriated \$110,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years.

“(b) EDUCATION AWARDS.—For the purpose of carrying out section 6201, there are authorized to be appropriated \$50,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 6 succeeding fiscal years.”

On page 458, strike lines 10 through 12, and insert the following:

“(C)(i) who was not born in the United States or whose native language is a language other than English, and who comes from an environment where a language other than English is dominant;

On page 486, strike lines 10 and 11, and insert the following:

“(1) parts A, C, E (other than section 3405), and F shall not be in effect; and”.

AMENDMENT NO. 588

(Purpose: To amend the local educational plan under section 1112(c) of the Elementary and Secondary Education Act of 1965 regarding models of high quality, effective curriculum)

On page 74, strike line 24, and insert the following:

“parents and teachers; and

“(14) make available to each school served by the agency and assisted under this part models of high quality, effective curriculum that are aligned with the State’s standards and developed or identified by the State.”; and

AMENDMENT NO. 589

(Purpose: To improve section 1116 of the Elementary and Secondary Education Act of 1965 regarding assessment and local educational agency and school improvement)

On page 83, line 25, strike “section 1111(b)(2)(B)” and insert “sections 1111(b)(2)(B) and (D)”.

On page 84, line 4, insert “, principals, teachers, and other staff in an instructionally useful manner” after “schools”.

On page 84, line 25, strike “section 1111(b)(2)(B)” and insert “sections 1111(b)(2)(B) and (D)”.

On page 88, line 6, strike “meet” and insert “make continuous and significant progress towards meeting the goal of all students reaching”.

On page 90, line 5, insert “(including problems, if any, in implementing the parental involvement requirements described in section 1118, the professional development requirements described in section 1119, and the responsibilities of the school and local educational agency under the school plan)” after “problems”.

On page 91, line 15, strike “section 1111(b)(2)(B)” and insert “sections 1111(b)(2)(B) and (D)”.

On page 92, line 13, insert “and giving priority to the lowest achieving students” after “basis”.

On page 95, line 9, strike “section 1111(b)(2)(B)” and insert “sections 1111(b)(2)(B) and (D)”.

On page 95, beginning with line 13, strike all through page 96, line 6, and insert the following:

“(i)(I) provide all students enrolled in the school with the option to transfer to another public school within the local educational agency, including a public charter school, that has not been identified for school improvement under paragraph (1); and

“(II) if all public schools in the local educational agency to which children may transfer are identified under paragraph (1) or this paragraph, the agency shall, to the extent practicable, establish a cooperative agreement with other local educational agencies in the area for the transfer of as many of those children as possible, selected by the agency on an equitable basis;

“(ii) make supplemental educational services available, in accordance with subsection (f), to children who remain in the school;

On page 96, line 7, strike “(ii)” and insert “(iii)”.

On page 96, line 21, strike “(iii)” and insert “(iv)”.

On page 96, strike line 23 and all that follows through page 97, line 23.

On page 97, line 24, strike “(E)” and insert “(D)”.

On page 98, line 7, strike “(F)” and insert “(E)”.

On page 98, line 16, strike “and fails” and all that follows through “this paragraph” on page 98, line 20.

On page 98, line 25, strike “(D)” and insert “(C)”.

On page 99, line 6, insert “(i)” after “(B)”.

On page 99, line 12, strike “(i)” and insert “(I)”.

On page 99, line 14, strike “(ii)” and insert “(II)”.

On page 99, line 16, strike “(iii)” and insert “(III)”.

On page 99, line 19, strike “(iv)” and insert “(IV)”.

On page 99, line 21, strike “(v)” and insert “(V)”.

On page 99, between lines 22 and 23, insert the following:

“(ii) A rural local agency, as described in section 5231(b), may apply to the Secretary for a waiver of the requirements of this subparagraph if the agency submits to the Secretary an alternative plan for making significant changes to improve student performance in the school, such as providing an academically focused after school program for all students, changing school administration, or implementing a research based, proven effective, whole school reform program. The Secretary shall approve or reject an application for a waiver under this subparagraph not later than 30 days after the submission of information required by the Secretary to apply for the waiver. If the Secretary fails to make a determination with respect to the waiver application within such 30 days, the application shall be considered approved by the Secretary.

On page 100, line 6, strike “(D)” and insert “(C)”.

On page 100, line 23, strike “(A)”.

On page 101, strike lines 5 through 20.

On page 102, lines 15 and 16, strike “(7)(C) and subject to paragraph (7)(D)” and insert “(5)”.

On page 102, line 21, strike “, and that” and all that follows through “1111(b)(2)(B)(v)(II),” on page 102, line 25.

On page 103, line 1, strike “(D)” and insert “(C)”.

On page 103, line 7, strike “, and that” and all that follows through “disadvantaged students,” on page 103, line 10.

On page 103, line 20, strike “(D)” and insert “(C)”.

On page 104, line 22, strike “section 1111(b)(2)(B)” and insert “sections 1111(b)(2)(B) and (D)”.

On page 105, line 13, strike “section 1111(b)(2)(B)” and insert “sections 1111(b)(2)(B) and (D)”.

On page 105, lines 20 and 21, strike “section 1111(b)(2)(B)” and insert “sections 1111(b)(2)(B) and (D)”.

On page 106, between lines 13 and 14, insert the following:

“(C) Not later than 30 days after a State educational agency makes an initial determination under subparagraph (A), the State educational agency shall make public a final determination regarding the improvement status of the local educational agency.

On page 106, lines 22 and 23, strike “meet proficient levels” and insert “make continuous and significant progress towards meeting the goal of all students reaching the proficient level”.

On page 109, line 15, strike “(C)” and insert “(E)”.

On page 112, line 16, strike “(A)”.

On page 112, line 19, strike “(3)” and insert “(6)”.

On page 112, strike line 23 and all that follows through page 113, line 2.

On page 113, line 14, strike “(D)” and insert “(C)”.

On page 115, line 14, strike “(D)” and insert “(C)”.

At the appropriate place insert:

The current section 1501, U.S. Code, is deleted and replaced with the following:

**SEC. 1501. NATIONAL ASSESSMENT OF TITLE I**

(a) NATIONAL ASSESSMENT.—The Secretary shall conduct a national assessment of the impact of the policies enacted into law under title I of the Better Education for Students and Teachers Act on States, local educational agencies, schools, and students.

(1) Such assessment shall be planned, reviewed, and conducted in consultation with an independent panel of researchers, State practitioners, local practitioners, and other appropriate individuals.

(2) The assessment shall examine, at a minimum, how schools, local educational agencies, and States have—

(A) made progress towards the goal of all students reaching the proficient level in at least reading and math based on a State's content and performance standards and the State assessments required under section 1111 and on the National Assessment of Educational Progress;

(B) implemented scientifically-based reading instruction;

(C) implemented the requirements for the development of assessments for students in grades 3-8 and administered such assessments, including the time and cost required for their development and how well they meet the requirements for assessments described in this title;

(D) defined adequate yearly progress and what has been the impact of applying this standard for adequacy to schools, local educational agencies, and the State in terms of the numbers not meeting the standard and the year to year changes in such identification for individual schools and local educational agencies;

(E) publicized and disseminated the local educational agencies report cards to teachers, school staff, students, and the community;

(F) implemented the school improvement requirements described in section 1116, including—

(i) the number of schools identified for school improvement and how many years schools remain in this status;

(ii) the types of support provided by the State and local educational agencies to schools and local educational agencies identified as in need of improvement and the impact of such support on student achievement;

(iii) the number of parents who take advantage of the public school choice provisions of this title, the costs associated with implementing these provisions, and the impact of attending another school on student achievement;

(iv) the number of parents who choose to take advantage of the supplemental services option, the criteria used by the States to determine the quality of providers, the kinds of services that are available and utilized, the costs associated with implementing this option, and the impact of receiving supplemental services on student achievement; and

(v) the kinds of actions that are taken with regards to schools and local educational agencies identified for reconstitution.

(G) used funds under this title to improve student achievement, including how schools have provided either schoolwide improvement or targeted assistance and provided professional development to school personnel;

(H) used funds made available under this title to provide preschool and family literacy services and the impact of these services on students' school readiness;

(I) afforded parents meaningful opportunities to be involved in the education of their children at school and at home;

(J) distributed resources, including the state reservation of funds for school improvement, to target local educational agencies and schools with the greatest need;

(K) used State and local educational agency funds and resources to support schools and provide technical assistance to turn around failing schools; and,

(L) used State and local educational agency funds and resources to help schools with 50 percent or more students living in families below the poverty line meet the requirement of having all teachers fully qualified in four years.

(b) STUDENT ACHIEVEMENT.—As part of the national assessment, the Secretary shall evaluate the effectiveness of the programs and services carried out under this title, especially Part A, in improving student achievement. Such evaluation shall—

(1) provide information on what types of programs and services are most likely to help students reach the States' performance standards for proficient and advanced;

(2) examine the effectiveness of comprehensive school reform and improvement strategies for raising student achievement;

(3) to the extent possible, have a longitudinal design that tracks a representative sample of students over time; and

(4) to the extent possible, report on the achievement of the groups of students described in section 1111(b)(2)(B)(v)(II).

(c) DEVELOPMENTALLY APPROPRIATE MEASURES.—In conducting the national assessment, the Secretary shall use developmentally appropriate measures to assess student performance.

(d) STUDIES AND DATA COLLECTION.—The Secretary may conduct studies and evaluations and collect such data as is necessary to carry out this section either directly or through grants and contracts to—

(1) assess the implementation and effectiveness of programs under this title;

(2) collect the data necessary to comply with the Government Performance and Results Act of 1993.

(e) REPORTING.—The Secretary shall provide to the relevant committees of the Senate and House—

(1) by December 30, 2004, an interim report on the progress and any interim results of the national assessment of title I; and

(2) by December 30, 2007, a final report of the results of the assessment.

**AMENDMENT NO. 590**

(Purpose: To amend the uses of funds under the Local Innovative Education Programs)

On page 683, strike lines 12 and 13, and insert the following:

“(H) programs to improve the literacy skills of adults, especially the parents of children served by the local educational agency, including adult education and family literacy programs;

On page 684, line 6, strike “and”.

On page 684, line 7, strike the period and insert a semicolon.

On page 684, between lines 7 and 8, insert the following:

“(O) programs that employ research-based cognitive and perceptual development approaches and rely on a diagnostic-prescriptive model to improve students' learning of academic content at the preschool, elementary, and secondary levels; and

“(P) supplemental educational services as defined in section 1116(f)(6).

**AMENDMENT NO. 591**

(Purpose: To amend section 1119 of the Elementary and Secondary Education Act of 1965 regarding professional development activities)

On page 130, strike line 2, and insert the following:

quality of professional development; and

“(J) provide assistance to teachers for the purpose of meeting certification, licensing,

or other requirements needed to become highly qualified as defined in section 2102(4).”;

On page 130, line 5, strike the period and insert “; and”.

On page 130, between lines 5 and 6, insert the following:

(3) by adding at the end the following:

“(j) REQUIREMENT.—Each local educational agency that receives funds under this part and serves a school in which 50 percent or more of the children are from low income families shall use not less than 5 percent of the funds for each of fiscal years 2002 and fiscal year 2003, and not less than 10 percent of the funds for each subsequent fiscal year, for professional development activities to ensure that teachers who are not highly qualified become highly qualified within 4 years.”.

On page 127, line 23, insert “(1)” after “(b)”.

On page 127, line 24, strike “in paragraph (1).”.

**AMENDMENT NO. 592, AS MODIFIED**

(Purpose: To provide a manager's package of amendments)

On page 29, between lines 14 and 15, insert the following:

**“SEC. 16. PROHIBITION ON DISCRIMINATION.**

“Nothing in this Act shall be construed to require, authorize, or permit, the Secretary, or a State, local educational agency, or school to grant to a student, or deny or impose upon a student, any financial or educational benefit or burden, in violation of the fifth or 14th amendments to the Constitution or other law relating to discrimination in the provision of federally funded programs or activities.”.

On page 36, lines 21 and 22, strike “served under this part”.

On page 36, strike line 24 and all that follows through page 37, line 2, and insert the following:

guage arts, history, and science, except that—

“(i) any State which does not have standards in mathematics or reading or language arts, for public elementary school and secondary school children who are not served under this part, on the date of enactment of the Better Education for Students and Teachers Act shall apply the standards described in subparagraph (A) to such students not later than the beginning of the school year 2002-2003; and

“(ii) no State shall be required to meet the requirements under this part

On page 37, line 18, insert “and” after the semicolon.

On page 37, line 23, strike “; and” and insert a period.

On page 37, strike line 24 and all that follows through page 38, line 4.

On page 38, line 19, strike “subparagraph (B)” and insert “subparagraphs (B) and (D)”.

On page 41, strike lines 6 through 8 and insert the following:

“(vii) includes school completion or graduation rates for secondary school students and at least 1 other academic indicator, as determined by the State, for elementary school students, except that

On page 41, line 13, strike “discretionary”.

On page 44, lines 13 and 14, strike “curriculum”.

On page 45, line 2, strike “curriculum”.

On page 46, strike line 20 and all that follows through page 47, line 2.

On page 47, line 3, strike “(E)” and insert “(D)”.

On page 47, between lines 6 and 7, insert the following:

“(E)(i) beginning not later than school year 2001-2002, measure the proficiency of

students served under this part in mathematics and reading or language arts and be administered not less than one time during—

“(I) grades 3 through 5;

“(II) grades 6 through 9; and

“(III) grades 10 through 12;

“(ii) beginning not later than school year 2002–2003, measure the proficiency of all students in mathematics and reading or language arts and be administered not less than one time during—

“(I) grades 3 through 5;

“(II) grades 6 through 9; and

“(III) grades 10 through 12;

“(iii) beginning not later than school year 2007–2008, measure the proficiency of all students in science and be administered not less than one time during—

“(I) grades 3 through 5;

“(II) grades 6 through 9; and

“(III) grades 10 through 12.”

On page 47, line 8, strike “annual”.

On page 47, line 10, insert “annually” after “standards”.

On page 47, line 11, insert “, and at least once in grades 10 through 12,” after “8”.

On page 47, line 12, insert “if the tests are aligned with State standards,” after “arts.”.

On page 48, between lines 14 and 15, insert the following:

“(G) at the discretion of the State, measure the proficiency of students in academic subjects not described in subparagraphs (E) and (F) in which the State has adopted challenging content and student performance standards;

On page 48, line 15, strike “(G)” and insert “(H)”.

On page 49, strike line 7 and all that follows through page 50, line 7, and insert the following:

“(iv) notwithstanding clause (iii), the assessment (using tests written in English) of reading or language arts of any student who has attended school in the United States (excluding the Commonwealth of Puerto Rico) for 3 or more consecutive years, except that if a local educational agency demonstrates to the State educational agency that assessments in another language and form is likely to yield more accurate and reliable information on what such a student knows and can do, then the State educational agency, on a case-by-case basis, may waive the requirement to use tests written in English for those students and permit those students to be assessed in the appropriate language for one or more additional years, but only if the total number of students so assessed does not exceed one-third of the number of students in the State who were not required to be assessed using tests written in English in the previous year because the students were in the third year of the 3-year period described in this clause;

“(I) beginning not later than school year 2002–2003, provide for the annual assessment of the development of English proficiency (appropriate to students’ oral language, reading, and writing skills in English) of students with limited English proficiency who are served under this part or under title III and who do not participate in the assessment described in clause (iv) of subparagraph (H);

On page 50, line 8, strike “(H)” and insert “(J)”.

On page 50, line 17, strike “(I)” and insert “(K)”.

On page 50, lines 19 and 20, strike “scores, or” and insert “performance on assessments aligned with State standards, and”.

On page 51, line 1, strike “(J)” and insert “(L)”.

On page 51, line 20, insert “, but such measures shall not be the primary or sole indicator of student progress toward meeting State standards” after “measures”.

On page 51, line 21, insert “Consistent with section 1112(b)(1)(D),” before “States”.

On page 52, strike lines 21 and 22 and insert the following:

is applicable to such agency or school;

“(B) the specific steps the State educational agency will take to ensure that both schoolwide programs and targeted assistance schools provide instruction by highly qualified instructional staff as required by sections 1114(b)(1)(C) and 1115(c)(1)(F), including steps that the State educational agency will take to ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out of field teachers, and the measures that the State educational agency will use to evaluate and publicly report the progress of the State educational agency with respect to such steps;

“(C) how the State educational agency will develop or identify high quality effective curriculum models aligned with State standards and how the State educational agency will disseminate such models to each local educational agency and school within the State; and

“(D) such other factors the State deems

On page 53, line 12, strike “(i)” and insert “(j)”.

On page 59, lines 16 and 17, strike “performance standards,” and insert “performance standards, a set of high quality annual student assessments aligned to the standards.”.

On page 59, line 19, insert “and take such other steps as are needed to assist the State in coming into compliance with this section” after “1117”.

On page 68, line 24, strike “paraprofessionals” and insert “a paraprofessional”.

On page 69, line 18, insert “, the setting of State performance standards, the development of measures of adequate yearly progress that are valid and reliable,” before “and other”.

#### AMENDMENT NO. 593

On page 202, delete line 1 through line 4, and insert the following:

“(a) IN GENERAL.—From funds reserved under section 1225, the Secretary shall contract with an independent outside organization for a 5-year, rigorous, scientifically valid, quantitative evaluation of this subpart.

