

the State under section 20106(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13706(b)).

(3) REALLOCATION OF FUNDS.—Any funds that are not allocated for failure to comply with this section shall be reallocated to States that comply with this section.

60TH ANNIVERSARY OF THE BATTLE OF THE BULGE

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.J. Res. 110, which has been received from the House.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (H.J. Res. 110) recognizing the 60th anniversary of the Battle of the Bulge during World War II.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SESSIONS. I ask unanimous consent that the joint resolution be read the third time and passed, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statement related to the joint resolution be printed in the RECORD.

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

The joint resolution (H.J. Res. 110) was read the third time and passed.

The preamble was agreed to.

PREMATURITY AWARENESS MONTH

Mr. SESSIONS. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 476, introduced earlier today by Senator ALEXANDER.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 476) supporting the goals, activities and ideals of National Prematurity Awareness Month.

There being no objection, the Senate proceeded to consider the resolution.

PREMATURITY AWARENESS MONTH

Mr. ALEXANDER. Mr. President, I rise today to discuss the increasing number of babies born too early. The March of Dimes has designated November as Prematurity Awareness Month to draw attention to the growing, costly and serious public health problem of preterm birth. My colleague, Senator DODD, and I have introduced a resolution supporting this effort and look forward to swift approval in the Senate.

Nationwide, over 480,000 babies were born prematurely in 2002. In my own State of Tennessee, one of every seven babies born in 2002 was born preterm, and the rate of preterm births in Tennessee has risen more than 9 percent since 1992.

Earlier this year, the Subcommittee on Children and Families, which I chair, held a hearing to learn about the

devastating effects of preterm birth and what our government agencies and private organizations are doing to combat this crisis. We heard the inspirational story of Kelley Bolton Jordan and her daughter, Whitney, from Memphis, Tennessee. Whitney was born 3½ months early and weighed just 1 lb. 10 oz. Imagine a leg so small it could fit through a wedding ring.

Whitney spent 3 grueling months in intensive care. She is now a healthy, happy 3 year-old and has no repercussions from her early birth—other babies are not as lucky. Preterm birth takes a severe toll on America's families and strains our health care system. Each year, 100,000 children develop health problems because of their early births, including cerebral palsy and vision and hearing loss. And preterm birth is the leading cause of death in the first month of life.

With over half the causes of preterm birth unknown, more research is desperately needed. That's why I plan to re-introduce "the PREEMIE Act" and hope that the Senate can pass this legislation in the 109th Congress.

I commend the March of Dimes for its dedication in working toward a day when babies and their families no longer have to face the devastating consequences of premature birth. If we work together to focus public and private resources on this problem, we can decrease the number of premature births in every state.

Mr. DODD. Mr. President, I draw attention to the growing problem of premature birth. As a sponsor of the PREEMIE Act, with my colleague Senator ALEXANDER, I have heard the stories about the strain a premature birth places on families, as well as the lifelong health problems many preterm children face.

Nationwide, 1 out of every 8 babies is born too early. In my own State of Connecticut, 1 of every 10 babies born in 2002 was preterm and the rate of preterm births in Connecticut has risen more than 11% since 1992.

Senator ALEXANDER and I are introducing a resolution to raise awareness of this public health crisis. As part of their 5-year campaign designed to use the combined power of awareness, education, and research to significantly decrease the number of premature births in the United States, the March of Dimes has designated November as Prematurity Awareness Month. I am pleased to be supporting this campaign.

I urge my colleagues to find out about the toll of premature births in their states and to work together to solve this problem. I hope we can move the PREEMIE Act quickly in the 109th Congress in order to expand the Government's efforts to reduce the rates of preterm birth.

Mr. SESSIONS. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table and any statements relating to this matter be printed in the RECORD.

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

The resolution (S. Res. 476) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 476

Whereas preterm birth is a serious and growing problem;

Whereas, between 1982 and 2002, the rate of preterm birth increased 27 percent;

Whereas, in 2002, more than 480,000 babies were born prematurely in the United States;

Whereas 25 percent of all babies that die in the first month of life were born preterm;

Whereas premature infants are 14 times more likely to die in the first year of life;

Whereas premature babies who survive may suffer lifelong consequences, including cerebral palsy, mental retardation, chronic lung disease, and vision and hearing loss;

Whereas preterm birth and low birthweight are a significant financial burden in health care;

Whereas, in 2002, the estimated charges for hospital stays for infants with a diagnosis of preterm birth or low birthweight were \$15,500,000,000, a 12 percent increase since 2001;

