

makes truck safety even more important to New Jersey drivers.

Twelve years ago, I got a provision into the highway reauthorization bill we call "ICE-TEA" to ban triple-trailer trucks and other so-called "longer combination vehicles", LCVs, from New Jersey and most other States. At that time and ever since, the trucking industry has fought to defeat and repeal this ban, under the guise of arguments for "states' rights" and "unfair re-distribution of business to railroads." But these are not rational arguments for allowing bigger and heavier trucks as well as triple-trailer trucks on our roads. Additionally, the trucking industry's proclaimed hardships have not materialized. In fact, the trucking companies have survived the current laws quite well, and trucks have refined their role in our national freight transportation system.

Our bill, the "Safe Highways and Infrastructure Preservation Act, will extend the current limited ban which only applies to our 44,000-mile Interstate Highway System to the entire 156,000-mile National Highway System, NHS. This extension will make more roads safer and will further reduce the wear and tear of our highways and bridges.

Bigger trucks are not safe. The U.S. Department of Transportation has determined that multi-trailer trucks are likely to be involved in more fatal crashes—*11 percent more*—than today's single-trailer trucks. By expanding the limits on triples and other longer combination vehicles to the entire NHS—including more than 2,000 miles of highway in New Jersey—the Safe Highways and Infrastructure Protection Act will save lives and prevent further deterioration of our roads and bridges.

Triple-trailers and other LCVs do more damage to our roads and bridges but don't come close to paying associated maintenance and repair costs. The fees, tolls and gasoline taxes paid by the operator of a 100,000-pound truck only covers 40 percent of the cost of the damage that truck does to our roads and bridges. The rest of the taxpayers make up the difference. I believe that motorists should not have to share the road with these dangerous behemoths and pay for the extra damage they cause.

I thank my colleagues Senator DEWINE and Senator FEINSTEIN for joining me in sponsoring this important legislation, and I look forward to working with my colleagues in the Congress to improve the highway safety and increase the remaining life of our country's roads and bridges.

By Mr. LAUTENBERG (for himself and Mr. DEWINE):

S. 1141. A bill to amend title 23, United States Code, to increase penalties for individuals who operate motor vehicles while intoxicated or under the influence of alcohol; to the Committee on Environment and Public Works.

Mr. LAUTENBERG. Mr. President, today Senator MIKE DEWINE of Ohio and I are helping to make a big stride in re-arming our country in the war against drunk driving. Together, we have introduced two pieces of legislation which will help reduce the number of civilian casualties in this war by arming our government safety officials with the weapons they need to keep drunk drivers off of our roads.

First, I am proud to be a cosponsor of Senator DEWINE's legislation on improving enforcement of drunk driving laws. There are some good drunk driving laws on the books and they should not be ignored. Since September 11, 2001, much of our country's law enforcement focus has been on ensuring the security of citizens from terrorist attack. This legislation will ensure that efforts to reduce drunk driving are not given short shrift. Almost 18,000 people died last year in alcohol-related motor vehicle traffic crashes, and we must not neglect the safety of our highways. This bill provides needed resources for law enforcement and will deter people from drinking and driving to begin with.

Second, I am proud to introduce, along with Senator DEWINE, legislation targeting higher-risk drivers. This includes repeat offenders and drivers with blood alcohol concentration levels of 0.15 percent or higher. Once these offenders are caught, we need to make sure they don't fall through the cracks in the legal system. These criminals should not be behind the wheel—I believe they are a menace to our society, and we should not tolerate their existence.

I have long been interested in making our roads and highways safer. During my previous tenure, I saw to it that the Federal government took responsibility for reducing the number of fatalities due to drunk driving. I authored laws to increase the minimum drinking age for alcoholic beverages from 18 to 21, and to encourage States to establish .08 percent as the blood alcohol concentration standard for drunk driving nationwide. These laws have made our roads and highways safer and my hope is that they have saved many precious lives.