“(b) PROCESS.—Such evaluation shall be conducted by an organization outside of the Department that is capable of designing and carrying out an independent evaluation that identifies the effects of specific activities carried out by States and local educational agencies under this subpart on improving reading instruction. Such evaluation shall use only data relating to students served under this subpart and shall take into account factors influencing student performance that are not controlled by teachers or education administrators.

“(c) ANALYSIS.—Such evaluation shall include the following:

“(1) An analysis of the relationship between each of the essential components of reading instruction and overall reading proficiency.

“(2) An analysis of whether assessment tools used by States and local educational agencies measure the essential components of reading instruction.

“(3) An analysis of how State reading standards correlate with the essential components of reading instruction.

“(4) An analysis of whether the receipt of a discretionary grant under this subpart results in an increase in the number of children who read proficiently.

“(5) A measurement of the extent to which specific instructional materials improve reading proficiency.

“(6) A measurement of the extent to which specific rigorous diagnostic reading and

screening assessment tools assist teachers in identifying specific reading deficiencies.

“(7) A measurement of the extent to which professional development programs implemented by States using funds received under this subpart improve reading instruction.

“(8) A measurement of how well students preparing to enter the teaching profession are prepared to teach the essential components of reading instruction.

“(9) An analysis of changes in students’ interest in reading and time spent reading outside of school.

“(10) Any other analysis or measurement pertinent to this subpart that is determined to be appropriate by the Secretary.

“(d) PROGRAM IMPROVEMENT.—The findings of the evaluation conducted under this section shall be provided to States and local educational agencies on a periodic basis for use in program improvement.

#### AMENDMENT NO. 595

At the end of title IX, add the following:

#### SEC. . MAINTAINING FUNDING FOR THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Section 611 of the Individuals with Disabilities Education Act is amended to add the following new subsection:

“(k) CONTINUATION OF AUTHORIZATION.—For fiscal year 2012 and each fiscal year thereafter, there are authorized to be appropriated such sums as may be necessary for the purpose of carrying out his part, other than section 619.”.

#### AMENDMENT NO. 512

(Purpose: To authorize programs of national significance)

(The text of the amendment is printed in the RECORD of May 9, 2001, under “Amendments Submitted.”)

#### AMENDMENT NO. 435, AS MODIFIED

(Purpose: To support the use of education technology to enhance and facilitate meaningful parental involvement to improve student learning)

On page 369, between lines 6 and 7, insert the following and redesignate the remaining paragraphs accordingly:

“(2) outlines the strategies for increasing parental involvement in schools through the effective use of technology;”.

On page 370, line 24, strike “and”.

On page 370, line 26, strike the period and insert a semicolon.

On page 371, line 1, insert the following:

“(b) ALLOWABLE USES OF FUNDS.—“Each local educational agency, may use the funds made available under section 2304(a)(3) for—

“(1) utilizing technology to develop or expand efforts to connect schools and teachers and parents to promote meaningful parental involvement and foster increased communication about curriculum, assignments, and assessments; and

“(2) providing support to help parents understand the technology being applied in their child’s education so that parents are able to reinforce their child’s learning.”.

On page 371, between lines 23 and 24, insert the following and redesignate the remaining paragraphs accordingly:

“(3) a description of how the local educational agency will ensure the effective use of technology to promote parental involvement and increase communication with parents;

“(4) a description of how parents will be informed of the use of technologies so that the parents are able to reinforce at home the instruction their child receives at school;”.

On page 374, line 24, strike “and”.

On page 378, line 24, strike “and”.

On page 379, line 1, insert the following and redesignate the remaining subparagraph accordingly:

“(F) increased parental involvement in schools through the use of technology: and”.

AMENDMENT NO. 386

(Purpose: To provide resource officers in our schools)

On page 893, after line 14, add the following:

**SEC. —. SCHOOL RESOURCE OFFICER PROJECTS.**

(a) COPS PROGRAM.—Section 1701(d) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd(d)) is amended—

(1) in paragraph (7) by inserting “school officials,” after “enforcement officers”; and

(2) by striking paragraph (8) and inserting the following:

“(8) establish school-based partnerships between local law enforcement agencies and local school systems, by using school resource officers who operate in and around elementary and secondary schools to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, combat school-related crime and disorder problems, gang membership and criminal activity, firearms and explosives-related incidents, illegal use and possession of alcohol, and the illegal possession, use, and distribution of drugs;”.

(b) SCHOOL RESOURCE OFFICER.—Section 1709(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd-8) is amended—

(1) by striking subparagraph (A) and inserting the following:

“(A) to serve as a law enforcement liaison with other Federal, State, and local law enforcement and regulatory agencies, to address and document crime and disorder problems including gangs and drug activities, firearms and explosives-related incidents, and the illegal use and possession of alcohol affecting or occurring in or around an elementary or secondary school;

(2) by striking subparagraph (E) and inserting the following:

“(E) to train students in conflict resolution, restorative justice, and crime awareness, and to provide assistance to and coordinate with other officers, mental health professionals, and youth counselors who are responsible for the implementation of prevention/intervention programs within the schools;” and

(3) by adding at the end the following:

“(H) to work with school administrators, members of the local parent teacher associations, community organizers, law enforcement, fire departments, and emergency medical personnel in the creation, review, and implementation of a school violence prevention plan;

“(I) to assist in documenting the full description of all firearms found or taken into custody on school property and to initiate a firearms trace and ballistics examination for each firearm with the local office of the Bureau of Alcohol, Tobacco, and Firearms;

“(J) to document the full description of all explosives or explosive devices found or taken into custody on school property and report to the local office of the Bureau of Alcohol, Tobacco, and Firearms; and

“(K) to assist school administrators with the preparation of the Department of Education, Annual Report on State Implementation of the Gun-Free Schools Act which tracks the number of students expelled per year for bringing a weapon, firearm, or explosive to school.”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(11) of title I of the Omnibus Crime Control and Safe Streets Act of 1968

(42 U.S.C. 3793(a)(11)) is amended by adding at the end the following:

“(C) There are authorized to be appropriated to carry out school resource officer activities under sections 1701(d)(8) and 1709(4), to remain available until expended \$180,000,000 for each of fiscal year 2002 through 2007.”.

AMENDMENT NO. 424

(The text of the amendment is printed in the RECORD of May 14, 2001, under “Amendments Submitted.”)

AMENDMENT NO. 516, AS FURTHER MODIFIED

(Purpose: To provide for the conduct of a study concerning the health and learning impacts of sick and dilapidated public school buildings on children and to establish the Healthy and High Performance Schools Program)

(The text of the amendment is located in today’s RECORD under “Amendments Submitted.”)

AMENDMENT NO. 804

(The text of the amendment is printed in today’s RECORD under “Amendments Submitted.”)

Mr. GRASSLEY. Mr. President, I rise in support of the Cochran amendment to the Better Education for Students and Teachers Act. Specifically, I would like to speak to two elements of this amendment that are of particular importance to me and my State of Iowa.

I would first like to speak to a portion of this amendment that address an often overlooked segment of our student population, gifted and talented children. There are approximately three million children in the United States who are considered gifted and talented. It is important to point out that these gifted and talented children do not simply possess an extraordinary level of intelligence, but they actually have a unique way of thinking and learning. Gifted and talented children look at the world differently and often have a different way of interacting socially. As a result, gifted and talented students have different educational needs from other students.

These remarkable children have enormous potential. Today’s gifted and talented child may grow up to become a leader in the field of science or a world-renowned performer. However, this will not happen automatically. Gifted and talented children need to be challenged and their unique skills must be nurtured. Currently, many gifted and talented children do not receive the educational programs and services they need to live up to their potential. In fact, many gifted and talented children lose interest in school; they learn how to expend minimum effort for top grades, have low motivation, and develop poor work habits. Others abandon their education altogether and drop out of school. This is a tragedy not only for the students, but also for our society.

Much of the Federal role in education is focused on helping States to meet the needs of disadvantaged students and students with special learning needs. Currently, the availability and quality of gifted and talented educational serv-

ices varies widely from State to State. This situation adversely affects all gifted and talented students, but especially disadvantaged students. In areas without adequate public school services for gifted and talented students, more well-off parents can afford to place their children in a private school that offers gifted and talented programs or pay for private supplemental educational services like tutors and summer camps. Meanwhile, disadvantaged talented and gifted students remain in public school settings that cannot meet their unique educational needs without federal assistance.

My gifted and talented initiative, which is contained in the Cochran amendment, will help to ensure that ALL gifted and talented students have the opportunity to achieve their highest potential by providing grants, based on State’s student population, to State education agencies. These grants will be used to identify and provide educational services to gifted and talented students from all economic, ethnic, and racial backgrounds—including students with limited English proficiency and students with disabilities. My proposal outlines four broad spending areas but leaves decisions on how best to serve these students to states and local school districts.

The legislation ensures that the Federal money benefits students by requiring the State education agency to distribute not less than 88 percent of the funds to schools and that the funds must supplement, not supplant, funds currently being spent. Additionally, rather than simply accepting Federal funds, States must make their own commitment to these students by matching 20 percent of the Federal funds. The matching requirements will help ensure that programs and services for gifted education develop a strong foothold in the States.

The Cochran amendment also reauthorizes the Javits Gifted and Talented Students Education Program. The Javits Program is a research program that funds a national research center and provides grants to a wide range of public and private entities in order to build a nationwide capability to meet the special educational needs of gifted and talented students. The research results from the Javits Program provide invaluable tools to help schools and teachers learn how to identify gifted and talented students and improve gifted and talented programs. I would like to emphasize that, because of the nature of this program, a continued Federal commitment is required. It simply wouldn’t be practical or prudent to ask each State to conduct its own research into gifted and talented education. And yet, the research fostered by this program remains essential in ensuring that teachers have the best possible information about how to help gifted and talented students reach their full potential.

I am pleased that my own State of Iowa is one of the leaders in gifted education. Indeed, I have learned of many



remarkable young people and dedicated education professionals through the advocacy efforts of the Iowa Talented and Gifted Association. I have come to believe, strongly, that Congress must support initiatives designed to identify and serve the special learning needs of gifted and talented children.

Our Nation's gifted and talented students are among our great untapped resources. However, our help is needed to ensure that States and local school districts are able to address the unique educational needs of gifted and talented students. In the spirit of the President's challenge to leave no child behind, I would urge my colleagues to remember America's gifted and talented children.

I would also like to express my support for another portion of this amendment that addresses an important educational need in our country. The Cochran amendment reauthorizes provisions for the National Writing Project. The National Writing Project is a nationally recognized nonprofit organization that works to improve student writing achievement by improving the teaching and learning of writing in the Nation's schools. Each summer, successful writing teachers at 167 local sites in 49 States, Puerto Rico, and the District of Columbia attend annual summer institutes through the National Writing Project. At these summer institutes, teachers examine their classroom practices, conduct research, and develop their own writing skills. After completion of one of these summer institutes, the participating teachers return home and provide professional development workshops for other teachers in their home schools and communities. These follow-up activities are conducted throughout the entire academic year in order to maintain and encourage continued use of writing skills. As a result, the National Writing Project is able to reach far more teachers than would be possible through directly administered professional development activities and teachers are able to reap the benefits the whole year long.

I proud to say that the National Writing Project has a long and successful history in Iowa. The Iowa Writing Project was initiated in 1978 and was among the first in the Nation. Since its inception, over 8,000 teachers have taken part in the annual summer institutes. And, this group of teachers has served as the means of administering and conducting workshops and in-service training programs for many more thousands of Iowa teachers. In fact, upon returning home from attending one of those summer institutes, Iowa Writing Project participants can in turn impact as many as fifty percent or more of their fellow educators in their community. Thus, the relatively small number of teachers who participate in the Iowa Writing Project summer institutes can provide professional development opportunities in writing for entire communities.

The success of the National Writing Project has resulted in substantial support in the areas where it has been implemented. In fact, for every dollar of Federal funding, writing project sites generate more than six dollars in support from States, host sites, and other public and private sources. Yet, while the National Writing Project has a regional focus and widespread local support, the 167 local sites could not operate without the coordination and support provided by the national organization. At a time when both institutions of higher education and businesses are increasingly discovering that Americans do not have the writing skills they need to be successful, it is essential that we support proven writing programs, like the National Writing Project.

The two portions of this amendment which I have addressed are examples of areas where there are clear educational needs that cannot be met by states alone and where our existing efforts have proven successful. I support the general goals of the B.E.S.T. bill, including consolidating or eliminating programs that are not working or that interfere with decisions that are more properly made at the State or local level. However, where our efforts have been shown to be successful and needed, our support should be maintained. Therefore, I would urge my colleagues to support the Cochran amendment.

Mr. BINGAMAN. Mr. President, I rise today to thank my colleague from Mississippi, Senator COCHRAN, for including my legislation reauthorizing the smaller learning communities program in his amendment related to national activities. I am also grateful to my colleagues for supporting this amendment. My legislation ensures that the currently authorized and funded smaller learning communities program, which I sponsored during the 1994 reauthorization of the Elementary and Secondary Education Act, continues. This program provides funds to school districts to assist in the creation of smaller learning communities or "schools within schools." This is an extremely important program that we know works to improve student achievement and make our schools safer.

In the past 40 years, schools—especially high schools—have been getting bigger and bigger. In today's urban and suburban settings, high school enrollment of 2,000 and 3,000 are commonplace; in some places like New York City school enrollments near 5,000. Research demonstrates that students in schools of this size do not perform as well as students in smaller schools and large schools are less safe.

Research also has shown that small schools and large schools broken down into smaller learning communities are superior to large schools on virtually every measure of educational success. Student achievement is higher in small school environments. Students in these schools tend to have higher grades, test scores, and honor roll membership,

even when other variables such as teacher quality or community characteristics are considered. Furthermore, students from small school environments are more likely to finish high school. They also are more likely to be admitted to college, do well once they are there and complete their studies. These results are even more pronounced for minority and low-income students. Because teachers have fewer students in smaller schools they can know their students better, minority and low-income students are less likely to be overlooked. As a result, the creation of smaller learning communities can be an effective way to address the achievement gap between poor students and their more affluent peers.

Smaller learning environments also address non-academic learning because they provide an environment where students can learn how to participate actively in their school community. Student attitudes are overwhelmingly more positive in small schools. Students are far more likely to be involved in extracurricular activities than students in large schools. In order to have a sufficient number of players on the team or members of the club, all students must participate in small schools. In contrast, in large schools many students do not have a chance to participate in these important school experiences unless they display some special talent. Research has demonstrated that participating in extracurricular activities contributes significantly to student learning and makes it less likely that the student will drop out of school or have poor attendance.

Smaller learning communities also result in safer schools. Large school environments tend to promote feelings of isolation and alienation. In contrast, smaller learning communities promote a sense of belonging and community. Since there is an undisputed relationship between students' feelings of alienation and school violence, the creation of smaller learning communities is a very effective strategy for preventing the occurrence of acts of school violence that have become tragically commonplace in schools across the country in recent years. In smaller learning environments, problems in interpersonal relationships or other difficulties can be addressed before they lead to violence. Because teachers can get to know all students on a personal level, smaller learning communities go a long way towards ensuring that all students feel they belong and that they are safe. This makes the creation of smaller learning communities an important method of preventing school violence.

Smaller learning communities also help to decrease teacher attrition and therefore improve the quality of instruction. Teachers working in smaller learning environments often feel that they have more opportunity to teach instead of dealing with paperwork and discipline problems that are more common in larger school environments.

Under such circumstances, teacher morale is improved making good teachers less likely to "burn out."

I have been advocating for small schools and the creation of smaller learning communities for a number of years. The smaller learning community program was first authorized in 1994. The program was funded in FY 2000. Last year, a total of 354 schools serving over 400,000 high school students in 39 States were awarded grants to plan, develop and implement strategies that would personalize the learning environment for students.

The legislation allows for local decisionmaking with respect to how to build smaller learning communities. Some of the most common strategies include: (1) creating career academies that offer students academic programs organized around a broad career theme, often building on team teaching methods; (2) implementing mentoring systems in which teachers, counselors, and other school staff advise students on a personal level; and (3) creating schools within schools so that smaller groups of students take all or most of their classes together—often from the same team of teachers and/or administrators and often operating in distinct areas of the school facility. All of these strategies are designed to create a more individualized learning environment.

In my home State of New Mexico, the Albuquerque School District received a substantial grant under this program last year, which will allow them to create smaller learning communities in six of their high schools and hopefully with additional funding through this program they will be able to do so in all of the city's high schools. I was able to visit one of these schools recently and see the good work being done with some of the funding from this program. I visited Cibola High School, where they have created a school-within-a-school for ninth graders with their small schools grant. Taking into account evidence of a high drop out rate at ninth grade, the faculty at Cibola decided to move all of the ninth graders into one corridor and divide them into five teams. Each team of teachers meets together two to three times a week to discuss instructional strategies and any concerns about students on their team. The grant allowed them to hire four more teachers reducing pupil/teacher ratios. They also created two lunch periods within the school so that the ninth graders have their own lunch. Preliminary data indicates that the work at Cibola has been quite successful. The drop out rate declined from 9 percent to a little over 1 percent. Eighty-six percent of the ninth graders earned all of their credits last year and moved on to the tenth grade. Students, teachers and parents continually comment on how the new arrangements has helped students to be successful. The schools reports that students feel safer and less worried about the transition to high school.