Whereas the average lifetime medical costs of a premature baby are conservatively estimated at \$500,000;

Whereas the cause of approximately half of all preterm births is unknown;

Whereas women who smoke during pregnancy are twice as likely as women who do not smoke during pregnancy to give birth to a low birthweight baby, and babies born to women who smoke during pregnancy weigh, on average, 200 grams less than babies born to women who do not smoke during pregnancy; and

Whereas to reduce the rates of preterm labor and delivery more research is needed on the underlying causes of preterm delivery, prevention of preterm birth so that babies are born full-term, and treatments improving outcomes for infants born prematurely: Now, therefore, be it

Resolved, That the Senate recognizes during the month of November, 2004, activities and programs that promote awareness of and solutions to the dangers of preterm birth across the United States.

IMPROVING EDUCATION RESULTS FOR CHILDREN WITH DISABILITIES ACT OF 2004—CONFERENCE REPORT

Mr. SESSIONS. I ask unanimous consent that the Senate proceed to the conference report to accompany H.R. 1350, the IDEA bill, that the conference report be agreed to, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

Mr. GREGG. Mr. President, I am pleased that we are now considering the conference report on the Individuals with Disabilities Education Improvement Act. This bill reauthorizes IDEA, our Federal law governing special education services for children with disabilities.

As we close in on the 30-year anniversary of the Federal role in special education, I think it important to highlight where we were, where we are and

where we are going to ensure that children with disabilities are provided a high-quality education that prepares them for life outside the classroom.

Almost 30 years ago, the Education for All Handicapped Children Act opened schoolhouse doors for children with disabilities. Prior to that landmark legislation, most students with disabilities did not attend public school. Indeed, many States had laws excluding certain children with disabilities from their schools, including the blind, deaf, emotionally disturbed or children with mental retardation.

Today, special education programs have been established in virtually every school district in America. The overwhelming majority of children with disabilities—about 96 percent—learn in regular schools with other children, not in state institutions or separate facilities. In fact, half of students with disabilities spend 80 percent or more of their day in regular classrooms. Those students are increasingly gaining access to higher education, too. College enrollment rates among students with disabilities have more than tripled.

Clearly, we have come a long way from the time when our students with disabilities were excluded from public schools. Still, we know that there is much to be done to ensure that children with disabilities get a better education and that we make it easier for schools to provide that education to these students.

With this understanding, we have worked for more than two years to improve IDEA, keeping the needs of children with disabilities, whom we have a duty to serve, foremost in our thoughts, while balancing concerns of equity and fairness.

With significant input from parents, educators and disability groups, as well as the recommendations of the President's Commission on Excellence in Special Education, both the House and Senate passed bills that would have done much to improve IDEA and to ensure that children with disabilities receive a quality results-based education. But important differences remained.

After weeks of sometimes intense negotiations, our conference committee ironed out those differences and reached agreement yesterday on a final report, bringing us one step closer to enacting important reforms that will benefit the more than 6.5 million children served by IDEA, as well as their parents, teachers, and schools.

The conference report before us focuses on improved academic results for children with disabilities; frees special education teachers from bureaucratic requirements, and offers them important flexibility; helps parents and schools work together better; creates the safest possible classroom environment for all students; and strikes an appropriate balance between protecting the educational rights of children with disabilities, while making IDEA less litigious.

This report does five very important things.

First, it reinforces the most basic goal under IDEA: making sure students are learning. The report shifts focus away from compliance with burdensome and confusing rules, and places a renewed emphasis on our most fundamental concern making sure that children with disabilities receive a quality education.

Specifically, the report: ensures States focus on improved academic results and functional performance for students with disabilities; clarifies methods for measuring student progress by replacing arbitrary benchmarks and short-term objectives with academic assessments under NCLB, including alternate assessments; provides for a national study of valid and reliable alternate assessment systems and how alternate assessments align with State content standards; and allows for the development of new approaches to determine whether students have specific learning disabilities by clarifying that schools are not limited to using the IQ-achievement discrepancy model that relies on a "wait to fail" approach.

Second, it enables teachers to better serve their students by: clarifying what it means to be a highly qualified special education teacher, and offering flexibility to new teachers who teach multiple subjects, and to teachers teaching children with severe cognitive disabilities; making it easier for special education teachers to both enter into and remain in the field of special education; focusing more resources and attention on professional development for both general and special education teachers serving children with disabilities; creating a paperwork reduction demonstration program to increase the time teachers spend on instruction and decrease the time they spend complying with cumbersome, bureaucratic requirements; and eliminating paperwork by eliminating short-term objectives for most students and reducing the number of times per year that procedural safeguards notices must be sent to parents.