I feel that the Federal Government needs to take a strong leadership role to reduce alcohol-impaired driving. States cannot deal with these problems in a comprehensive manner. We have passed legislation encouraging states to establish tougher standards for highways safety and drunk driving, but: 32 States still don't have a primary enforcement safety belt law; 11 States still have not adopted the .08 percent Blood Alcohol Content (BAC) standard; 24 States still don't have an open container law; and 27 States still don't have a repeat offender law for drunk driving offenses.

I am particularly disappointed that my home State of New Jersey has not yet adopted the .08 percent BAC standard. At risk are millions of dollars in

Federal highway funding that our State desperately needs to repair and improve our roads and bridges. Here in Congress, I fight desperately for this funding. But the State puts this funding at risk rather than make a sensible safety choice and adopt a .08 percent BAC standard. This is why I feel that the Federal Government needs to take a leadership role in setting policies that will save lives by reducing drunk driving.

I feel that States need stronger "encouragement" to address these important highway safety issues. We have already tried threatening withholding highway construction funds, but if we allow a loophole for States to recover the funds within 4 years; maybe that still is not enough encouragement.

Now it is time to take the next step in getting drunk drivers off our roads. I look forward to working with Senator DEWINE and the rest of my colleagues in the Senate to reduce the 18,000 alcohol-related traffic fatalities that occur each year. I urge my colleagues to join me and Senator DEWINE in supporting both of these important pieces of legislation.

#### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 153—EXPRESSING THE SENSE OF THE SENATE THAT CHANGES TO ATHLETICS POLICIES ISSUED UNDER TITLE IX OF THE EDUCATION AMENDMENTS OF 1972 WOULD CONTRADICT THE SPIRIT OF ATHLETIC EQUALITY AND THE INTENT TO PROHIBIT SEX DISCRIMINATION IN EDUCATION PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Mrs. MURRAY (for herself, Ms. SNOWE, Mr. DASCHLE, and Mr. KENNEDY) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

#### S. RES. 153

Whereas title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), also known as the "Patsy Takemoto Mink Equal Opportunity in Education Act" (referred to in this resolution as "title IX"), prohibits education programs or activities, including athletic programs or activities, that receive Federal financial assistance from discriminating on the basis of sex;

Whereas prior to 1972 and the enactment of title IX, virtually no college offered athletic scholarships to women, fewer than 32,000 women participated in collegiate sports, and women's sports received only 2 percent of college athletic dollars;

Whereas the regulation implementing title IX was submitted to Congress, multiple hearings were held, and the regulation became effective July 21, 1975, with specific provisions governing athletic programs and the awarding of athletic scholarships;

Whereas according to the Department of Education's 1979 Policy Interpretation, which interprets the application of title IX

and its implementing regulations to athletics, an educational institution may demonstrate compliance with title IX's requirement that it allocate athletic participation opportunities on a nondiscriminatory basis to male and female athletes by meeting 1 of the criteria in a 3-part test, by demonstrating—

(1) that intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments at the institution;

(2) a history and continuing practice of program expansion responsive to the developing interests and abilities of members of the underrepresented athletes' sex; or

(3) that the interests and abilities of the members of the underrepresented athletes' sex have been fully and effectively accommodated by the present program;

Whereas the 1979 Policy Interpretation and its 3-part test have been in place for over 2 decades and have been supported by both Republican and Democratic administrations;

Whereas 2 out of 3 educational institutions comply with the second or third criterion of the 3-part test;

Whereas the Office for Civil Rights of the Department of Education issued a Clarification of Intercollegiate Athletics Policy Guidance in 1996 regarding the 3-part test—

(1) confirming that educational institutions can comply with title IX's requirement of nondiscriminatory allocation of athletic participation opportunities by meeting any single part of the 3-part test;

(2) setting out specific examples for compliance to guide the institutions; and

(3) confirming that there are no strict numerical formulas for determining title IX compliance;