Teachers comment that they enjoy teaching more since there are fewer discipline problems and they have more opportunity to work with students one-to-one. I have a letter from Linda Sink, the principal at Cibola High School, summarizing the success at the school.

I also note that teachers and administrators in schools in Las Lunas, NM were also delighted to receive a smaller learning communities grant last year. They are confident that the career academy, which will open in August 2001, funded through this grant will do much to improve the educational experience of their students. This academy will offer core academic content within the context of career programs in pre-engineering, electronics, culinary arts, criminal justice, education and health services.

No doubt small schools in themselves are insufficient to address all of the problems that are facing our nation's educational system. But the strategy of reorganizing our large schools into smaller learning communities is a proven method of reform which attacks many if not most of the challenges facing schools today. Throughout the history of education parents of means have sent their children to small schools because they have known that in smaller schools their children will have the opportunity to connect with adults who care about them and can give consideration to their learning needs. With your support, small schools can continue to be created in order to provide children with learning environments that help all children succeed.

AMENDMENT NO. 386

Mr. BIDEN. I ask unanimous consent that Senators HOLLINGS, BINGAMAN, LANDRIEU, CLELAND, and JOHNSON be added as original cosponsors to my amendment.

This amendment is fairly simple, and I hope all of my colleagues can support it.

It would extend the Justice Department's school resource officer program for 6 years. It authorizes \$180 million per year through 2007 for the wildly successful COPS in Schools Program. This is the same amount appropriated for the program in each of the last 2 years, the same amount requested by the administration in its Budget, and it's enough money to hire 1,500 resource officers per year.

This is a great program. Police departments and schools get together and they file their application jointly, based on the community's needs. To date, the Justice Department has funded over 3,800 school resource officers. They are 3 year grants, totaling up to \$125,000 per officer. That's about \$40,000 per year, usually enough to fund the officer's whole salary.

Why offer this amendment now. Well, the bill before us is designed to improve our schools, but without my amendment it does not include dedicated funds to hire school resource offi-

cers. And authority for COPS in Schools, one of the most successful school safety programs out there, expired last year.

My amendment has been endorsed by the National Association of School Resource Officers, by the National School Safety Center, by the Center for the Prevention of School Violence, by the National Education Association, and by the Fraternal Order of Police.

Why do school safety experts, line officers, the resource officers themselves, and the heads of police departments across the country, and educators support this amendment. Because they know COPS in Schools works. They know school resource officers can help quiet troubled schools halls, can quickly stop a violent incident, and can mentor students.

What are school resource officers. These are specially-trained police officers, men and women who work in and around elementary schools, middle schools, and high schools. They work with teachers, parents, and kids to identify and combat school-related crime and disorder problems. They get to know the students. They are their counselors and their role models, and, when necessary, they enforce the law.

D.A.R.E. police officers would be eligible to receive funding under this amendment, just as they are under the current COPS in Schools program.

I recently sat down with all of the school resource officers in Delaware. My State has embraced the concept, today, 16 members of the Delaware State Police serve as school resource officers. So do two members of the Wilmington Police Department, and one Newark police officer.

And about 1 year ago, I held a field hearing on school safety at the William Penn High School in Delaware. One of the witnesses was Delaware State Police Corporal Jeff Giles. Jeff told me how successful he has been as a school resource officer, how the kids feel safer, the school is more secure, and parents and teachers are put at ease.

This program works, COPS in Schools is a success. Let me tell you a story: When a high school in my State, Lake Forest High School, tried to phase out its school resource officer because of a lack of funds, the kids walked out. They walked out of school to protest Corporal Gary Fournier's, dismissal! The kids would not let their school resource officer go, they liked having him around so much. We found some funds that let the school keep Corporal Fournier on, but it should never have come to that.

Now, I was pleased the appropriators saw fit to include \$180 million for COPS in Schools last year. And it looks like the Administration wants to continue the program at the same level this year. But year-to-year appropriations are no substitute for a multi-year authorization.

Schools need to have assurances this is a program that's here to stay. City

councils and other local governing bodies need to be able to pass their budgets knowing the Federal Government is there to help. Today, as we debate this education bill, authority for the whole COPS program has expired and with it, the COPS in Schools program's future is unclear.

That just shouldn't be the case. A lot of these school resource officers are heroes, and we shouldn't end the program that helps fund them. Take a look at the tragic shooting this past March in Granite Hills High School in El Cajon, CA. Local officials there have stated that but for the quick response of Rich Agundez, that school's resource officer, lives may have been lost. In the weeks following this shooting, San Diego school officials decided to station resource officers in all of their 180 schools.

We should help communities like San Diego. We should make sure they hear the message, loud and clear, that this Senate agrees with them. Let's give school resource officers to every school that wants one. Let's give parents a little peace of mind that their kids are safe when they get on that school bus and head off to learn. Let's give teachers a hand in maintaining order in their classrooms.

Let's pass my amendment and fund the COPS in Schools program. It works. It works, and I challenge any of my colleagues to tell me otherwise.

AMENDMENT NO. 640 WITHDRAWN

Mr. KENNEDY. I ask consent, further, to withdraw amendment numbered 640.

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

Mr. KENNEDY. Mr. President, I ask consent following final passage, until the close of business today, the two managers be permitted to add a managers' amendment to the bill, provided that the amendment is agreed to by both leaders and both managers.

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

Without objection, the Jeffords substitute amendment No. 358 is agreed to.

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

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

RURAL EDUCATION

Mr. BAUCUS. Mr. President, I rise today to shift the direction of the education debate for a moment. For the past few weeks, we have been debating now best to engage the Federal Government in ways to improve our K-12 schools. There has been a lot of constructive debate on a number of important topics. An amendment that I planned to offer, S.A. 387, would have addressed another important topic relative to our schools: recruitment and retention of teachers in rural areas.

I have spoken with Senator KENNEDY and agreed to withdraw my amendment, but I want to speak for a moment about its importance. My amendment would have increased the scope of

current loan forgiveness provisions for teachers, including an expansion of eligibility to those teachers who teach in districts identified within the Rural Education Achievement Program.

I offered this amendment because there is a significant need in our rural schools for assistance in attracting and keeping good teachers. My amendment may have helped that situation.

I understand that the issue of rural teacher recruitment and retention is one that needs further investigation, though, and am pleased that Senator KENNEDY has agreed to address the needs of rural schools in Senate HELP Committee hearings. We need to better understand rural needs and find effective ways to provide our rural schools, home to roughly 17 percent of students throughout the country, with the resources they need to delivery a quality education.

Mr. KENNEDY. Thank you for bringing this important matter before us in the Senate. I agree with you that we should take a closer look at the needs of our rural schools, and I look forward to looking at how different mechanisms, including teacher loan forgiveness programs, can help meet the needs of our rural schools.

Mr. BAUCUS. Thank you, Senator, for giving your attention to this issue of great importance to rural schools in my home State of Montana and throughout the country

AMENDMENT NO. 505

Mr. BINGAMAN. Mr. President, yesterday we passed amendment No. 505 by unanimous consent. The amendment relates to BIA schools. The legislation was considered by the Indian Affairs Committee and the amendment was cosponsored by the distinguished Chair and Ranking Member of that Committee. I would like to note for the record that the Navajo nation has some concerns regarding some of the provisions in that amendment. I understand that Senators INOUE and CAMPBELL are working with my office and representatives of the Navajo nation to address those concerns. I'd like to ask Senator INOUE if my understanding is correct?

Mr. INOUE. We are working to address those concerns and hope to be able to make any necessary changes to the amendment in conference.

Mr. BINGAMAN. I'd like to thank my distinguished colleagues for their efforts. I also ask my Chair, Senator KENNEDY, for his assistance during the conference to make any necessary amendments to the underlying bill.

Mr. KENNEDY. I would be happy to work with Senator BINGAMAN on making any necessary changes related to this amendment during the conference.

Mr. JEFFORDS. Mr. President, with the passage of the Elementary and Secondary Education Act of 1965, there has always been broad support for the Federal Government to provide assistance and leadership to the States and localities, the entities that serve as the primary sources for implementing our

education system. Over these past 36 years, we have had thoughtful debates regarding the Federal role in both establishing and overseeing education policy. Through these spirited discussions, we have tried to create initiatives that emphasize excellence for all students.

Over the past 3 years, the Health, Education, Labor, and Pensions Committee has closely examined elementary and secondary education. In the 106th Congress, two dozen hearings were held regarding the ESEA reauthorization. One of the very first hearings the committee held this year featured Secretary Paige and focused on the President's education initiative.

All 20 members of the HELP Committee worked together to draft S. 1 and unanimously voted the bill out of committee. Following committee action, I and several of my colleagues worked with the White House to further refine the committee bill that has now passed the Senate.

S. 1, the Better Education for Students and Teachers Act, begins a new chapter that not only sets goals designed to improve student performance, but provides a road map for achieving those goals. With the leadership of President Bush, and the leadership of many Senators from all parties, we have, before us, legislation that better targets resources and provides greater accountability at both the State and local levels.

Our goal must be to ensure that every child will obtain the knowledge necessary to succeed in our society and in our economy. To ensure progress toward this goal, the legislation before us will establish accountability measures for every school, school district and State in the country, so that the public can see whether or not they are making annual academic progress.

The House and Senate conferees will soon begin their work in putting together a final product that will hopefully not set unrealistic goals and undermine our overall goal of leaving no child behind. If we are not very careful, the result of our efforts might be havoc rather than help for our education system and the students it is designed to serve.

I look forward to continuing to work with all of my colleagues in writing a conference report that will provide the foundation for every child in this Nation to receive a quality education.

I would like to take this opportunity to thank Senator KENNEDY, Senator GREGG, and the other members of the committee. I would like to join the managers in thanking all of the committee staff for their hard work. Particularly, I would like to thank my staff, Sherry Kaiman, Susan Hattan, Scott Giles, Jenny Smulson, Andy Hartman, Justin King, Carolyn Dupree, Leah Booth, Ann Clough, Sallie Rhodes, and Frances Coleman for their efforts. I also want to thank Wayne Riddle and Jim Stedman from the Congressional Research Service and Mark

Koster, Liz King, and Bill Baird from the Office of Legislative Counsel for their tremendous contribution in shaping S. 1.

Mr. BIDEN. Mr. President, education is, and should be, among our top priorities here in the Senate.

Parents know that the quality of a child's education can make or break that child's future. Businesses understand that they cannot compete in this high-tech world without a well trained and well educated workforce.

That is why what we are doing here today, and have done in the past few weeks is so important.

We have had an opportunity to put aside partisan differences to craft a federal education policy that will strengthen schools, increase accountability, empower parents, and give our teachers and administrators the resources they need to give our children the education they deserve.

In many respects, we have been successful. The bill itself takes some positive steps toward improving public education in America. It provides for annual testing of students and a process for identifying and turning around failing schools. It requires that high standards be set for all students. It targets federal education resources towards the students who need the greatest assistance. It includes a new early reading initiative to promote literacy. And it contains other important provisions to help increase parental involvement in their children's education.

In addition, we were able to make a number of key improvements to the underlying bill during the Senate debate. The bill now includes language calling for full funding of title I for disadvantaged children and full funding of the federal commitment to educate children with disabilities. We increased funding for bilingual education and after-school programs. We provided additional funding to improve and modernize resources in school libraries. We passed additional changes to make sure that States use high quality tests to gauge the progress of students. And we passed an amendment that I was proud to cosponsor that will help recruit more teachers.

I am also pleased that the Senate accepted my amendment to provide \$180 million to put more school resource officers in our schools. These officers are specially trained to prevent school violence and to quickly respond to crimes, while serving as mentors and role models and providing guidance to students.

Despite these important steps that we have taken, I must say that I am truly disappointed by some missed opportunities.

We missed an opportunity to make reducing class sizes a priority when the Senate voted against Senator MURRAY's amendment to increase funding for the 100,000 teacher initiative and ensure that it is not consolidated with other teacher quality programs.

We missed an opportunity to help our States renovate and build new schools

when the Senate voted against Senator HARKIN's amendment to reauthorize a bi-partisan school construction plan.

But above all else, we missed an opportunity to resolve the issue of adequate funding for all the education reforms that this bill requires.

The truth is, we can stand here and make eloquent speeches about all these needed changes in our education system, many of which I wholeheartedly support, but without the resources to back up these eloquent words, nothing will change. I am hopeful that even more resources can be directed toward education during the conference committee negotiations and though the annual appropriations process that will begin shortly.

I believe that on the whole this bill takes a dramatic step in the right direction. It improves accountability, empowers parents, and begins to make the types of investments that our teachers and students deserve and need.

Mr. GRASSLEY. Mr. President, I rise in support of the education reform bill. I am encouraged by the renewed emphasis President Bush and many in Congress have placed on education and I welcome this opportunity to share my views on this important subject.

Improving elementary and secondary education has long been a goal of those of us in Congress. However, for too long, the debate at the Federal level has focused on the same old ideas that boil down to more spending without ensuring results and more Federal control of local schools. That is why I am pleased that President Bush has put forward a plan for education that takes us in a new direction. S. 1, the Better Education for Students and Teachers Act, encompasses the President's main goals and puts the Federal role in education on the right track.

Since 1965, when Congress embarked on its first elementary and secondary education initiative, the Federal Government has continued to expand its role in the area of education. Yet, while the Federal role in education has increased, accountability has not. The Federal Government continues to spend more and more on education while creating complicated and overlapping programs that may or may not address the needs of local schools. In fact, research has shown that, while Federal funding for education has increased substantially over the last 30 years, students' test scores have not shown improvement.

The BEST Act seeks to change this situation by taking steps to ensure accountability for the use of Federal education dollars. Under this bill, States will be required to develop their own strategy to measure improvement and hold schools and school districts accountable through the use of State-run assessments. In this way, schools and school districts that fail to help students achieve can be identified so that assistance can be provided and necessary corrective action taken.

Going hand in hand with the need for greater accountability is the necessity for increased flexibility for States and local school districts. Part of the problem of stagnant student achievement despite increased Federal funding is that Federal funding comes with a disproportionate degree of Federal control. Federal micro-managing of classrooms ties the hands of teachers and can actually prevent them from meeting the individual needs of students.

We in Washington must face the fact that we cannot possibly know what's best for every school in America. My home State of Iowa contains a wide variation of school districts from rural to urban. Students in Des Moines are likely to have different needs from those of students in Lineville. What works in Davenport may not work in Sioux Center. How then can we in Washington direct Federal funding to meet the needs of all the students of Iowa, much less vastly different regions of our country, without providing for a substantial degree of local control? If States are to meet tough new goals for student achievement, they must be given the freedom to do so without having their hands tied by unnecessary Federal regulations. This bill does just that by consolidating related programs into more flexible block grants and allowing schools to waive certain Federal regulations in return for results.

It is also essential that parents have the opportunity for greater involvement in their child's education. Under the BEST Act, school report cards will be issued so that parents will have information on the quality of their child's school, and support will be given to local educational agencies and nonprofit organizations to implement parental involvement programs that are designed to improve student performance. In addition, parents of disadvantaged students in failing schools will be given the choice to move their children to a better school.

In closing, while this bill does provide for a substantially increased investment in elementary and secondary education, it does so in a framework of real reform that provides greater flexibility to states and local school districts in return for demonstrated results. This bill represents a shift from the old Washington-knows-best view of education to one which empowers states, local communities, and parents to improve student achievement. President Bush has called on us to ensure that no child in America is left behind. The Better Education for Students and Teachers bill will put us on course to meet that challenge.

Mr. LEAHY. Mr. President, I rise today to express my support for the innovative and far-reaching legislation before us, the Better Education for Students and Teachers, BEST, Act. The Senate for several weeks has been considering this reauthorization of the Elementary and Secondary Education Act, ESEA, which was first enacted in

1965 as part of President Johnson's war on poverty. While the anchor of this law has always been title I—a program to provide support to low-income and disadvantaged students—ESEA has evolved over the past 35 years to also include important professional development, technology and after-school programs. The bill before us today makes significant changes to education policy, reflecting our commitment to make the Federal Government an effective partner in reforming the nation's public schools. We all hope these reforms will be the right ones for our children. While I do have some concerns about the commitment of the President and my colleagues on the other side of the aisle to adequately fund the programs in the BEST Act, I am willing to take them at their word, to leave no child behind.

During the Senate's consideration of the BEST Act, a variety of amendments offered by Senators on both sides of the aisle have been considered. I would like to take a moment to highlight just a few of these.

First, I want to express my thanks and appreciation to the managers of this bill, Senators KENNEDY and GREGG, for accepting an amendment offered by Senator HATCH and myself to re-authorize Department of Justice grants for new Boys and Girls Clubs in each of the 50 States. In 1997, I was proud to join with Senator HATCH and others to pass bipartisan legislation to authorize grants by the Department of Justice to fund 2,500 Boys and Girls Clubs across the Nation. This bipartisan amendment authorizes \$60 million in Department of Justice grants for each of the next five years to establish 1,200 additional Boys and Girls Clubs across the Nation. These grants will bring the total number of Boys and Girls Clubs to 4,000 to serve 6,000,000 young people by January 1, 2007.

In my home State of Vermont, this long-term Federal commitment has enabled Vermonters to establish six Boys and Girls Clubs, in Brattleboro, Burlington, Montpelier, Randolph, Rutland, and Vergennes. Indeed, Vermont's Boys and Girls Clubs received more than \$1 million in Department of Justice grants since 1998. I am hopeful this amendment will ensure future funding for these successful youth programs.