Third, it facilitates a better relationship between parents and schools, and improves parental involvement and options by: providing parents with increased information and access to resources to support them though dispute resolution and due process; encouraging early mediation and prompt resolution of disputes; providing new opportunities for parents and schools to meet in order to resolve problems before going to a due process hearing; allowing parents and schools to agree to make changes to an IEP during the year without having to convene a formal IEP meeting; and increasing parental involvement in IEP meetings by allowing use of teleconferencing, video conferencing, and other means of participation.

Fourth, this report ensures safety and improves discipline for all children

by: making the discipline provisions in current law easier to understand and implement and more fair and equitable; ensuring that positive behavioral interventions and supports remain an option on the IEP; and empowering schools to discipline children whose behavior is not the direct result of their disability.

Fifth, it provides fiscal relief to school districts by: including a 7-year discretionary glide path to full funding through the discretionary appropriations process; providing new resources to assist school districts in delivering a free appropriate public education to high-need children who may require expensive services; simplifying funding for grants, making future years' funding levels and amounts more predictable; and giving districts flexibility to shift some local funding for certain programs to other ESEA priorities as federal IDEA funding increases.

I thank all members of the conference committee and their dedicated staff for their hard work on this report and their cooperative spirit in working toward this day. It is certainly an endeavor of which we can all be proud.

I can think of no finer way to bring my tenure as chairman of the Senate Health, Education, Labor, and Pensions Committee to a close than by completing action on this legislation.

In particular, I would like to thank: Senator KENNEDY, and his staff, Connie Garner and Roberto Rodriguez; Senator BINGAMAN and his staff, Michael Yudin; Senator SESSIONS and his staff, John Little and Prim Formby; Senator ALEXANDER and his staff, Kristin Bannerman; Congressman BOEHNER, and his staff, David Cleary, Melanie Looney, Krisann Pearce, and Sally Lovejoy; Congressman MILLER, and his staff, Alex Nock; Legislative Counsel attorneys Mark Foster and Mark Synnes, without whose assistance we could not have conferred this bill in 6 weeks; and Department of Education staff Karen Quarles, Christy Wolfe, Suzanne Sheridan, Paul Riddle, Carol Cichowski, Bill Knudsen and Michele Rovins for their superb technical assistance.

Finally, I thank members of my own staff. Both Annie White and Denzel McGuire spent countless hours shepherding this legislation, and meeting with parents, educators, school groups and disability groups, while working to improve policy and reach compromises on the many difficult issues herein. Without their tireless efforts and passion for helping students with disabilities to achieve their fullest potential, we most certainly would not be here today. I would also like to recognize the efforts of Bill Lucia, Courtney Brown, and Kelly Scott.

I am hopeful that we will quickly approve this conference report, so that the President can sign this important legislation into law.

ATTORNEY'S FEES

Mr. KENNEDY. Mr. President, I would like to take a moment to clarify

an oversight with Senator GREGG that is important for the record.

Senator GREGG, a sentence in the Statement of Managers' language of the conference report that provided the explanation for the attorney's fees language was inadvertently left out. By adding at Note 231 sections detailing the limited circumstances in which local educational agencies and State educational agencies can recover attorney's fees, specifically Sections 615(i)(3)(B)(i)(II) and (III), the conferees intend to codify the standards set forth in *Christiansburg Garment Co. v. EEOC*, 434 U.S. 412 (1978). According to *Christiansburg*, attorney's fees may only be awarded to defendants in civil rights cases where the plaintiffs claims are frivolous, without foundation or brought in bad faith. Is that your understanding as well?

Mr. GREGG. Mr. President, the Senator from Massachusetts is correct and that is my understanding as well.

Mr. REED. Mr. President, today the Senate will pass H.R. 1350, the Individuals with Disabilities Education Improvement Act of 2004, legislation which has my support.

This important legislation, which reauthorizes the Individuals with Disabilities Education Act, is a compromise that protects the civil rights of children with disabilities, while ensuring that teachers, principals, and administrators have the essential tools to improve these children's academic or functional skills and knowledge. It is the culmination of months of hard-fought bipartisan and bicameral negotiations in an attempt to strike the balance between these competing interests and overall. This bill improves upon current law.