Whereas the 1979 Policy Interpretation and the 1996 clarification provide educational institutions with ample and fair guidance on compliance with title IX and provide flexibility to the institutions so that they may determine for themselves how best to comply with the law;

Whereas the enforcement mechanism of title IX, the 3-part test, has been upheld as legal and valid by each of the 8 United States Courts of Appeals to consider it;

Whereas since the beginning of title IX implementation, men's participation in intercollegiate sports has increased from 220,178 to 231,866, and women's participation in those sports has increased from 31,852 to 162,783, an increase of more than 400 percent;

Whereas the number of girls participating in athletics at the high school varsity level has increased from 294,015 in 1972 to 2,784,154 in 2001, an 847 percent increase;

Whereas sex discrimination in athletics persists, despite the strides made under title IX, with, for example, female athletes receiving only 42 percent of the college athletic participation opportunities nationwide, even though female students make up 56 percent of the college population, and female athletes receiving \$133,000,000 fewer athletic scholarship dollars per year than their male counterparts;

Whereas nothing in title IX or its policies requires educational institutions to reduce men's athletic participation opportunities to come into compliance with participation requirements and 72 percent of colleges and universities that have added women's teams have done so without cutting any teams for men;

Whereas recommendations made by the Commission on Opportunity in Athletics for changes to the athletics policies issued under title IX would seriously weaken title IX's protections and result in significant losses in athletic participation opportunities and

scholarships to which women and girls are entitled under current law; and

Whereas those recommended changes to the title IX athletics policies would allow an educational institution that fails to equally accommodate its male and female students to be in compliance with title IX without having to fully demonstrate that discrimination does not exist in the institution's athletic programs: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) changes to athletics policies issued under title IX would contradict the spirit and intent of title IX's mandate to provide equal opportunities in athletics;

(2) the current title IX athletics policies, namely, the 1975 regulations issued under title IX, and the 1979 Policy Interpretation, as clarified in the 1996 Clarification of Intercollegiate Athletics Policy Guidance, should remain unchanged and be enforced vigorously to eliminate the continuing discrimination against women and girls in athletics; and

(3) if the Department of Education changes the current title IX athletics policies, Congress will respond with legislation to restore the policies and preserve the right to equal opportunities in athletics, as mandated by title IX.

Mr. DASCHLE. Mr. President, today is opening day for the seventh season of the Women's National Basketball Association. The league's incredible success demonstrates the enormous influence that title IX has had on women in sports, and in society.

Since the WNBA's inception, the number of players and teams in the league have doubled, and its popularity has skyrocketed throughout the Nation, and all over the world. It is fitting, therefore, that the WNBA has helped lead the way in support of maintaining title IX and its enforcement. The league has circulated a petition and collected over 25,000 signatures, including those of current and former NBA and WNBA players, as well as of an impressive array of other prominent Americans, to voice concern over the proposed changes.

It is in the spirit of this overwhelming support for the effort to provide equal opportunities for all of America's students that I join my Senate colleagues in offering a bipartisan resolution on title IX.

Specifically, our resolution would express the sense of the Senate that the changes to title IX policies recommended by the Commission on Opportunity in Athletics would run contrary to the spirit and purpose of the original law, and that the current mechanisms for enforcement are both fair and reasonable. Our resolution would also state that Congress will respond to any changes in title IX policy with legislation to restore these protections, and to preserve the right to equal opportunities in athletics.

The enactment of title IX in 1972 was a landmark moment in this history of American education policy. For the first time ever, women and girls in schools across the Nation could be sure they would receive the same educational opportunities as their male counterparts—opportunities to learn, grow, and compete.

But this issue is about more than equality under the law; it is about demonstrating to our children that confidence and success in our society, in our workplaces, and on our athletic fields know no gender. It is about teaching our girls and boys the skills they need to participate in our society.