Some of the most publicized and often-discussed provisions of the BEST Act are the expanded requirements for student assessment, specifically the annual testing of schoolchildren in Grades 3 through 8. The legislation will require states to establish comprehensive assessment systems in order to evaluate the achievement of their schools and students. Accountability in education is important. Parents, students, teachers, and taxpayers should know how their schools are performing. However, it is important that testing be used as a diagnostic tool in an overall assessment system and not become a reform in its own right. Tests should

measure school progress based on standards that are part of a high-quality curriculum. My home State of Vermont has a fine tradition of high expectations in education and currently has in place a comprehensive framework for school standards and accountability. I am hopeful that the new role of the Federal Government outlined in the legislation before us will reinforce, not undermine, state and local efforts to improve student performance.

For small States—like Vermont—the costs associated with implementing a large-scale assessment system can be prohibitively expensive. During consideration of the BEST Act, the Senate approved two key amendments that will help lessen the burden on the States. First, the Senate overwhelmingly passed an amendment to require that the Federal Government provide at least 50 percent of the costs of developing and administering the testing requirements in the underlying bill. If the Federal Government does not provide these funds, the States will not be required to administer the tests.

Second, the Senate adopted an amendment to have the General Accounting Office conduct a study to evaluate the true costs to the States for the testing provisions. This report will be completed prior to the implementation of the Best Act's assessment requirements. If the GAO finds the costs to be higher than anticipated, the Senate should return to the issue. We must not require reform from our States—especially small States without providing the necessary resources to support those reforms. We must not set our schools and students up for failure.

In addition to these important testing-related improvements, the Senate also approved an amendment to fully fund the Federal Government's portion of the Individuals with Disabilities Education Act, IDEA. This is a crucial issue and one that education officials back in our home States have been pushing for—for the Federal Government to fulfill its responsibility. The Senate also agreed to authorize full-funding for the title I program, a strong reflection of our commitment to providing resources to schools that educate low-income and disadvantaged students.

While several other amendments were approved that will strengthen the BEST Act, I was pleased that the Senate rejected some proposals that would have weakened our commitment to public school education. In particular, I was pleased that the Senate rejected an amendment that would have directed public dollars to private schools. I have long had concerns about using Federal tax dollars to support private schools through vouchers. Although I support the options private schools provide for some of our Nation's youth, our primary responsibility must be to ensure that our public schools are the best they can possibly be in order to

give our children the education they deserve. Rather than send precious public funds to private or religious schools, we must ensure that all public schools in the United States have the resources to provide a high quality education for all of our Nation's children.

By approving the legislation before us today, we will be taking the first step toward enacting quality education reform in our Nation's schools. The second step will come later in the year when Congress and President Bush determine the funding level for these Federal programs. In recent days many of my colleagues have spoken about the need for adequate funding for these reform efforts. I want to add my voice to that debate. Unless we commit ourselves to providing the resources necessary for States to carry out the reforms outlined in this bill, we will be doing serious harm to our children.

I will vote in support of this bill today with the belief that it will improve the educational and learning opportunities of the school children in Vermont and across the Nation. I urge my colleagues to continue our commitment to education and to provide the resources necessary to ensure that this far-reaching legislation achieves its goals.

Mr. WARNER. Mr. President, I rise today in strong support of S. 1, the Better Education for Students and Teachers Act (the "BEST" Act), which will reauthorize the Elementary and Secondary Education Act ("ESEA").

President Bush has appropriately indicated that education reform is his number one priority. The BEST bill, which is based on the President's blueprint, is premised on the President's goal: "No Child Left Behind." I share the President's goal. Our educational system must leave no child behind.

Education is the key to a better quality of life for all Americans. From early childhood through adult life, educational resources must be provided and supported through partnerships with individuals, parents, communities, and local government. The federal government has a limited, but important role in assisting states and local authorities with the ever-increasing burdens of education.

Originally passed in 1965, the ESEA provides authority for most federal programs for elementary and secondary education. ESEA programs currently receive about \$18 billion in federal funding, which amounts to an estimated 7 cents out of every dollar that is spent on education.

Nearly half of ESEA funds are used on behalf of children from low-income families, under Title I. Since 1965, the federal government has spent more than \$120 billion on Title I.

Despite the conscientious efforts of federal, state, and local entities over many years, our education system continues to lag behind other comparable nations. Nearly 70% of inner city fourth graders are unable to read at a

basic level on national reading tests. Fourth grade math students in high poverty schools remain two grade levels behind their peers in other schools. Our high school seniors score lower than students in most industrialized nations on international math tests. And, approximately one-third of college freshman must take a remedial course before they are able to even begin college level courses.

The underlying issue is—do we just pour more taxpayer dollars to perpetuate these mediocre results or do we take some bold new initiatives?

Increased federal education funding, increased state and local flexibility in their use of federal funds, and increased accountability are all components of this bill that are steps in the right direction.

First, in regard to funding, Republicans, Democrats, and Independents will continue to support increased education funding. Last year, nearly \$44.5 billion was appropriated to the Department of Education. This was a \$6.6 billion increase from Fiscal Year 2000 levels. Without a doubt, education will receive another significant increase this year when Congress passes the appropriations bill that funds the Department of Education.

Next, in regard to flexibility, the BEST bill significantly increases state and local flexibility in the use of their federal education dollars.

In the current fiscal year, the ESEA funds over 60 programs. Most of these programs have a specified purpose and a target population.

Our schools do not need a targeted one size fits all Washington, D.C. approach to education. While schools in Boston, Massachusetts may need to use federal education dollars to hire additional teachers to reduce classroom size, schools in other parts of the country may wish to use federal dollars for a more pressing need, like new text books. Federally targeted programs for a specified purpose do not recognize that different states and localities have different needs.

Who is in a better position to recognize these local needs, Senators and Representatives in Washington, D.C. or Governors, localities, and parents? Those Virginians serving in state and local government and serving on local school boards throughout the Commonwealth are certainly in a better position than members of Congress from other states to determine how best to spend education dollars in the Commonwealth of Virginia.

The BEST Act increases flexibility and local control. The Straight A's provisions of this bill and the Teacher Empowerment provisions serve as two good examples.

The Straight A's provisions of this bill creates a 7 state and 25 district demonstration program. Under the program, 7 states and 25 districts that choose to participate gain the flexibility to consolidate a number of federal formula grant programs and inte-

grate these federal dollars with state and local monies that serve children.

In addition, S. 1, in its Teacher Empowerment provisions, consolidates the targeted and inflexible class size reduction programs and the targeted Eisenhower Professional development program. The money in these programs is consolidated so states and localities can use these funds for a variety of options, including hiring additional teachers, retaining high quality teachers, developing professional development programs, or to hire mentors, to name a few of the numerous options.

Straight A's and the Teacher Empowerment provisions are key components of the increased flexibility provided in the BEST bill.

Finally, accountability, in certain areas, is needed. Our education policy is locking out many students and not providing them the key to a better life. It's time to move forward in education to ensure that all of our children are given the opportunity to receive a higher quality of education.

Let's seize this challenge.

President Bush's proposal to test students annually in grades 3-8 in reading and math, which is part of the BEST bill, is a strong proposal that promotes accountability.

These tests will result in parents and teachers receiving the information they need to know to determine how well their children and students are doing in school and how well the school is educating. Testing also provides educators the information they need to help them better learn what works, improve their skills, and increase teacher effectiveness.

While some have expressed concern that President Bush's proposal calls for too much testing, I have a different view. A yearly standard test in reading and math will allow our educators to catch any problems in reading and math at the earliest possible moment. Tests are becoming a vital part of life, no matter how onerous. If America is to survive in the rapidly emerging global economy, tests are a key part.

I note that Virginia has already recognized the importance of testing, having installed an accountability system called the Standards of Learning (SOLs). In Virginia, we already test our students in math and science in grades 3, 5, and 8. The accountability provisions in the BEST bill will augment the Commonwealth of Virginia's Standards of Learning.

Mr. President, in summary, the evidence demonstrates that the \$120 billion spent on elementary and secondary education since 1965 has produced mediocre results, at best. This bipartisan legislation is a step in the right direction, and I look forward to President Bush ultimately signing education reform legislation into law.

Mr. LEVIN. Mr. President, for nearly 2 months the Senate has been debating reform measures that would establish new goals for our teachers, our schools, our students and their parents. These

substantial and creative measures passed the Senate today as part of the reauthorization of the Elementary and Secondary Education Act.

The legislation focuses on improving student achievement, student performance, and school success through expanding accountability provisions, increasing resources, improving technical assistance, and providing mechanisms intended to help turn around schools which are falling short. The bill seeks to ensure that local education agencies and States have the resources over the next four years to put a highly qualified teacher in every classroom. This provision also includes an amendment that I offered which provides that the professional development training authorized for these teachers also include training in the use of computer technology to improve student learning in core academic subjects.

The bill also provides for over 125,000 new teachers to be paired with mentors and to have the opportunity for year-long internships. The Reading First provisions of the legislation authorize an important new initiative that provides nearly \$1 billion for States and local school districts to improve reading education, and help teachers get ready to ensure that all children become proficient readers by the end of the third grade. I am pleased that an amendment I offered, to permit funds under this program to be used for family literacy programs, was adopted.

The bill also authorizes partnership grants, a new initiative designed to boost achievement in the areas of math and science through strengthening and training and recruitment of highly qualified teachers; and continues the "Preparing Tomorrow's Teachers to Use Technology" program, which trains teachers in the use of technology in the classroom.

Mr. President, this legislation contains extremely complicated testing requirements. I have reservations about the utility of such a federal mandate, given the tests that are already administered in my State of Michigan. However, because I support the essential reforms also included in this legislation, I have decided, on balance, to support the bill.

Mr. FEINGOLD. Mr. President, the Senate is about to vote on one of the most important pieces of legislation that we will debate this year. The Elementary and Secondary Education Act has provided the framework for the Federal role in education for more than 35 years. The bill currently before us, the Better Education for Students and Teachers Act, will chart the course for the Federal role in education for the next seven years and beyond.

I strongly support maintaining local control over decisions affecting our children's day-to-day classroom experiences. The Federal Government has an important role to play in supporting our States and school districts as they carry out one of their most important

responsibilities the education of our children.

Every child in this country has the right to a free public education. Every child. That is an awesome responsibility, and one that should not have to be shouldered by local communities alone. The States and the Federal Government are partners in this worthy goal, and ESEA is the document that outlines the Federal Government's responsibilities to our Nation's children, to those who educate them, and to our States and local school districts.

It is with this bill that we must find the right balance between local control and Federal targeting and accountability guidelines for the Federal dollars that are so crucial to local school districts throughout the United States.

Ninety percent of American children attend public schools. More than 879,000 young people in my home state of Wisconsin are enrolled in public schools, from pre-school through grade twelve. I am a graduate of the Wisconsin public schools, and I am proud to say that all four of my children have attended them as well.

The legislation before us has generated vigorous debate in Wisconsin. I have heard from parents, teachers, school board members, school administrators, school counselors and social workers, state officials, and other interested observers. And their comments are clear: they say that the Congress must not undermine the targeted measures aimed at improving education for disadvantaged students. They say that we must live up to our commitment to fully fund the Federal share of elementary and secondary education programs.

If we are, as President Bush has said, to "leave no child behind," we should ensure that the programs created to help the most vulnerable children are fully funded.

We should fully fund title I, we should fully fund the Federal share of the Individuals with Disabilities Education Act (IDEA), we should fully fund Head Start, we should fully fund Impact Aid, and we should fully fund these programs in a fiscally responsible manner.

For too long, the Federal Government has failed to live up to its promise to fund these and other important education programs. During this debate, some of our colleagues have argued that money is not the only answer, and they are partially correct. In Wisconsin, however, where the State imposes limits on the amount of money that school districts can raise and spend annually, Federal funding is absolutely critical. I have heard time and again from frustrated school board members who have to make the tough decisions about which programs to fund and which programs to cut. In this time of economic prosperity, we should not pit groups of students against each other for scarce education dollars.

In that regard, I am pleased that the Senate has passed amendments to this

legislation that authorize the full funding of title I and of IDEA.

Nevertheless, I cannot support a bill that includes a new, largely unfunded Federal mandate for annual testing in grades 3-8. As I noted earlier in this debate, the response to this proposal from the people of my state is almost universally negative. My constituents oppose this proposal for many reasons, including the cost of developing and implementing additional tests, the loss of teaching time every year to prepare for and take the tests, the linking of success on these tests to ESEA administrative funds, and the pressure that these additional tests will place on students, teachers, schools, and school districts.

I am pleased that the Senate adopted amendments to help to ensure that these tests are of a high quality, to award bonuses to States for developing high quality tests rather than for the speed with which the testing program is implemented, and to require a study by the General Accounting Office on the true costs of these tests to the States. I am also pleased that the Senate adopted an amendment to increase the funding provided for these tests by the Federal Government, but I remain concerned that this bill still falls far short of authorizing enough funding for this new Federal mandate.

I am concerned that this bill does not do enough to ensure that local school districts will have the resources to help students be successful on these tests. I am disappointed that the Senate failed to adopt an amendment offered by the Senator from Minnesota, Mr. WELLSTONE, of which I was an original cosponsor, which would have modified the annual testing provisions to clarify that States would not have been required to implement the annual tests unless title I is funded at \$24.7 billion by July 1, 2005, funding levels consistent with the Dodd-Collins amendment adopted by the Senate.

I was also pleased to cosponsor an amendment offered by the Senator from South Carolina, Mr. HOLLINGS, which would have allowed a State to opt out of the new federal testing requirements if the State already has comparable accountability measures in place. Many States and local school districts around the country, including Wisconsin, have such programs. We should leave the means and frequency of assessment up to the States and local school districts who bear the responsibility for educating our children. Every State and every school district is different. A uniform testing policy may not be the best approach.

I have also heard from a number of my constituents that this Congress should do nothing that would undermine the good that the Federal Government's support has done to help states and local school districts over the last several years. They told me that we should not undermine the progress that we have made in smaller class sizes, in technology education, in

standards-based reform, and in accountability for results.

I regret that this bill does not authorize class size reduction as an independent program. And I particularly regret that the amendment to reinstate this program that was offered by the Senator from Washington, Mrs. MURRAY, was defeated. I am baffled by the argument put forth by some of our colleagues that smaller classes mean less to students than the presence of a good teacher in the classroom. I would argue that both are important. Of course, a good teacher makes a huge difference. But even the best teacher in the country will have far better results with 18 students instead of 50.

My home state of Wisconsin is a leader in the effort to reduce class size in kindergarten through third grade. The Student Achievement Guarantee in Education, SAGE, program is a state-wide effort to reduce class size to 15 students in kindergarten through third grade.

The SAGE program began during the 1996-1997 school year with 30 participating schools. Now in the program's fifth year, there are nearly 600 participating schools.

According to the recently-released program evaluation for the 1999-2000 school year, conducted by the SAGE Evaluation Team at the University of Wisconsin Milwaukee:

"When adjusted for pre-existing differences in academic achievement, attendance, socioeconomic status and race, SAGE students showed significant improvement over their Comparison school counterparts from the beginning of first grade to the end of third grade across all academic areas."

The study also found that "teaching in reduced size classrooms is characterized by more individualization, time spent on teaching rather than disciplining, class discussion, hands on activities, content coverage, and teacher enthusiasm."

The results speak for themselves. Smaller classes translate to better instruction and better achievement.

The education community in my State is also deeply concerned and I share this concern about proposals that would shift scarce Federal tax dollars away from the public schools they are intended to support.

I commend the work of the Senator from Massachusetts, Mr. KENNEDY, and the Senator from Vermont, Mr. JEFFORDS, and others who have worked so diligently these past weeks to negotiate compromise language with the Administration on many of the issues that remained outstanding following the HELP Committee's mark-up of this legislation. I regret that I am unable to support this compromise for a number of reasons.

I am troubled by language in this compromise that would require school districts to use up to 15 percent of their Title I money to pay for supplementary services or transportation for public school choice for students in schools

that have failed to make adequate yearly progress for three years. This provision would mean that a school that is already in trouble would have as little as 85 percent of its Title I money available for school programs. If Congress agrees to divert badly-needed Title I money for supplemental services, it is all the more urgent that we fully fund the Title I program.

I am also concerned about the so-called "Straight A's" performance agreement pilot program that is included in the bill. This provision would allow seven States and 25 districts in effect to block grant most of their ESEA funding. I am pleased that this provision stipulates that this funding cannot be used for private school vouchers and that it can only be used for specified activities. I am also pleased that individual school districts within the seven States that participate in this program may apply to opt out of the State's performance agreement.

Supporters of this provision use terms like "consolidation of Federal funds" and "flexibility," but let's be honest. This is a block grant. This new version of the Straight A's proposal is an improvement over earlier versions, but I remain concerned about the impact this consolidation of funds will have on proven programs such as class size reduction, 21st Century Community Learning Centers, and Safe and Drug Free Schools; and on professional development for teachers and other school professionals.

I regret that the Senate did not adopt an amendment offered by the Senator from Connecticut, Mr. DODD, to remove the 21st Century Community Learning Centers from this block grant, an amendment which I supported and which was supported by many of my constituents.