As an original cosponsor of the Senate version of this bill and the sponsor of an earlier bill on personnel preparation and development, I am pleased that most of the provisions I authored on the recruitment, preparation, support, and professional development of special education teachers, general education teachers, principals, administrators, related services personnel, and others working with children with disabilities have been included in the final version of the bill before us today. First, the bill requires states, through the renamed State Personnel Development Grants, to target 100% of the funding under this competitive grant for professional development activities—an increase of 25% from current law. These grants will help achieve our goal of ensuring that there is a highly qualified teacher in every classroom in America. Furthermore, the bill sends funding to states via a formula once funding reaches \$100 million, ensuring that teachers in every state benefit. Additionally, as a condition of receiving a State Personnel Development Grant, a state educational agency must submit a comprehensive plan that identifies and addresses the state's personnel needs. This and other new requirements will ensure that the state

educational agency has the necessary expertise and strategies in place to boost the skills of teachers and in turn improve the education of children with disabilities.

Retaining special education teachers new to the profession is a particular area of concern in our States. According to data from the National Clearinghouse for Professions in Special Education, the turnover rate of special education teachers in their first 3 years of teaching is exceptionally high—much higher than the comparative rate for general education teachers. Annual attrition rates for special education teachers are 6 percent for those who leave the field entirely and an additional 7.4 percent who transfer to general education. High turnover is costly both for school districts, which must repeatedly fill the same positions, and for students, who lose the advantage of being taught by experienced special education teachers. As such, I am pleased that the bill establishes a new grant program for institutions of higher education to help beginning special educators. Funding is authorized for incorporating an extended, such as a fifth year, clinical learning opportunity to existing special education preparation programs or for the creation or support of teacher-faculty partnerships, such as professional development schools, that provide high-quality and ongoing mentoring to new special education teachers so that they will remain in the field.

The legislation also enhances existing IDEA personnel preparation programs to ensure that all teachers and other personnel have the skills, knowledge, and leadership training to improve results for students with disabilities, including working collaboratively in regular classroom settings, addressing the needs of limited English proficient students with disabilities, preventing the misidentification of children with disabilities, working with parents to improve the education of their children, and utilizing positive behavioral interventions to address the conduct of children with disabilities that impedes their learning or that of others in the classroom.

There are other highlights as well. This bill aligns the Individuals with Disabilities Education Act with the No Child Left Behind Act by requiring states to ensure that all special education teachers are highly qualified by the 2005-2006 school year, including allowing teachers to meet the standard through the high objective uniform state standard of evaluation or HOUSSE; requires the uniformity of electronic versions of instructional materials and provides for the establishment of a National Instructional Materials Access Center to give schools a one-stop shop for textbooks and other educational materials for students who are blind or possess another disability which necessitates alternate formats; expands the current definition of related services to include school nurse

services; strengthens early intervention and preschool programs for infants, toddlers, and preschoolers with disabilities, including permitting states to create a system that gives parents the choice to have their child continue early intervention services until the age of five; establishes a new program aimed at developing and enhancing behavioral supports in schools while improving the quality of interim educational settings; enhances planning and transition services for children with disabilities; advances the monitoring and enforcement of IDEA; and improves services for homeless and foster care students with disabilities.

Teachers, principals, and administrators are also given flexibility to more effectively provide an education to all students. There are new approaches to resolving complaints to head off litigation and to reducing paperwork, along with a clearer framework for the discipline of children with disabilities.

I thank my colleagues, Senators KENNEDY and GREGG, and their staffs, for their excellent work on this important bipartisan legislation. One staff member, Connie Garner, deserves special recognition for her tireless efforts to make this law work for students, parents, teachers, and schools.

This is significant legislation for the people of Rhode Island and across the nation, and I am pleased to support it. I will also continue to press for full funding of IDEA to provide 40% of the excess cost of providing special education services—a promise Congress made in 1975 when IDEA was first enacted. Funding for IDEA services has only recently reached nearly 19 percent—just under halfway to fulfilling that promise. While we have taken a number of positive steps with this bill to ensure a high quality, free appropriate public education for children with disabilities, we must bridge the funding gap so these children receive the educational assistance and support they need and deserve.

TEACHERS

Mr. President, I am pleased that our bill now requires special education teachers to be fully certified by the state. Prohibiting temporary or emergency certification is an important step forward and one that brings IDEA in line with NCLB. It is important that teachers who are fully certified in special education have the unique knowledge and skills needed to effectively teach students with disabilities. Parents should know that the label of "fully certified special education teacher" means that the teacher has demonstrated both knowledge and skill in special education practices. Senator KENNEDY, is it your understanding that full state certification in special education includes a demonstration of such knowledge and skill?