Studies have shown that girls who play sports are less likely to become depressed, fall victim to an eating disorder, take drugs, get pregnant, and contract breast cancer later in life. Thus, as a result of title IX and the doors that it has opened, our Nation has produced a stronger, healthier, happier generation of girls than ever before.

Title IX's successes have been overwhelming. Prior to 1972 and the enactment of title IX, virtually no college offered athletic scholarships to women, fewer than 32,000 women participated in collegiate sports, and women's sports received only 2 percent of schools' athletic funds.

Since the implementation of title IX, men's participation in collegiate sports has increased, and women's participation has increased more than 400 percent. At the high school level, the increase in athletic opportunities for women and girls has been even more staggering; since 1972, female participation in high school varsity athletics has increased from 294,015 to 2,784,154, an increase of 847 percent.

While title IX has already enjoyed many successes, the fact remains that sex discrimination in athletics persists. Unfortunately, the Secretary's Commission on Opportunity in Athletics has proposed changes to title IX enforcement that are deeply troubling.

The Commission's report ignores clear evidence showing that our daughters' new opportunities have not come at the expense of our sons. Nothing in title IX or its policies requires schools to reduce men's opportunities to comply with participation requirements, and 72 percent of colleges and universities that have added women's athletic teams have done so without cutting any teams for men. In fact, evidence suggests that we must do more to strengthen title IX enforcement, not weaken it.

Currently, despite the fact that women comprise 56 percent of the college population, female athletes receive only 42 percent of the college participation opportunities nationwide. In addition, women and girls receive \$133 million fewer scholarship dollars annually than their male counterparts.

The changes being proposed would significantly weaken the existing mechanisms for enforcing title IX's provisions—mechanisms that have been in place for decades and have provided adequate flexibility to educational institutions seeking to demonstrate compliance.

Moreover, the current enforcement mechanism has been repeatedly affirmed—by the regulations issued by the Department of Education in 1975,

by the Department's 1979 policy review, and by the 1996 Clarification of Intercollegiate Athletics Policy Guidance.

These policies have remained unchanged for 20 years, thanks to the affirmation of both Republican and Democratic administrations. Instead of evaluating proposals that could weaken title IX, the administration should focus on efforts to continue to build on its history of success.

The argument used by detractors of title IX in favor of the Commission's recommendations is that title IX has increased athletic opportunities for women to the detriment of those available to men. This is simply not true.

Today, the Senate must take a strong stand in favor of title IX as it is currently written and enforced. Title IX is an integral part of the effort to provide America's students with the opportunities they need and deserve to achieve their full potential, and we must not retreat from this goal. I urge my colleagues to join me in support of this important resolution.

Mr. KENNEDY. Mr. President, Title IX of the Education Amendments of 1972 prohibits discrimination on the basis of sex in all education programs and activities that receive Federal funding, including sports. When Congress passed this important civil rights law, it intended to give girls and women opportunities equal to those of boys and men in all education programs receiving taxpayer dollars. Today, on opening day of the Women's National Basketball Association's seventh season, we see again the enormous impact of Title IX on women's sports. Since its first season in 1997, the WNBA has doubled its number of teams from 8 to 16. Last year, millions of fans from countries throughout the world tuned to see 176 women play professional basketball in 256 regular-season WNBA games.

Over the past 31 years, Title IX has expanded athletic opportunities at all levels for all women. Fewer than 32,000 women participated in college sports before Title IX. Today, the number is 163,000. Opportunities for girls in high school have grown even more incredibly, from 294,000 to almost 2.8 million.

Athletic opportunities contribute to better health for women, and they also translate into better outcomes in many other areas as well. Participation in sports builds confidence, improves self-esteem, reduces stress, teaches teamwork, and improves achievement in education.

The female athletes of the past 31 years who have reaped the benefits of Title IX are a tribute to its success. Countless women have taken the lessons they learned on the playing field and applied them to the rest of their lives. They serve as role models for us all. And one of the things they have proved so clearly is that when the opportunities are there, women will show up to play.