Another reason I will oppose this bill is the inclusion of an amendment offered by the Senator from Alabama, Mr. SESSIONS, pertaining to discipline procedures for special education students. This amendment is a huge step backward in the fight to protect the civil rights of disabled students, and I hope that the conferees on this bill will work to improve this language to ensure that those rights continue to be protected.

In closing, this debate gave us the opportunity to strengthen public education in America. Unfortunately, many of the provisions contained in this bill may, in fact, undermine public education by blurring the lines between public and private, between church and State, and between local control and Federal mandates. I must therefore oppose the bill, and I urge my colleagues to do the same.

#### IN SUPPORT OF OUR NATION'S TEACHERS

Mr. WARNER. Mr. President, I rise once again today in support of the over 3,000,000 teachers in this country.

In the early days of the debate on this education bill, I, along with Senator COLLINS, offered a Sense of the

Senate amendment on May 8, 2001. This amendment, which passed by a vote of 95-3, stated:

The Senate should pass legislation providing elementary and secondary level educators with additional tax relief in recognition of the many out of pocket, unreimbursed expenses educators incur to improve the education of our Nation's students.

Later, on May 23, 2001, on the tax reconciliation bill of 2001, the Senate passed a Collins-Warner amendment to provide teachers with such tax relief. The amendment passed the Senate by a vote of 98-2.

I worked with Senator COLLINS on this amendment because I recognize that individuals do not pursue a career in the teaching profession for the salary. People go into the teaching profession for different personal commitments—to educate the next generation, to strengthen America.

While many people spend their lives building careers, our teachers spend their careers building lives.

Simply put, to teach is to touch a life forever.

How true that is. I venture to say that every one of us can remember at least one teacher and the special influence he or she had on our lives.

Even though we are all well aware of the important role our teachers play, it goes without saying that our teachers are underpaid, overworked, and all too often, underappreciated.

In addition to these factors, our teachers also expend significant money out of their own pocket to better the education of our children. Most typically, our teachers are spending money out of their own pocket on: one, education expenses brought into the classroom—such as books, supplies, pens, paper, and computer equipment; and, two, professional development expenses—such as tuition, fees, books, and supplies associated with courses that help our teachers become even better instructors.

These out-of-pocket costs place lasting financial burdens on our teachers. This is one reason our teachers are leaving the profession. Little wonder that our country is in the midst of a teacher shortage.

Estimates are that 2.4 million new teachers will be needed by 2009 because of teacher attrition, teacher retirement and increased student enrollment.

While the primary responsibility rests with the states, I believe the Federal Government can and should play a role in helping to alleviate the nation's teaching shortage.

Here is an example of such help. On a Federal level, we can encourage individuals to enter the teaching profession and remain in the teaching profession by reimbursing them for the costs that teachers voluntarily incur as part of the profession. This incentive will help financially strapped urban and rural school systems as they recruit new teachers and struggle to keep those teachers that are currently in the system.

With these premises in mind, Senator COLLINS and I offered the Collins-Warner amendment to the Tax Reconciliation Act of 2001.

This amendment which, again, passed the Senate in a vote of 98-2, had two components. First, the legislation would have provided a \$250 tax credit to teachers for classroom supplies. This credit recognizes that our teachers dip into their own pocket in significant amounts to bring supplies into the classroom to better the education of our children.

Second, this legislation would have provided a \$500 above the line deduction for professional development costs that teachers incur. This deduction would particularly help low-income school districts that typically do not have the finances to pay for professional development costs for their teachers.

Unfortunately, this important Collins-Warner amendment was not included in the tax legislation that emerged from conference. Thus, the tax relief measure signed into law by President Bush did not contain the Collins-Warner amendment.

The education legislation that will pass the Senate today, the Better Education for Students and Teachers Act, the BEST Act, is based on a principle put forth by President Bush entitled, "No Child Left Behind."

As we move towards final passage of legislation that will implement reforms to achieve the goal of "Leaving No Child Behind," we must keep in mind the other component in our education system—the teachers. If we fail to accord equal recognition to our teachers, our children will be left behind.

Therefore, let me be clear: Senator COLLINS and I will not forget our teachers.

Senator COLLINS and I will continue to work hard to ensure that our teachers receive recognition in the tax code for the many personal and financial sacrifices they make to better the education of America's youth.

Mr. DOMENICI. Mr. President, I rise today to discuss the "Better Education for Students and Teachers Act."

Education no longer simply involves students learning the fundamentals of reading, writing, and arithmetic. Rather, students must possess the resources to compete and succeed as we proceed into the new, highly technical millennium.

The computer and the Internet have become integrated into every aspect of our lives, and are becoming essential teaching tools in our schools and a basic component of any classroom. To meet this challenge, we must strive for innovative ideas and to determine exactly how we can maximize the Federal government's resources because: Even on its best day the Federal Government can never be a replacement for local administrators, educators, and parents.

Simply put, New Mexicans are in a far better position to know exactly



what our schools and students need than government officials here in Washington.

Most Washingtonians probably do not know the Corona School District has 82 students, the Deming School District has 5,300 students, and the Albuquerque School District has 85,000 students. Additionally, the Gallup School District encompasses nearly 5,000 square miles, an area greater than Rhode Island and Delaware combined.

My point is simple, a one-size fits all approach cannot work in New Mexico and will not work in many areas of our country. Consequently, we must have solutions that are flexible and meet the diverse needs of our States, school districts, and schools. I would like to take a couple of minutes and provide my perspective on how we arrived at the point we are today with the BEST Bill.

Not too long ago during the mid 1990's a number of us came to the conclusion that the current K-12 education status quo could no longer be maintained. I think this realization may have been spurred by Senator FRIST's excellent work as the chair of the Senate Budget Committee Task Force on Education.

The Task Force produced: *Prospects for Reform: The State of American Education and the Federal Role*. The report asked the simple question of "how well are our children doing?"

The answer was mediocre at best because student achievement had stagnated over the past two decades even though America had established a record of near universal access and completion of high school. Thus, the report concluded that we must address the issue of a quality educational system. In other words the need for academic competence and rigor.

Building upon the excellent work of the Task Force, Senator FRIST soon introduced the "Education Flexibility Partnership Act of 1999" commonly referred to as "Ed-Flex."

The Bill simply said: one-size does not fit all and thus, States should be allowed to waive-out of the regulations pertaining to certain Federal K-12 Education programs. "Ed-Flex already existed as part of a demonstration program and Senator FRIST's Bill merely sought to provide all fifty states with that same flexibility.

The Senate passed the Bill overwhelmingly by a vote of 98-1 and within a month the President had signed the measure into law. Unfortunately, after the passage of "Ed-Flex" for a variety of reasons there was not any further fundamental changes made to our K-12 system.

Instead, since the last reauthorization of the ESEA in 1994 there is one approach that we learned is a complete failure: merely providing more funding.

In 1996 the Federal Government spent about \$23 billion on education and within a few short years the number ballooned to over \$42 billion in FY 2001. The logical conclusion is that a near doubling of educational funding would

result in dramatic improvements in student achievement.

Sadly, for all of our funding we simply do not have the matching results.

For instance, in 1996 the average reading score for a 4th grader was 212 and the Federal Government spent about \$11 billion on the ESEA. Five years later, Federal spending on the ESEA had nearly doubled to \$20 billion, while the average reading score of a 4th grader remained at 212.

In New Mexico, the number of 4th graders testing at or above proficient in reading actually fell from 23 percent in 1992 to 22 percent in 1998. I would submit that we are not receiving a very good return on our investment, a near doubling of funding with no corresponding improvement.

Imagine saving a greater and greater portion of your paycheck each week and after five years actually having less money. I think it is fair to say that very few individuals would stand for these results, if instead of students we were talking about our retirement savings.

Thus, we are now debating the BEST Bill because many of us believe we simply must have a new approach to measuring academic success.

The Bill fundamentally alters the practice of Washington deciding the best educational practices and then distributing increasingly greater and greater sums of money without any accountability. Make no mistake, we have not abandoned our commitment to providing the necessary resources to our States and school districts.

In fiscal year 2001 ESEA spending totaled \$18.4 billion. President Bush's FY 2002 Budget proposal requested a \$19.1 billion authorization for ESEA for FY 2002, a nine percent increase.

Building upon the President's proposal, the FY 2002 Budget Resolution includes the President's nine percent increase in federal education spending for reading education, the Individuals with Disabilities Education Act, IDEA, and teacher training. I think it is also important to note that on May 3 when the Senate began debate, the BEST Bill already authorized \$27.7 billion for ESEA in FY 2002, a 57-percent increase over 2001 and nearly \$190 billion over the authorization period of FY 2002-2008.

If one does not believe that is enough then you will be interested to hear how much spending we have added since May 3: \$11 billion in ESEA and other education spending for a total of \$38.8 billion in FY 2002, an increase of 120 percent over FY 2001; \$211 billion in ESEA and other education spending for a total of \$416 billion over the seven year authorization period of the Bill; and of that total, \$112 billion is mandatory spending under the Individuals with Disabilities Education Act, IDEA.

With the preceding as a backdrop, I believe the BEST Bill follows the President's promise to "Leave No Child Behind" by ensuring academic success through a fresh approach to education.

Our schools will be held accountable for their progress in educating our children through high standards, testing, and consequences for failure. Every child in grades 3-8 will be tested in reading and math proficiency annually.

In New Mexico alone about 151,000 students will be tested. Also, the State will receive an additional \$4.5 million next year and more than \$33 million over the next seven years to offset any new costs.

Instead of simply continuing to receive increased Federal funding in the face of failure, schools will now face consequences for persistent failure. Schools failing to demonstrate improvement will face corrective action, parents will be given the option of public school choice and supplemental services for their children, and ultimately a school's persistent failure could lead to reconstitution.

Consolidation of duplicative education programs will provide maximum local flexibility to focus on improving student achievement. For instance, Title II of the BEST Bill creates a new State Teacher Development grant program with a substantially larger pot of money by combining all of the current teacher funding.

States will have the option to use the funding for professional development; teacher mentoring; merit pay; teacher testing; as well as recruiting and training high quality teachers. For example, New Mexico maintains a commendable student-teacher ratio of 15.2 and under the Bill will no longer be required to use a portion of these funds for class size reduction.

Instead, New Mexico will have the option to use that money for teacher recruitment and retention programs or maybe additional training.

The new accountability provisions will ensure that historic increases in Federal education funding will be based upon school performance.

The Bill includes the President's "Reading First" initiative to ensure all children in kindergarten through third grade become proficient readers by the end of third grade. The Bill also includes programs to create Math and Science Partnerships, Strengthen After-School Care, and provide for Early Childhood Reading Instruction.

Parents and the public will be given detailed school-by-school Report Cards on the performance of their schools. Parents will have the option to transfer their child from a failing public school to an effective public school with transportation provided or to redirect their child's share of Federal funds toward tutoring or after-school academic services.

Parents will be given the option to transfer their child out of a persistently unsafe public school to another public school of their choice. As Congress proceeds, one of its primary missions will be to determine what is working, what is not working, and what can be improved to give our children a better chance of succeeding in the future.

Before I conclude, I would like to briefly talk about several provisions that are of personal importance to me.

First, Senator DODD and a bipartisan group of Senators joined me earlier this year to introduce the "Strong Character for Strong Schools Act."

I think it is important to note that reform does not only apply math, science, and reading; instead we must also reform the culture of our schools. Our Bill will be part of an amendment offered by Senator COCHRAN and seeks to encourage the creation of character education programs at the State and local level by providing grants to eligible entities.

I believe our Bill builds upon the highly successful demonstration program to increase character education that was contained in the last ESEA Bill. Since 1994, the Department of Education has made \$25 million in "seed money" grants available to 28 states to develop character education programs.

Currently, there are 36 States that have either received Federal funding, or have enacted their own laws mandating or encouraging character education. Thus, the time is now to ensure that there is a permanent and dedicated funding source available for character education programs.

I also believe schools must not only have the resources for core missions like teaching reading, writing, math, and the sciences, but the additional resources to face emerging challenges. Thus, I am extremely pleased the Senate has accepted an amendment authored by Senator KENNEDY and I to increase student access to mental health services by developing links between school districts and the local mental health system.

School districts would partner with mental health agencies, juvenile justice authorities, and any other relevant entities to better coordinate mental health services by: improving preventive, diagnostic, and treatment services available to students; providing crisis intervention services and appropriate referrals for students in need of mental health services and continuing mental health services; and educating teachers, principals, administrators, and other school personnel about the services.

Finally, we must provide our school districts and schools with the resources to both recruit and retain the best available teachers for our children.

Earlier this year I introduced the "Teacher Recruitment, Development, and Retention Act of 2001."

I am very pleased to see elements of that Bill included in the pending legislation. I am also grateful the Senate has accepted my amendment that will allow States the option of using Teacher Quality funds for the creation of Teacher Recruitment Centers.

Teacher Recruitment Centers will serve as statewide clearinghouses for the recruitment and placement of K-12 teachers. The Centers would also be re-

sponsible for creating programs to further teacher recruitment and retention within the state.

Thank you and I look forward to the working with my colleagues on this important issue and final passage of this Bill.

Mrs. FEINSTEIN. Mr. President, the bipartisan bill that the Senate has developed over the last 2 months makes major reforms in education policy by focusing on student achievement and by making schools accountable for results. California's public schools should be strengthened by this bill.

This bill includes several important reforms.

The bill extends the current requirement that states must have academic standards for reading and math and also requires states to establish standards for science and history.

Students must reach a proficient level within ten years by making continuous and substantial academic improvement.

To ensure that students are learning, states are required to test every student in grades 3-8 annually in reading and math based on state standards.

To ensure accountability, schools that fail for two consecutive years to make adequate yearly progress must be identified for improvement and also must identify specific steps to improve student performance.

Local school districts must correct failing schools and states must correct failing districts either through new curriculum, restructuring the school, or reconstituting the school staff.

In order to improve teacher quality, this bill authorizes grants to states for teacher certification, recruitment, and retention services.

The bill enhances programs for limited English proficient children by providing teacher training and funds for programs to improve the English proficiency of these students.

The bill authorizes \$1.5 billion for afterschool programs to help struggling students get tutoring and other help.

There are many other important provisions.

It is my hope that this bill will offer opportunities for progress to many California students, school officials, parents and the public.

California students perform very poorly compared to students in many other states. Our schools are struggling on virtually every front. California has some of the largest classes in the nation; California has overcrowded and substandard facilities; California has 30,000 uncredentialed teachers and a projected enrollment rate triple that of the national rate.

Here are some examples of how California's schools fall short:

Thirty-four percent of California's schools that participate in Title I are identified for improvement compared to the national average of 19 percent, according to the U.S. Department of Education.

Only 20 percent of California's fourth grade students are proficient in reading, ranking thirty-six out of thirty-nine states. California ranks thirty-two out of thirty-six states for proficient eighth graders in reading, at twenty-two percent, according to Education Weekly Quarterly Report, January 2001.

California is ranked seventh in the Nation for the highest number of Level I Literacy citizens, the worst level possible, according to the National Institute for Literacy.

California spent \$5,462 per student in 1999, approximately \$1,500 less than the U.S. average, ranking 42nd out of 50 states, according to Rankings and Estimates; NEA Research, October 1999.

Now let's compare U.S. students to students in other countries. Students in the United States also perform poorly compared to their international counterparts.

In literacy, 58 percent of United States high school graduates rank below an international literacy standard, dead last among the twenty-nine countries that participated, according to Education Week, April 4, 2001.

U.S. eighth graders scored significantly lower in mathematics and science than their peers in fourteen of the thirty-eight participating countries, according to 1999 TIMMS Benchmarking Study.

The percentage of teachers in the United States that feel they are "very well prepared" to teach science in the classroom is 27 percent. The international average is twice that, peaking at 56 percent, according to 1999 TIMMS Benchmarking Study.

U.S. students' knowledge of civic activities ranked third out of the 28 countries that participated. However, those same students have been slipping in scores relating to math and science. Source: Civic Know-How: U.S. Students Rise to Test, International Association for the Evaluation of Educational Achievement.

I am very pleased that the Senate approved several amendments that I suggested.

One, title I funding: The bill revises the funding formula for title I, Education of Disadvantaged Children, to better reflect the growth in poor students for States with growing student populations, giving California an increase of \$98 million over fiscal year 2001, at the President's fiscal year 2002 budget request level.

Two, title I use of funds: In an effort to better focus title I funds on academic instruction, the bill prohibits school districts from using funds for the purchase or lease of privately-owned facilities, facilities maintenance, gardening, landscaping, janitorial services, payment of utility costs, construction of facilities, acquisition of real property, payment of travel and attendance costs at conferences or other meetings, other than travel and attendance for professional

development. This is similar to the bill I introduced, S. 309.

Three, title I audit: The bill requires the Inspector General to conduct of audit to determine how title I funds are used and the degree to which they are used for academic instruction.

Four, master teachers: The bill includes my amendment to allow use of the teacher training funds in the bill for school districts to create master teacher positions so school districts can increase teacher salaries for excellent teachers to mentor and supervise other teachers, in an effort to keep new teachers in teaching. This is an outgrowth of a bill I introduced on January 22, S. 120.

Five, small schools: The bill allows the use of Innovative Education funds, title V, for States and districts to build smaller schools. The upper limits on the number of students would be for elementary schools, 500 students; middle schools, 750 students; and high schools, 1,000. This parallels my bill, S. 308.