Mr. KENNEDY. Yes, Senator REED, that is my understanding. Well-prepared special education teachers are

critical to our goal of providing a quality education for all children with disabilities. Such teachers need to be prepared with the skills and expertise needed to teach children with disabilities. Those skills may include the teaching of a standards-based reform curriculum to students with disabilities, helping students access technology-based learning tools, or adapting materials and learning environments for students with disabilities.

In addition to traditional special education preparation programs at our colleges and universities, some alternative routes to certification offer important and useful options to addressing the special education teacher shortage—especially in rural and urban school systems with hard-to-staff schools. Some of our alternative routes have produced special education teachers with great skill and knowledge.

Mr. REED. I thank Senator KENNEDY for that clarification.

Mr. DODD. Mr. President, I support a bipartisan, bicameral reauthorization of the Individual with Disabilities Education Act, IDEA. I want to start by thanking my fellow conferees and their staff for all of their hard work in putting together the bipartisan, bicameral legislation we are considering today. While we may still have some disagreements about the substance of the bill, getting to this point in a bipartisan way is no small achievement, and I know we are all better for it.

Nothing pleases me more than to move forward with a reauthorization that the education, the disability, and the parent and student community have been eagerly waiting for: a bill that will ensure that students with disabilities get the services they are entitled to while providing school systems with a greater degree of flexibility in implementing the law.

The Individuals with Disabilities Education Improvement Act of 2004 emphasizes accountability and improved results, improves monitoring and enforcement of the law, and works to reduce litigation by providing new opportunities for parents and schools to address concerns and disputes.

The bill reduces paperwork by streamlining State and local paperwork requirements, provides earlier access to services and supports for infants, toddlers and preschoolers with disabilities, and properly puts added emphasis on transition services so that special education students leave the system ready to be full productive citizens, whether they choose to go on to college or a job. Like No Child Left Behind, this bill also increases and improves opportunities for parental involvement and supports special education teachers in becoming "highly qualified" to do their jobs.

I am particularly pleased that the IDEA conference agreement contains provisions that I, along with Senators COCHRAN, HARKIN and BUNNING, originally introduced as the Instructional Materials Accessibility Act, IMAA.

These important provisions will greatly aid blind and print-disabled students by ensuring that they receive their textbooks and other instructional materials in the formats that they require, such as Braille, at the same time as their sighted peers.

Far too often, blind, visually-impaired and print-disabled students wait months for their State or local school districts to convert their textbooks into Braille or another alternative format. At the same time, school districts face exorbitant costs for these conversions. The Instructional Materials Accessibility Act provisions included in this reauthorization will mandate the adoption of one uniform electronic file format that will greatly ease the process of converting learning materials into alternative formats, such as Braille.

Secondly, the IMAA provisions will create a repository for these formats so that they can be disseminated to local school districts quickly and cost effectively.

We often hear today the pledge that we will leave no child behind. May I suggest that we also make every effort to ensure that we leave no blind child behind. The adoption of these important provisions will go a long way toward ensuring that blind, visually-impaired and print-disabled students are not left behind in the classroom.

And while I am disappointed that the bill does not contain a provision to provide mandatory full-funding of IDEA, I believe that the monetary targets that have been provided, are at least pointing us in the right direction. Still, I think it is important to remind everyone, yet again, that thirty years ago when we passed IDEA, we made a commitment to, over time, cover 40 percent of the State cost of servicing students with special needs.

We have yet to make good on this commitment. Today the Federal Government supports less than 20 percent of the cost of the program. That is not even half of the 40 percent we promised 29 years ago. States and municipalities are bearing more than their share of responsibility for meeting disabled students' needs. States and municipalities need our help. As I have said before, I cannot accept the argument that because our economy is faltering, or we are a Nation at war, we cannot provide our children and their families with the critical educational resources they need. Investment in education is no less important in a weak economy or while our Nation is at war.

Almost 30 years ago, Congress passed the Individuals with Disabilities Education Act to help States provide all children with disabilities with a free, appropriate public education in the least restrictive environment possible. Since that time, this law has made an incredible difference in the lives of millions of American children and their families.

Fundamentally, this is a good bill—one that will help guarantee the full

potential of all our children while assisting school districts in their efforts to deliver special education services in an efficient manner. That is why I will support it.