But it's never clear sailing for Title IX. Despite all the progress in athletic

opportunities under the current law, women continue to lag behind men in playing time and funding. Women in Division I colleges comprise 53 percent of the student body, but they receive only 41 percent of the opportunities to play in intercollegiate sports, 43 percent of athletic scholarship dollars, 36 percent of athletic budgets, and 32 percent of the dollars spent to recruit new athletes.

Even though parity is not yet achieved, a movement is under way to undermine Title IX. The Bush Administration's Commission on Opportunity in Athletics has issued recommendations that would drastically reduce its enforcement and put women and girls at a disadvantage by permitting schools to reduce athletic opportunities and scholarships for women. The Women's Sports Foundation estimates that college women would lose 50,000 slots and \$122 million in scholarships under one of the Commission proposals. High school girls would lose 305,000 opportunities. What is needed is even stronger enforcement of Title IX, not weakening or modifying it. The Department of Education should concentrate its efforts on fully and fairly enforcing the existing law through existing mechanisms.

Current law on Title IX is fair, and it provides schools with flexibility in meeting its requirements. They can comply in any one of three ways: by showing that the percentages of male and female athletes are substantially proportionate to the percentage of male and female student enrolled full-time; by demonstrating a history and continuing practice of program expansion to meet the needs of the underrepresented athletes; or by demonstrating that their interests and abilities have been fully and effectively accommodated.

This three-part test has been in place for over two decades, and has been supported by both Republican and Democratic administrations. It has been upheld by all eight Federal Courts of Appeals who have considered it.

Some critics claim that the first prongs of the three prong test, called the proportionality test, has become the de facto test of compliance. But in fact, 2 out of 3 schools comply with Title IX through the second and third options, not through proportionality.

The major complaint is that Title IX has hurt men's sports. Yet, since the beginning of Title IX implementation, men's participation in intercollegiate sports has actually increased, and so has the total number of teams for men. Nothing in Title IX or its policies requires schools to reduce men's opportunities. 72 percent of colleges and universities that had added women's teams have done so without cutting any teams for men. When schools have discontinued men's or women's teams, a lack of student interest was cited as the most important factor in the decision. Schools also discontinue men's and women's teams because of choices

about how to allocate their resources. These decisions are not the product of a Title IX mandate.

Unfortunately, the President's Commission was not representative of the whole Title IX community. Two-thirds of the Commissioners represented Division I-A colleges, which have the largest men's basketball and football budgets and therefore the most to gain from weakening Title IX. No Division II or III colleges, no community colleges, and no high schools were represented, even though they tend to have the most successful record of implementation of Title IX. Twice as many opponents of Title IX were asked to testify before the Commission, compared to proponents of the law. Institutions that had been sued for non-compliance and lost their cases were invited to testify, but the women who were discriminated against and who brought these suits and the schools that have complied with the law successfully were not invited.

In response to the unfairness of the process and resulting findings, two of the Commissioners issued a minority report summarizing the problems with the Commission and its recommendations. Secretary of Education Paige has refused to consider the concerns raised in the minority report. Needless to say, the Commission was not fair and impartial, and it should not be the basis by which Congress judges Title IX. The Commission's proposals contradict the spirit of athletic equality and the intent to prohibit discrimination against girls and women in education.

Today, we submit a bipartisan resolution to maintain Title IX and strengthen its enforcement. Only then will full promise be achieved. We must retreat from the Nation's commitment to equal opportunity for women and girls in education and athletics. Girls and boys, women and men, need education opportunities such as athletics to allow them to build character, self-esteem and motivation. The past 31 years demonstrate the amazing advances that women and girls have made in athletics when they are given the opportunities to play, and it would be shameful for Congress or the Administration to misuse that extraordinary success as an excuse to retreat now.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 799. Mr. GRAHAM, of South Carolina submitted an amendment intended to be proposed by him to the bill S. 1050, to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 800. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1050, supra; which was ordered to lie on the table.