Six, HeadStart teachers: The bill allows forgiveness of up to \$5,000 of federal student loans for college graduates who agree to teach in Head Start programs, in an effort to put more trained teachers in pre-school programs, similar to S. 123, which I introduced on January 22.

Seven, gun-free schools clarification: The bill includes several clarifications of the current Gun-Free Schools Act, the law which requires a one-year expulsion for students who "bring" a gun to school. This bill (1) includes students who "possess" a gun at school; and (2) clarifies that the term "school" means the entire school campus, any setting under the control and supervision of the local school district; and (3) requires that all modifications of expulsions be put in writing.

It is a good bill. American education should benefit immensely from this bill. Now the task is to provide sufficient funding and other resources to our schools to implement the reforms we are passing.

I look forward to working for the bill's final enactment.

Mr. McCONNELL. Mr. President, I rise today in support of S. 1, the Better Education for Students and Teachers, or BEST Act. Debate on this bill has provided the Senate with an important opportunity to assess the Federal Government's role in educating our children. It has given us the chance to strengthen the programs which are working and to reform those that are not. Most importantly the Senate has taken this opportunity to empower parents, teachers and local administrators with new flexibility and resources, so that we can achieve the fundamental goal of our schools: helping every student learn.

America's continued prosperity demands a well-educated workforce. In their lifetimes, our children and grandchildren will witness scientific and technological advances which are unimaginable today. Yet, their ability to

take advantage of these marvels will be dependent upon a strong foundation in the fundamentals of learning—reading, writing, math, and science. After all, a computer is nothing but a useless plastic and metal box, if a student doesn't know how to use it. Likewise, the Internet, with all its possibilities, is meaningless if a child can't read the words on the screen.

Over the course of this debate, the American people have had the opportunity to view two contrasting visions for our Nation's schools. For far too long, the vision of too many has been based on the Washington-knows-best philosophy of the last 35 years. Under this mind set, for every possible problem in our schools, the Federal Government should design a new Government program with new government regulations and a new government bureaucracy. For instance, the Federal Government provides only seven percent of total spending on education yet demands 50 percent of all school paperwork. This requires 25,000 education professionals struggling to fill out forms in order to comply with Washington's onerous regulations rather than teaching students. What folly and what a colossal waste of time, talent, and resources.

Under this flawed approach, a program is accountable if its triplicate forms' are turned in on time and all the "I's" are dotted and their "T's" are crossed. Whether the program actually helps students learn has too often been an afterthought. Simply put, school districts are told to make their problems fit the federal government's so-called "solutions" rather than allowing schools the flexibility to design their own appropriate solutions.

This leads one to the question "Has this approach worked?" Not surprisingly, it hasn't.

Unfortunately, too many American children are falling behind. A recent study found that U.S. fourth graders are ranked third in the world in science and compete favorably against their international counterparts in math. This same study shows that by the time these kids reach middle school, they finish near the middle of the pack in math and science. Worse still by high school, U.S. students rank 19th among 21 industrial nations in Mathematics and 16th in Applied Sciences, Third International Mathematics and Sciences Study. These results are unacceptable. How can we tolerate a system in which the longer American students spend in school, the further they fall behind? We should not fool ourselves into thinking that America's international competitors will sit idly by as we struggle to catch up. We must improve our schools now in order to ensure that America's students are prepared to compete and succeed at the highest levels.

Another failing of this Washington-knows-best vision is the belief that more money will magically solve all that ails our nation's schools. Let

there be no doubt, resources are important and I am committed to providing substantial increases in education funding. In each of the past 2 years, Republicans in the Senate not only met President Clinton's education funding requests, but exceeded them by billions of dollars. However, money is only part of the answer. The title I program was enacted in 1965, in an attempt to close the achievement gap between poor students and their wealthier counterparts. Thirty-five years and \$165 billion later, poor students still lag far behind their wealthier peers by an average of 20 points on national achievement tests. Worse yet, a recent appraisal by the National Assessment of Education Progress found that the achievement gap among fourth grade students is growing even wider—NAEP, 4/6/2001.

I am proud to say that President Bush, through his "no child left behind" blueprint, has offered us a better vision. This legislation expresses the obvious truth that parents, teachers, principals, and administrators have a better understanding of the needs of their students than the Washington bureaucrats who will never meet these children, never learn their names, and never come to understand their hopes and aspirations. This legislation provides States and local schools unprecedented flexibility to design and implement programs tailored to their needs with one requirement: results.

For the first time in history, we will establish a blueprint for holding schools accountable for producing results. States will be required to set high standards and demonstrate progress as measured by annual assessments. Now I recognize that annual testing is not the cure for poor performing schools, much the same way that an x-ray cannot heal a broken bone. But the x-ray will allow us to better understand the problems and more importantly, better develop the solutions. Testing will help parents and teachers evaluate their students and schools, determine which are struggling and why, and then ensure they receive the help they need to meet high academic standards.

In a perfect world, these assessments would show that all of our children are learning and that all of our schools are preparing them for the future. Unfortunately, experience tells us otherwise. Therefore, we must be prepared to provide both the resources to help those schools which are committed to change and consequences for those which refuse. For those schools that spurn reform and chronically underperform, I believe we must allow parents choices—whether that be public school choice, supplementary tutoring services, or a private institution. I believe this point was best expressed by the editorial board of one of my home state newspapers, The Paducah Sun, when it encouraged the President and Congress to "change the formula for reform by putting power in the hands of parents—not education bureaucrats who have a

vested interest in protecting the status quo." I am pleased this bill takes some positive, first steps in that direction by providing low-income children with expanded access to charter schools, other public schools, and private tutors. I am deeply disappointed, however, the Senate rejected Senator GREGG's very modest proposal to provide these same children in chronically poor performing schools with the option of attending a private school.

While the President's accountability and assessment provisions are clearly the hallmark of the BEST Act, one should not overlook several of the other key provisions included in the bill. The President has stated that every child should read by the third grade and the BEST Act incorporates his ambitious "Reading First" initiative to meet that goal.

It also includes a new teacher empowerment initiative which allows school districts increased flexibility in solving their unique professional development problems: whether that is through hiring new teachers, retraining current ones, instituting professional development programs, recruiting other mid-career professionals, or reducing class size.

I am also pleased that the BEST Act includes the Straight A's Demonstration championed by my colleagues, Senator GREGG and Senator FRIST. Straight A's is the embodiment of local control. This demonstration project would allow seven States, and up to 25 local school districts, to receive most of their Federal funds in the form of a single federal grant. In exchange for this unprecedented flexibility, the participating school systems would be required to meet even higher standards of academic achievement than already required in the BEST Act. Jefferson County Public Schools, the largest school district in Kentucky, has expressed an interest in securing one of these Straight A's waivers and I hope this fine school system is given full consideration.

Over the past several weeks, the Senate has engaged in an earnest and lively debate. I am particularly proud of an amendment I authored which the Senate adopted "The Paul D. Coverdell Teacher Protection Act." This legislation builds upon the work of our colleague, Senator Coverdell, by extending liability protections to teachers, principals, administrators who act in a reasonable manner to maintain order in the classroom. I am honored that the Senate adopted this amendment in an overwhelming 98-1 vote, and I look forward to working with the BEST Act's conferees to ensure that it is included in the final conference report.

This is not a perfect bill. At times during this debate, the Senate has succumbed to the easy temptation to create more of the narrowly targeted Government programs designed to satisfy needs of one interest group or another. I believe the Senate could have better served America's local schools by sim-

ply providing them the necessary resources and allowing them the flexibility to design solutions which will meet their particular needs.

However, while I may not agree with every amendment the Senate has adopted, I believe that on balance this legislation will empower parents, teachers, and local administrators with new flexibility and resources, so that we can achieve the fundamental goal of our schools: helping every child learn.

#### DIAGNOSIS AND PARTNERSHIP

Mr. GRAHAM. Mr. President, two of the concepts that I am pleased to have included in this legislation are the principles of "diagnosis" and "partnership."

I would like to thank Senators KENNEDY and GREGG for their assistance in including this amendment in this legislation.

I am also very happy to be joined by my colleague GEORGE ALLEN of Virginia as the lead Republican sponsor of this amendment.

I can put a human face on this.

I have done several workdays in schools facing this situation in throughout Florida.

These workday experiences taught me that when students struggle to meet performance standards, there is not one uniform cause of failure.

Because of that, there cannot be one uniform remedy to turn a school around.

School "A" may need a revised curriculum, or better qualified teachers.

While school "B", whose students are scoring at the exact same level as school "A" may need English-language tutors and eyesight screening for poor children who may not have had a vision test in their lives.

Perhaps the single most important action a school or a school district, can take at the first sign that students are struggling is a thorough analysis of circumstances and conditions that are impacting student achievement.

It's my belief that this analysis should not only encompass factors that are within the school walls, but outside the school walls, in the community, as well.

Before we start applying remedies to a struggling school from a menu of options—let's take the first step and understand what the specific challenges this particular school faces are.

It's common sense.

I use an analogy of a physician: she must first diagnose the specific ailment, then she can prescribe the proper treatment.

It's important that this same "diagnosis" step be included in each and every State education plan in America.

This leads to part two: Encouraging partnerships.

In the course of identifying the particular challenges facing a struggling public school, what happens if one or more of the factors impacting student performance are outside the school?

What if one of the reasons that third graders are struggling to read is a very

high percentage of adult illiteracy in the school district?

What if one of the reasons 8th graders are failing at math turns out to be a high absenteeism rate because of safety concerns on the walk to school?

Such a finding needs to be made public—and the school, county, State and Federal Government, along with community-based groups, should be encouraged to creatively build appropriate partnerships.

These partnerships can then get to work and try to mitigate outside-the-school concerns.

My wife Adele brought to my attention a school in North Florida, Andrew Robinson Elementary in Jacksonville.

Principal Erdine Johnson, of Andrew Robinson Elementary school, realized that many of her students could not do their best in the classroom because of a wide range of health concerns.

Instead of just declaring that "this was a 'health' not an 'education' issue" the North Florida community sprung into action, and we have a success story today.

In 1995, the University of Florida worked with Andrew Robinson to open a pediatric health center on-site.

This pediatric center at Andrew Robinson offers services to the elementary school students, and provides health outreach to the community.

The staff members at the Center are a vital link between a child's home environment and their ability to learn in the classroom.

The Center works with parents on nutrition and wellness issues, and provides preventative screenings for the children.

Children living in healthy environments are more ready to learn, and that has meant better test scores, and better lives.

This is an example of what our amendment encourages—if a problem outside the schools is identified—we encourage creative community partnerships to help solve it.

Several organizations have joined Senator ALLEN and me in support of our amendment.

I would like to include for the RECORD a letter of support from Daniel Merenda, the President and CEO of the National Association of Partners in Education.

He says, "Many of the problems facing our students are not because of the schools. These problems are created by circumstances and conditions found beyond the school."

Once the information is made public about specific concerns outside the school walls, Mr. Merenda predicts the creation of new partnerships and the strengthening of existing partnerships.

I agree with his assessment.

I also have a letter of support from the education organization Communities in Schools, headquartered in Senator ALLEN's state of Virginia.

And the Points Of Light Foundation also endorses this amendment in a letter I would like to submit for the RECORD.

I want to again thank Senator ALLEN for working with me on this issue, and offer thanks to my colleagues for accepting this amendment by voice vote.

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

PARTNERS IN EDUCATION,  
*Alexandria, VA, April 26, 2001.*

Hon. BOB GRAHAM,  
*Hart Senate Building,  
Washington, DC.*

DEAR SENATOR GRAHAM, I write to support your suggested "Diagnosis" language for the ESEA Reauthorization. As you know the National Association of Partners in Education represents thousands of schools, communities and businesses throughout America who form effective partnerships to support student success in and out of school. Our national network of 7,500 members coordinates the work of millions of volunteers in schools.

We recently completed Partnership 2000: A Decade of Growth and Change, a national survey of school districts in the United States. The study examines school partnerships in a decade during which education topped America's national agenda. This survey of school partnerships provides a "next chapter" to the baseline data we collected in 1990. The survey shows that schools in 69% of districts nationwide are now engaged in partnership activities compared to 51% in 1990. Over 35 million students benefit from school partnerships today, 5.3 million more than in 1990. Nearly 3.4 million volunteers serve in America's school partnerships, roughly one for every 14 children in our schools. Volunteers log approximately 109 million hours of work in and out of schools, roughly equivalent to 52,000 full-time staff.

In light of these data, your suggested "diagnosis" language makes sense. If community and business partners were aware of the specific problems facing a school and causing students to struggle, they could direct their energy and attention to "fixing" the problem in and around the schools. Schools can not do it alone.

Many of the problems facing our students are not because of schools. These problems are created by circumstances and conditions found beyond the school. Partnerships are an ideal mechanism to address and resolve these problems. Your suggested language for the reauthorization of ESEA will require that schools or school districts take appropriate steps to partner with community groups to mitigate the problem.

Senator Graham, the data we have collected indicates community partners are contributing time equivalent to 52,000 full time staff to our schools . . . at no additional cost. Can you imagine what this force could do if schools facing problems were to ask for help? Your suggested language added to the reauthorization of the ESEA could make a significant and real contribution to the thousands of students who are in failing schools.

Let me know how we can help. We need the reauthorization of the Elementary and Secondary Education Act to truly help America's school children. Your amendment does exactly that.

Sincerely,

DANIEL W. MERENDA,  
*President and CEO.*

COMMUNITIES IN SCHOOLS,  
*Alexandria, VA, May 3, 2001.*

Hon. BOB GRAHAM,  
*Hart Senate Building,  
Washington, DC.*

DEAR SENATOR GRAHAM: I am writing to support your suggested "diagnosis" language for the Elementary and Secondary Education Act reauthorization. I have served for 25 years as president of Communities In Schools, the nation's leading community-based organization helping young people stay in school and prepare for life. Our network has grown to serve more than 2,300 schools, providing access to community resources for over 1.3 million students. Based on our experience, I am completely convinced that school/community partnerships are the most effective way to support student success when non-academic factors must be addressed.

If schools and students do not perform well, the community stands ready to help. A careful diagnosis of the reasons behind poor performance, followed by a strong partnership-building effort with community stakeholders, will turn around an ailing school. I have seen it happen time and again.

Please let me know if I can be of help to you. Your amendment to the ESEA is critically important to our nation's children.

Most sincerely,

WILLIAM E. MILLIKEN,  
*President.*

—  
POINTS OF LIGHT,  
*May 4, 2001.*

Hon. BOB GRAHAM,  
*U.S. Senate, Hart Senate Building,  
Washington, DC.*

DEAR SENATOR GRAHAM, I would like to take this opportunity to lend our support to your "Diagnosis" language for the Reauthorization of the Elementary and Secondary Education Act (ESEA). The Points of Light Foundation was founded in 1990 with the mission to engage more people, more effectively in volunteer service to help serious social problems.

The Foundation works in conjunction with over 470 Volunteer Centers cross the nation in building a grassroots service infrastructure in order to address each community's most pressing social dilemmas. As you know, all too often, youth are disproportionately affected by negative societal forces. We have found that the building of diverse, multi-sector community coalitions, in addressing youth issues, is one of the most effective protective factors. Your amendment directly facilitates the creation and implementation of such coalitions.

In closing I would like to commend you on your proactive approach to ESEA Reauthorization and wish you the very best success in mitigating those negative forces impacting our nation's youth.

Sincerely,

ROBERT K. GOODWIN,  
*President and CEO.*

Mr. REED. Mr. President, as we come to the end of the debate on the Elementary and Secondary Education Act, ESEA, reauthorization bill, I would like to share my thoughts on the bill. I plan to support S. 1, the Better Education for Students and Teachers, BEST, Act, but not without serious reservations.

We have been working on this legislation for 3 years now, and we certainly have made some needed improvements over current law. The bill contains tougher accountability, more along the lines of what Senator BINGAMAN and I pressed for back in 1994. For the first

time, States, districts, and schools will be held accountable for improving the academic performance of all students. Moreover, the bill requires the timely identification of failing schools so additional resources and support can be supplied to help those schools turn around, coupled with real consequences if that failure continues. We will have to be vigilant, however, to ensure that the accountability system is workable, and not weakened, during Conference.

Over the past few weeks of debate, key amendments have passed, adding further value to the legislation. One such amendment was offered by Senators HARKIN and HAGEL to increase funding for IDEA by annual increments of \$2.5 billion until the full 40 percent share of funding is reached in fiscal year 2007. This amendment also frees up at least \$28.9 billion, and up to \$52.5 billion, in education funds by shifting IDEA funding from discretionary to mandatory funding. This amendment serves two worthy and important goals: meeting our commitment to fully fund IDEA and by doing so, freeing up some of the needed resources for title I and other elementary and secondary education programs.

I was pleased to support this extremely important amendment, as well as two amendments by Senator WELLSTONE to improve the testing regime in the bill. The first amendment ensures that the assessments meet relevant national testing standards and are of adequate technical quality for each purpose for which they are used. The Wellstone amendment also provides grants to States to enter into partnerships to research and develop the highest quality assessments possible so they can most accurately and fairly measure student achievement. The second amendment makes the quality of the test, rather than speed in developing the test, the factor for determining bonuses for states.

As my colleagues know, I have made improving our Nation's school libraries a top priority in the Senate and during my time in the other chamber. Our school libraries have wasted away since dedicated Federal funding was eliminated in 1981, and, as a result, too many students lack access to up-to-date, enriching books and other reading material. Given the direct correlation between well-stocked, well-staffed school libraries and literacy and overall student achievement, my amendment, which passed on an overwhelming 69 to 30 vote, authorizes \$500 million for up-to-date books and technology and other needed improvements for our Nation's school libraries. Moreover, it rightfully makes school libraries a key component of our effort to increase literacy, as embodied by the President's Reading First initiative included in the bill.

I have also worked to bolster current law's parental involvement provisions based on the simple fact that parental

involvement is a major factor in determining a child's academic success. Parental involvement contributes to better grades and test scores, higher homework completion rates, better attendance, and greater discipline. The bill already contained provisions I had pressed for, including ensuring title I families can access information on their children's progress in terms they can understand; involving parents in school support teams that help turn around failing schools; requiring technical assistance for title I schools and districts that are having problems implementing parental involvement programs; having States collect and disseminate information about effective parental involvement practices to ensure schools have information on how to encourage and expand parental involvement; ensuring parents are involved in violence and drug prevention programs so parents can reinforce the safe and drug-free message at home; requiring States and districts to annually review parental involvement and professional development activities of districts and schools to ensure the activities are effective; and requiring each local educational agency to make available to parents an annual report card which explains how a school is performing.

In addition, this week, several amendments I offered to further strengthen parental involvement were adopted. Key provisions were added to ensure that teachers will receive training on how to work with and involve parents in their child's education and to allow the use of technology to promote parental involvement. Most importantly, a grant fund of \$100 million will be established to help districts implement effective parental involvement policies and practices. All of these changes go a long way to ensuring a coordinated focus on bringing schools and parents together in the effort to increase student achievement, something that is particularly needed in light of the bill's annual testing requirement and other accountability mechanisms.

Also, I am pleased that this bill contains important provisions from my Child Opportunity Zone Family Center legislation to foster the coordination and integration of key services to improve student learning.

In addition, I am pleased that the Senate handily rejected vouchers, which would have been the wrong approach to helping our public schools.

In the midst of all of these improvements, however, there are some troubling aspects to this legislation—the lack of guaranteed resources, the testing regime, and the Performance Agreement block grant.

While every Senator recognizes that historically, constitutionally and culturally, educational policy is the province of State and local governments, the Federal Government does play a role. And, we have played this role quite robustly since 1965. The role may be described as encouraging innovation

and overcoming inertia at the local level so that every student in America, particularly students from disadvantaged backgrounds, has the opportunity to seize all the opportunities of this great country.

We have an obligation to continue to work with the States and localities, in a sense as their junior partner, but as an important partner, to ensure that every child in this country will have the ability to achieve and obtain a quality public education.

President Bush and our Republican colleagues claim that this bill will leave no child behind, but simply adding testing and flexibility to our elementary and secondary schools without providing adequate resources will not do the job.

I have had many opportunities to talk with the Secretary of Education and other leaders in this administration with respect to their education goals. They talk a good game. They talk about accountability; they talk about standards. But then when you ask them: Where are the resources? They say: Well, we really don't need resources.

That is just not the case. Every American understands that education is worthwhile and that we must invest in education, not just with words but with dollars, to make a high quality education a reality in the life of every child.

Access to increased resources and funding plays a crucial role in improving student achievement and turning around failing schools. For example, recent changes in the Texas public school financing system that preceded President Bush's terms as Governor of Texas have led to substantially equalized access to revenue for low and high income school districts. Accordingly, reports indicate that test scores in Texas have risen markedly in those poorest districts that received additional money under the new financing plan. This has been the case especially in Houston, the home of Secretary Paige.

Now, for the first time, these local school systems are getting the needed funding to repair and modernize their schools, reduce class size, improve professional development, and increase parental involvement—conduct the kinds of programs that really help children succeed. A school district cannot pay for these programs with accountability; real resources are necessary. In addition to the lack of a real commitment of resources beyond Senator HARKIN's IDEA amendment, I am also particularly disappointed that both Senator HARKIN's school construction amendment and Senator MURRAY's class size reduction amendment failed.

Another troubling aspect of this bill is structure of the mandate that States test each student from grades 3 to 8 in order to receive Federal education funding. We all recognize that testing is an essential part of education, but this mandate puts a lot of practical

pressure on the States to harmonize their standards with their evaluations. Some States have found out it is not practical to give a test to every child every year because the tests have to be very individualized to capture all the nuances of those standards.

My sense is, and I have talked to educational experts in the States, the sheer requirement to test every child every year for grades 3 through 8 will inexorably lead the States to adopt standardized testing which may or may not capture the standards in that particular State. So this testing regime could unwittingly move away from one of the central elements we all agree on, carefully thought out standards and evaluations that measure those standards. And that is why I supported Senator HOLLINGS amendment to give States flexibility to waive the mandate of annual testing if circumstances warrant. I am disappointed the amendment failed.

I hope we all recognize that testing alone is not sufficient to improve our schools. Identifying children who are falling behind and schools that are failing is just the first step. But, the hardest step is fixing the problem.

As we proceed to Conference, we need to ask ourselves: What are we really doing to our kids? I believe we are imposing very strict testing regimes upon our children. Yet if we don't provide adequate resources to support improvement, such as smaller class sizes and quality teachers, we will just be setting them up for failure. We will be turning our backs on the children of this country, and I am sure that is not one's intention. That is why I will continue to fight for adequate resources to make sure that every child truly has the opportunity to achieve.

Another aspect of this bill that is of great concern to me is the Performance Agreements demonstration program.

Otherwise known as Straight A's, this block grant has the potential to undermine the continued viability of important Federal standards, such as targeting funds to schools and children with the greatest needs, improving teacher quality, strengthening parental involvement, and providing children with safe and drug free schools.

We have a longstanding commitment to the children of this country to address the needs that the states and localities cannot. By placing Federal dollars into state and local block grants, without targeting the Federal dollars on programs identified to be of great national concern or ensuring compliance with Federal requirements and basic commonsense guidelines, we may be abandoning the neediest children of this country, denigrating parents' rights, and abrogating our commitment to ensure that every child has the opportunity to obtain a quality education.

In fact, the States' track record in ensuring that low-income students get their fair share of education funds is less than commendable. A March 2001

Education Trust study of education finance equity found that in 42 of 49 states there are substantial funding gaps between high and low-poverty school districts. The average gap for the Nation was \$1,139 per year per student. That translates into a total of \$455,600 for a typical elementary school of 400 students.

The Performance Agreement pilot is also not a benign, limited demonstration project by any stretch of the imagination. Indeed, if the Secretary selects the 7 most populous States and the 25 largest school districts, the number of students subject to Straight A's would be as high as 51 percent of the Nation's student population.

For example, if the Secretary selects California, Texas, New York, Florida, Illinois, Pennsylvania, and Ohio to participate in Straight A's, then, based on 1998 figures, approximately 23 million children would be subject to Straight A's. If the Secretary then chooses the 25 largest school districts in states other than those 7 states, then over 26 million children between the ages of 5 and 17 would be subject to Straight A's.

Earlier this week I discussed this issue and my amendment, No. 537, which sought to limit this unproven, Straight A's experiment to States and districts that serve a combined student population of 10 percent of the total national student population.

I believe we must have ample opportunity to review and analyze data regarding this program's effect and its impact on student achievement before we consider subjecting more than half of our Nation's children to this new and unproven initiative, and I will continue to pursue this issue of the scope and consequences of this "demonstration project" as we move forward into Conference.

Another problem with this program is its impact on key existing and new parental involvement protections.

During negotiations on the Performance Agreements, protections were added to ensure that some of the parental involvement requirements of title I would have to be followed. Unfortunately, those protections don't go far enough. Left unchanged, the bill would void large parts of the title I parent involvement requirements and other key parental involvement provisions that I, along with the National PTA, Chairman KENNEDY, and others worked to include in this bill.

The last thing we should do is adopt an education bill that reduces parent involvement and family rights. We should not put families in a position where they find themselves with fewer rights by virtue of the fact that the State or district in which they live has chosen to participate in this program.

Every other initiative to provide flexibility to States and districts, including Ed-Flex, has put parent involvement provisions off limits, and this bill should too, and I will continue efforts to address this issue to ensure that we protect, rather than weaken,

parental involvement as S. 1 moves to Conference. Our Nation's parents deserve nothing less.

Today, we live in a challenging, international economic order, and students from Rhode Island are not just competing with students from Mississippi and California; they are all competing against the very best and brightest around the globe. That requires investment. It requires raising our standards and giving every child a chance to reach those standards to ensure that we have the best-educated workforce that is competitive in a global economy.

If the education of our young people is truly the No. 1 domestic priority in the United States, as the President claims, then we must put our money where our mouth is. Unfortunately, we have not seen the administration come forward and pledge the kind of resources necessary to achieve any real reform. Instead, we are in danger of having a risky testing scheme and no accountability without the resources to make it all work.

While I support this bill and the significant reforms we have passed, I will continue to work vigorously to ensure that we provide every child with the opportunity to achieve a world-class education.

Mr. NELSON of Nebraska. Mr. President, I would like to express my support for the Elementary and Secondary Education Act. Although my support is not without reservation, I believe that the bill before us today contains much that will ultimately benefit America's schools and the children who attend them. The legislation's intent—increasing student achievement, narrowing the achievement gap among minority and disadvantaged students, strengthening accountability, and increasing local flexibility—are important goals. Commitments in this bill to improve school safety, to improve bilingual education, and to fully fund title I and IDEA were critical factors in my decision to cast an affirmative vote. Were it not for the inclusion of such key components, I would be less inclined to support this bill today.

The issue of education itself is non-controversial; the way in which we educate our children, however, is. Because we are trying to define the way in which we can improve education and the way that can best be accomplished, this bill deserves serious debate.

Personally, I have always believed that the Federal Government has a role as a junior partner in crafting education policy. The U.S. government in that role, though, should not usurp the State and local governments' power to make education decisions that are more appropriately handled at the State and local level. The line between the Federal Government's role in education and the State's role is a delicate one, and it should be respected.

One area where I believe this bill treads dangerously close to crossing that line is with respect to the issue of

unfunded mandates. Specifically, as a former governor, I am concerned by the inclusion of language in this bill that requires States to conduct assessments and meet Federal standards of progress under threat of financial penalty, yet refuses to provide the resources local communities need to meet the often expensive requirements. This bill mandates 316 new tests nationwide, but it does not provide the funding to the States to implement them. Such mandates are irresponsible and burdensome for State and local governments, and will force them to short change other priorities or raise local taxes. In my State of Nebraska, rigorous standards and assessments are in place; the additional tests mandated by this legislation are not critical to improving our schools.

This issue aside, I am encouraged by the programs and the commitment to education quality improvement included in this legislation. The adoption and inclusion of the Mentoring for Success Act in ESEA is a victory for children throughout the country who need the benefit of a stable and caring role model. Programs like this one, which seek to narrow the gap between the have's and the have-nots, are vital. If no child is truly going to be left behind by our education system, it is imperative that we fund initiatives like this mentoring program, as well as other programs like the President's literary initiative, Reading First. This bill contains these initiatives, and they are one of the reasons why I will support it.

Overall, this legislation makes great strides toward improving our educational system. It will help ensure that all children, especially the neediest, will have access to the quality education they deserve. Measures like loan forgiveness for Head Start teachers and efforts to improve teacher quality, will assist in making certain that all children have access not to just any education, but access to a quality education. As I previously indicated, this bill is headed in the right direction, but it is not without flaws. I am hopeful that in the conference report critical funding issues will be addressed. While the initiatives the Senate has approved are well intentioned, they will not be worth the paper they are printed on if we cannot fully fund them. If education is truly a priority for this Administration and for this Congress, the reality of funding levels in this bill must be carefully considered. It is with confidence that I will support this bill, however, in anticipation that the conferees will work together diligently to author a conference report that is sensible, balanced, and fiscally responsible. Our children deserve nothing less; it is Congress' duty to make good on our promises to leave no child behind.

IMPROVING MATH, SCIENCE, AND ENGINEERING EDUCATION

Mr. WARNER. Mr. President, in our efforts to ensure that the United

States remains an economic and military superpower in the 21st century, we must strive to improve the quality of math and science education in this country.

Unfortunately, our schools today need more support in preparing students—in sufficient numbers—to meet the needs of our country. The statistics are alarming, as reported by the National Commission on Mathematics and Science Teaching for the 21st Century, The Glenn Commission, and by the National Assessment of Education Progress, NAEP.

Less than one-third of all U.S. students in grades 4, 8, and 12 perform at or above the “proficient” achievement level in mathematics and science on national tests.

More than one-third of such students score below the basic level in these subjects.

And, among 20 nations assessed in advanced mathematics and physics, none scored significantly lower than U.S. students in advanced math, and only one scored lower in physics. Our students can and must do better.

In an effort to improve math and science education, I have joined with Senators ROBERTS, FRIST, COLLINS, and others in supporting much needed legislation to help improve math and science education in elementary and secondary schools. This legislation is now part of S. 1, the Better Education for Students and Teachers Act, the BEST Act.

Not only will the math and science provisions in the BEST Act help improve math and science curriculum in our elementary and secondary schools, they will help our schools recruit even better math and science educators, and make available additional professional development to these educators.

While I wholeheartedly support these provisions, I believe we must go one step further. Not only should we improve math and science education at the K–12 level, we must do something to encourage more individuals to enter vocational schools and colleges and universities in pursuit of programs of study in math, science, and engineering.

It is estimated that the technology driven economy of the 21st century will add approximately 2 million science and engineering jobs to the American economy between today and 2008.

For example, in one sector of America today, in Northern Virginia, there are over 20,000 high-tech jobs going unfilled month to month.

The Senate Judiciary Committee has issued a report that clearly demonstrates America’s crisis in meeting the demand in our economy for persons trained in the high-tech field. The report quotes Cato Institute economist Daniel Griswold stating that, “Americans are not earning specialized degrees fast enough to fill the 1.3 million high-tech jobs the Labor Department estimates will be created during the next decade.”

In addition, the Judiciary Committee report refers to a Hudson Institute estimate that states that the unaddressed shortage of skilled workers throughout the U.S. economy could result in a 5 percent drop in the growth of the GDP. That translates into approximately \$200 billion in lost output, nearly \$1,000 for every American.

In both the 105th Congress and the 106th Congress, we addressed the high-tech labor shortage by passing legislation to increase the ceiling on the number of H–1B visas—a visa for highly trained foreign workers coming to the United States to work in a high-tech position.

America was forced to do this because our educational institutions are simply not producing the number of personnel needed in the high-tech sector.

In an effort to provide incentives for Americans to pursue a high-tech education, the H–1B visa legislation contained very important provisions that impose a \$500 fee per H–1B visa petition that will be used to fund scholarships for Americans who choose to pursue education in these important fields. It is estimated that this fee will raise roughly \$450 million over 3 years to create 40,000 scholarships for U.S. workers and U.S. students.

Once again, I whole heartedly support the H–1B scholarship fund. Nevertheless, I believe that we in Congress must do more.

For the past several weeks, we have been discussing education reform in the Senate. However, during this debate we have failed to address the question of whether our educational system is meeting our Nation’s vital economic and national security needs.

Our national security is becoming more and more dependent on minds trained in math, science, computer science, and engineering to survive. To ensure our country’s prominent role in the future, we must look within our borders to meet these needs.

Unfortunately, today, a look inside our borders shows that this country is facing a dire shortage of math, science, and engineering students. According to the National Science Foundation, NSF, the engineering, mathematics, and science fields show declining numbers of degrees in the late 1980s and the 1990s:

From 1985 to 1998 there has been a 20 percent decrease in the number of people receiving bachelor’s degrees in engineering, from 77,572 to 60,914.

In the last 10 years, the number of students graduating with bachelor’s in physics has dropped by nearly 20 percent, from 4,347 in 1989 to 3,455 in 1998.

From 1986 to 1998 the number of students receiving bachelor’s degrees in mathematics has decreased greater than 25 percent, 16,531 to 12,094.

From 1986 to 1998 the number of students receiving Bachelors in Computer Science dropped more than 30 percent, from 42,195 to 27,674.

While the U.S. produces fewer and fewer mathematicians, scientists, and

engineers, the rest of the world is making up the difference. America is importing them.

In several large countries—Japan, Russia, China, and Brazil—more than 60 percent of students earn their first university degrees in the science and engineering fields. In contrast, in the U.S., students earn about one-third of their bachelor-level degrees in science and engineering fields, and this includes social sciences.

Engineering represents 46 percent of the earned bachelor’s degrees in China, about 30 percent in Sweden and Russia, and about 20 percent in Japan and South Korea. In contrast, engineering students in the United States earn about 5 percent of all bachelor-level degrees earned in this country.

The demand for science and engineering degrees will only increase. According to the National Science Foundation, during the 1998–2008 period, employment in science and engineering occupations is expected to increase at almost four times the rate for all occupations. Though the economy as a whole is anticipated to provide approximately 14 percent more jobs over this decade, employment opportunities for science and engineering jobs are expected to increase by about 51 percent, or about 2 million jobs.

America must now take steps to encourage, at all levels of our educational process, young people to undertake the training necessary to meet our Nation’s demands.

We in the Congress must help in every way to redirect these students from other pursuits into curricula which will train them. This is an absolute necessity if America is to remain secure economically in this one world market and militarily with our national security commitments.

Accordingly, I offered an amendment to this education bill to encourage individuals to pursue programs of study in math, science, and engineering. This amendment is cosponsored by Senators GORDON SMITH, ALLARD, and ALLEN.

The Pell Grant program is one of the most successful and respected educational initiatives taken by the Congress. The concept behind the Pell Grant properly recognizes the needs of young people coming from economic backgrounds which make it difficult for them to acquire higher education.

I have in the past, and always will be in the future, a strong supporter of the Pell Grant program.

Nevertheless, we in the Congress have an obligation when expending taxpayer money, to do so in a manner that meets our Nation’s needs. Our Nation desperately needs more trained students in math, science, and engineering. That is an indisputable objective.

The Pell Grant program, in my judgment, offers Congress the opportunity to provide incentives for student recipients to pursue curricula in math, science, and engineering.

My amendment provides a 50 percent greater award to Pell Grant recipients



who pursue a program of study in math, science, and engineering.

The amendment is as simple as that.

My Pell Grant amendment is one idea, but I am certain it is not the only idea. As a member of the Senate's Education Committee, I hope that my chairman, Chairman KENNEDY, will schedule hearings to look into our system of higher education and whether this country is on track to produce graduates who meet the current and projected needs of this country.

At this time, I withdraw my amendment in order to give the Education Committee a sufficient opportunity to address this issue.

At some time in this Congress, I fully intend to reintroduce an amendment along these lines after the committee has reviewed the issues, after I get the views of the administration, and after the wide range of people who on a daily basis review the Pell Grant program have an opportunity to share their views as well.

#### AMENDMENT NO. 443

Mr. LIEBERMAN. Mr. President, I rise today to clarify why I voted against the Voinich amendment No. 443 to the ESEA reauthorization bill dealing with loan forgiveness for Head Start teachers. It amends the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers. I thoroughly agree with the ideas expressed in this amendment and have supported incentives for teachers in the past. However, I could not support the amendment because it was not germane to the ESEA reauthorization. I would have supported such an amendment in the context of the Higher Education Act. The amendment provided a tax credit for those individuals who agree to be employed as a Head Start teacher for 5 consecutive years and have demonstrated knowledge and teaching skills in reading, writing, and early childhood development. I strongly believe that it is essential that we have qualified individuals employed in our Head Start programs and working with our youngest children. However, I voted against the amendment, because it was not germane to the ESEA legislation. I did so because together with other leaders on the bipartisan negotiated education compromise bill, I have agreed to vote against non germane amendments so that we will have a better chance to complete and pass this all-important ESEA reauthorization. The amendment passed 76-24 and I am happy with the results.

#### EDUCATION PROGRAMS OF NATIONAL SIGNIFICANCE ACT

Mr. COCHRAN. Mr. President, my amendment, the Education Programs of National Significance Act, would reauthorize several elementary and secondary education programs that have been effective in improving the education opportunities of students throughout the country.

One example is the National Writing Project which as first authorized 10

years ago and for the current fiscal year is funded at \$10 million.

The National Writing Project has 169 sites in 49 States, the District of Columbia, and Puerto Rico. It provides training for 1 out of every 34 teachers across the country. In addition, the National Writing Project raises \$6 in local funding for every \$1 in Federal funding it receives, and has become a model program for improving teaching in other academic fields such as math, science, and reading.

Last fall, the Academy for Educational Development completed a study which shows the improvement of student writing achievement as a result of their teachers' involvement in the National Writing Project. The study evaluated the writing skills of 583 third- and fourth-grade students. The executive summary of the study states:

Overall, these findings show that students in classrooms taught by NWP teachers made significant progress over the course of the school year.

Last month, I held a Senate hearing in Bay St. Louis, MS which examined the effectiveness of the National Writing Project in my State. I heard from teachers and school administrators who gave compelling testimony about the positive results in their classrooms and the improvement of their teaching skills attributed to participation in National Writing Project training.

The amendment authorizes the continuation, subject to annual appropriations, of the National Writing Project.

The amendment also reauthorizes research based educational material delivered by public broadcasting television stations under the Ready To Learn Television Act of 1992. The objective was to utilize the time children spend watching television to prepare them for the first year of school. Today we know this program has resulted in improved learning skills for the children.

Recent research from the University of Alabama and the University of Kansas tells us that Ready to Learn is having a positive impact on children and their parents. The University of Alabama study found that Ready to Learn families read books together more often and for longer periods than non-participants. And, this is a fact that surprises many, Ready to Learn children watch 40 percent less television and are more likely to choose educational programs when they do watch.

Using the best research tested information available, Ready To Learn supports the development of educational, commercial-free television shows for young children. Between the Lions, is the first television series to offer educationally valid reading instruction which has been endorsed by the professional organizations that represent librarians, teachers and school principals. Its partners also include: The Center for the Book at the Library of Congress; the National Center for Family Literacy; the National Coalition for

Literacy and the Home Instruction Program for Preschool Youngsters. This broad-based support is unprecedented for a children's television show. It is well deserved affirmation of the Ready to Learn mission.

A recent study from the University of Kansas showed that children who watched Between the Lions a few hours per week, increased their knowledge of letter-sound correspondence by 64 percent compared to a 25 percent increase by those who did not watch it. The parents and other care givers of more than six million children have participated in the local workshops and other services provided by 133 public broadcasting stations.

I am encouraged by the success of Ready to Learn and look forward to a new generation of children whose families will have access to the information needed to develop a learning environment before they are enrolled in school.

These are two of the Educational Programs of National Significance that I have been personally involved in starting. The others that are included in this amendment are also proven examples of federally funded education programs that will help us have a better educated student population throughout the Nation.

I urge Senators to support the amendment.

Mr. SHELBY. Mr. President, throughout this debate, we have wrestled with how we best improve education for all of our children; whether it is more money, more flexibility, more accountability, higher standards, less bureaucracy, more choice. All of these considerations and goals are worthy and certainly play an important role in ensuring that our children receive the best education possible.

But, there is one ingredient—one factor—that without fail, is the most essential to a child's education and that is a parent. I submit that there is no school building, no computer, no TV, no textbook that can replace the role of a parent when it comes to educating a child. And accordingly, no government official or school official shares the same interest as a parent in protecting and raising their child. I say this because the amendment Senator DODD and I are offering today is about ensuring the rights and responsibilities of parents in raising and educating their children.

As parents, we entrust schools with our children in the hope and belief that they will receive a strong education that will prepare them for the future—that they will be taught and learn the basic foundations for success—reading and writing, math and science. Parents expect this.

What they don't expect and what many of them aren't even aware of is that their children will be used as captive focus groups for marketers during the school day. That is not part of the bargain and, I submit, it shouldn't be.

Last year a GAO study found that marketers and advertisers are increasingly targeting our children in the school setting. This is not some freak occurrence. It is a calculated marketing strategy that is intended to get around parents and reach kids directly in a way they could not normally. In a recent column raising concerns about this phenomenon, George Will notes how marketers now study "marketing practices that drive loyalty in the preschool market" and "the desires of toddler-age consumers." In addition, marketers advise that "School is . . . the ideal time to influence attitudes."

There is no question that there is a lot of money to be made in marketing to children. According to a report by the Motherhood Project at the Institute for American Values, in 1998 alone, children ages 4 to 12 spent nearly \$27 billion of their own money and influenced nearly \$500 billion in purchases by their parents. As parents, many of us have probably felt like it was a lot more than \$500 billion at times.

I am all for free enterprise. But, there are boundaries. And, marketers are crossing those boundaries when they seek to go into public schools and collect marketing information on children without parental consent. A recent editorial in the Christian Science Monitor echoes this sentiment.

Schools are for learning, not market research . . . Businesses do have a role in education. They can lend financial and other kinds of support, and be recognized for such. But educators and businesses also need to recognize boundaries—and stay within them.

Congress has acted in the past to provide some boundaries to schools and protect parental rights and children's privacy. The Family Education Rights Protection Act, the Protection of Pupil's Rights Act and the Children's Online Privacy Protection Act all provide parents with some ability to protect how information is collected and shared on their children. None of these laws, however, protect parents' rights when third party marketers seek to collect similar information from their children in the classroom.

Our amendment seeks to address this gap in the law and reenforce these boundaries by ensuring that when third parties want to come in to the classroom and conduct market research and collect information on our children for strictly commercial purposes, they have to ask the parent.

We are not breaking new ground here other than filling in gaps in existing law. In addition, parental consent is already required for many other activities that occur in the schools, including extracurricular activities, field trips, and internet access. Indeed, parental consent is required before students may participate in the Everybody Wins Program that many Members and staff of this body participate in.

I know there have been concerns and questions raised about our amendment and active lobbying against our efforts.

However, in working with the White House, I believe we have addressed most of the these concerns as reflected in our modified amendment. We have sought to minimize concerns over "burden" by requiring parental consent for only those commercial/marketing activities that seek to collect information on children.

In addition, we have attempted to provide local flexibility—while ensuring parental involvement—by allowing local school boards to provide additional exceptions to the consent requirements so long as the information they seek to collect is not personally identifiable and the school notifies the parents of their policy on these data collection activities.

Despite our good-faith efforts to address legitimate concerns, I understand that some financial interests may oppose parental consent no matter what. They are willing to argue that requiring parental consent imposes a burden on local schools.

I fundamentally disagree and submit that if we have come to the point where we consider parents a burden and parental consent a mandate—then we have a bigger problem in this country. Parents a burden? I say we need more such local burdens in our schools, not less. You simply can't get more "local" than a parent.

And as a corollary to this, I would suggest that these interests have it backwards. It is rather the local schools that are interfering in the rights of parents. Schools exceed their authority when they allow third parties to come in to the classroom and collect information on children for strictly commercial purposes.

We have tried to focus this amendment on those non-educational activities that parents traditionally maintain authority over. Parents have a tough enough time trying to raise and instill certain values in their children. Schools should not be a parent-free zone where marketers get unfettered access to children that they would not otherwise be able to achieve anywhere else.

There is nothing intended in this amendment to disadvantage public-private partnerships in our schools. And, in fact, most public-private partnerships have nothing to do with collecting personal information on children. Indeed, I continue to believe that many of these relationships can be very positive for schools and students. We want to encourage, not discourage many of these relationships.

But, I submit that these public-private partnerships should be able to withstand the scrutiny of parents when they seek to collect information on their children. If it is in their child's interest—you can be sure a parent will give their permission. I don't know of any reputable company whose business model would be based on intentionally skirting parental rights and targeting children directly in the schools. And, I doubt, that any business that relied on

such a tactic would be around very long.

I do, however, believe that the amount of interest and extensive lobbying that has been shown on our little amendment is a strong indication of how much money is being made on targeting kids in the schools and how important it is to some marketers to get around parents and get access to our children directly.

Our modified amendment was crafted in consultation with the Administration, and is supported by the National Parent Teacher Association, Commercial Alert, the Eagle Forum, the American Conservative Union, Focus on the Family, and the Motherhood Project at the Institute for American Values, among other groups.

I am pleased with the acceptance of this amendment by the Senate and thank the managers for their work on this bill and on our amendment.

I look forward to working with my colleagues as the bill is considered in conference.

Mr. KENNEDY. I ask unanimous consent the Senate now proceed to the consideration of House companion H.R. 1; that all after the enacting clause be stricken, and the text of S. 1, as amended, be substituted in lieu thereof, and the Senate proceed to vote on final passage of the bill; that the Senate insist on its amendment, request a conference with the House—

Mr. LOTT. Reserving the right to object, I believe there has been a modification.

Mr. KENNEDY. If I could restate it: I ask consent that the Senate proceed to consideration of the House companion, H.R. 1; that all after the enacting clause be stricken, and the Text of S. 1, as amended, be substituted in lieu thereof, the bill be read a third time, and that the Senate proceed to vote on final passage of the bill.

I further ask consent S. 1 be returned to the calendar.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The foregoing request is agreed to.

Mr. GREGG. We are about to go to final passage. I wanted to thank staff on both sides. This bill has been on the floor for 7 weeks. Their tireless efforts, literally hours, days, nights, and weekends, on behalf of moving this bill along have been extraordinary.

On my staff, of course, Denzel McGuire led the effort and did an exceptional job. Jamie Burnett, Rebecca Liston and other folks, so many it is hard to mention, as well as John Mashburn, Andrea Becker, Holly Kuzmich, and Raissa Geary on our side have all worked extraordinary hours to make this work.

We also thank the professional staff of Senator KENNEDY, led by Danica and other members of their staff.

Mr. KENNEDY. I express my thanks now, and I will do so at the conclusion and hope they understand we appreciate this.

I ask for the yeas and nays.

Mr. GREGG. If the Senator will suspend, on behalf of Senator WARNER, I ask unanimous consent to withdraw his previously submitted amendment No. 792.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, this will be the last vote of the week. There will be no session tomorrow. We begin again on Monday. There will be no votes on Monday. For the information of all Senators, the first vote will occur sometime on Tuesday, but we will be in session on Monday.

I yield the floor.

Mr. KENNEDY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered. The PRESIDING OFFICER. Under the previous order, the bill will be read the third time.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. INOUE), is absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 8, as follows:

[Rollcall Vote No. 192 Leg.]

YEAS—91

Akaka	Domenici	McConnell
Allard	Dorgan	Mikulski
Allen	Durbin	Miller
Baucus	Edwards	Murkowski
Bayh	Ensign	Murray
Biden	Enzi	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Bond	Fitzgerald	Reed
Boxer	Frist	Reid
Breaux	Graham	Roberts
Brownback	Gramm	Rockefeller
Bunning	Grassley	Santorum
Burns	Gregg	Sarbanes
Byrd	Hagel	Schumer
Campbell	Harkin	Sessions
Cantwell	Hatch	Shelby
Carnahan	Hutchinson	Smith (NH)
Carper	Hutchison	Smith (OR)
Chafee	Jeffords	Snowe
Cleland	Johnson	Specter
Clinton	Kennedy	Stabenow
Cochran	Kerry	Stevens
Collins	Kohl	Thomas
Conrad	Landrieu	Thompson
Corzine	Leahy	Thurmond
Craig	Levin	Torricelli
Crapo	Lieberman	Warner
Daschle	Lincoln	Wellstone
Dayton	Lott	Wyden
DeWine	Lugar	
Dodd	McCain	

NAYS—8

Bennett	Hollings	Nickles
Feingold	Inhofe	Voinovich
Helms	Kyl	

NOT VOTING—1

Inouye

The bill (H.R. 1), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. KENNEDY. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent that it be in order for the clerk to make technical and conforming changes to any previously agreed to amendments with respect to the ESEA bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 441, AS FURTHER MODIFIED

Mr. REID. Madam President, I ask unanimous consent that the Lugar amendment No. 441 be further modified with the technical change that I now send to the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The modification is as follows:

On page 265, line 25 strike "identified" and all that follows through "Secretary" on line 1 of page 266, and insert "nationally available".

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, before we turn to morning business, there is one thing I would like to say. I have been on the floor during the entire 8 weeks of this debate on the education bill. A great deal of that time—about 6 of the weeks—I spent with Senator JEFFORDS as a manager of this bill. I just want to make sure everyone understands his contribution to this piece of legislation.

He was chairman of this committee. His substitute is what we accepted. In the kind of glow of having finished this legislation—we are all happy to finish a major piece of legislation; the President should be happy—I just want to make sure everyone understands the great contribution to this piece of legislation made by the junior Senator from the State of Vermont.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I join my friend and colleague, Senator REID, in paying tribute to JIM JEFFORDS at the time of the completion of this legislation. As the Senator rightfully pointed out, Senator JEFFORDS was really the architect of the development of the core aspects of this legislation and presided over a very extensive markup. He was able to bring the committee to a unanimous vote of support for that legislation even though there

were a good many differences that were expressed. It does not surprise any of us who are on that committee because he has been a leader in the area of education over his entire career in the Senate as well as in the House of Representatives.

There are many features in this legislation that have been included of which he was really the architect many years ago. So I think all of us who are mindful of the progress that has been made join in paying tribute to Senator JEFFORDS for his remarkable leadership. I think this body will continue to benefit from his continued involvement. We certainly depend upon it, and I know America's children depend upon it as well.

I thank Senator JEFFORDS for all of his good work.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

THE PRESIDENT'S TRIP TO EUROPE

Mr. COCHRAN. Madam President, I am pleased to address the Senate to applaud the leadership being shown by President Bush during his visit with leaders in Europe. I like the straightforward and forceful way he is expressing his views on international security issues, especially on the subject of missile defenses.

In March, the President dispatched senior administration officials around the world to discuss with leaders of other nations the plans he was considering to deploy defenses against ballistic missiles. The Secretary of State, the Secretary of Defense, and high-level administration teams have worked hard to ensure that our friends and allies understand why the United States intends to deploy these new defensive systems.

This week European leaders are hearing directly from the President his personal views on this issue. At his first stop in Madrid, President Bush said that the task of explaining missile defense "starts with explaining to Russia and our European friends and allies that Russia is not the enemy of the United States, that the attitude of mutually assured destruction is a relic of the Cold War, and that we must address the new threats of the 21st century if we're to have a peaceful continent and a peaceful world."

The Prime Minister of Spain, Mr. Aznar, responded to President Bush's remarks by saying:

[I]t is very important for President Bush to have decided to share that initiative with