Mr. JEFFORDS. Mr. President, as the 108th Congress comes to a close, the House and the Senate are considering a significant legislative initiative, the Individuals with Disabilities Education, UDEA, Improvement Act. The purpose of the IDEA Improvement Act is to reauthorize the law that was enacted 29 years ago, the Education for All Handicapped Children Act. That law, now known as IDEA, was based upon a series of court decisions in the early 1970s that found that children with disabilities were no different than other children and were, and still are, entitled to a free and appropriate education.

I was one of the original authors of the 1975 law. A key provision of that law was the inclusion of language that committed the federal government to pay 40 percent of the national average per pupil expenditure for each disabled child's education. Unfortunately, this is a commitment that has yet to be met. This year, my own state of Vermont had to spend \$22 million in state funds to make up the shortfall from the Federal Government.

I do not believe the bill before us, the IDEA Improvement Act of 2004, will provide the Federal funding to sufficiently accommodate all children with disabilities. As we approach the 30th anniversary of the original IDEA law, it is unconscionable that we, the Congress, will have once again failed to fulfill our commitment to pay the 40 percent share we promised almost three decades ago. In fact, as of today, we are not even halfway there.

I voted against the Senate version of this bill earlier this year, primarily because of the funding issue, and I am opposed to the passage of the House-Senate IDEA Improvement Act conference report.

In addition to the funding problem, I have serious concerns about two other provisions. The IDEA Improvement Act aligns itself with the No Child Left Behind standard for teacher quality. Unfortunately, the definition here is as flawed as it is in the NCLB Act. I had hoped the bill would recognize the balance between providing children with quality instruction and the difficulties in recruiting and retaining quality teachers. In Vermont today, more than one-fifth of special educator positions are not filled by qualified personnel. I believe that this bill will make that statistic worse, not better.

Another issue that is troubling to me is the diversion of IDEA funds to other education programs. This bill allows school districts to reduce local spending equal to 50 percent of all new federal IDEA funds, from fiscal year 2005 forward, and use them for other educational purposes. This flexibility is available if school districts are in compliance with IDEA. This means that in

a few years, the vast majority of school districts in the country will be able to shift billions of dollars that had been spent on special education to other areas. I have been fighting for years to increase the amount of money available for special education, and this provision risks derailing the progress that we have made. I am gravely concerned about this provision and its impact. School districts that are underfunded by No Child Left Behind will be tempted to fix that problem by cutting corners in IDEA and using that money for other programs. This sets a terrible example for future education legislation.

Although I oppose the final passage of this bill, several provisions improve upon current law. Most importantly, the bill maintains the constitutionally guaranteed rights of children with disabilities.

The bill greatly improves the monitoring and enforcement procedures for compliance with the law. Previously, states not in compliance were not necessarily sanctioned. In fact, in many situations, the only mechanism for enforcing the law was moving forward with a lawsuit. This new legislation calls for increased federal oversight and provides more enforcement tools at the state level.

Although I am opposing the passage of the IDEA Improvement Act, I would like to especially thank Senator KENNEDY and his staff for their efforts during this process, especially Connie Garner, whose hard work is greatly appreciated.

It is my hope that we will not wait until the next authorization to continue to work together to improve the IDEA program and the funding that is so desperately needed for all children with disabilities. Next year will mark 30 years of federal underfunding. When will we recognize that our children have waited long enough?

Mr. ENZI. Mr. President, I thank Chairman GREGG and Senator KENNEDY, Chairman BOEHNER and Representative MILLER for their leadership on this important issue. I also thank my colleagues and fellow conferees from both the House and Senate for their hard work on an issue that is vital to our children's education and their future, as well as ours.

When Congress passed the Individuals with Disabilities Education Act into law 30 years ago, it represented the strength of the Federal commitment to ensuring that all students would receive the support they need to reach their full potential. Congress made its position clear: all disabled students would be guaranteed a free and appropriate public education.

This legislation advances that concept that has been preserved in spirit and refined to make it more effective over time. It does so while staying true to the original intent of Congress. I am pleased to be able to support this legislation, and I would like to speak briefly on a few issues that are of great concern to me and the people of Wyoming that I represent.

As a rural State, Wyoming has many small schools where teachers are responsible for multiple subjects. Our special education teachers are in this position more often than other teachers in our State, simply because we do not have a lot of students and our special education classrooms are often very small and include several grade levels. My home county, Campbell County, currently has around 7,000 students. That is an entire county. I am aware that some States have more students enrolled in a single high school than we have in that entire county, which at 5,000 square miles, is bigger than the State of Delaware.

This legislation makes an important clarification to the Highly Qualified Teacher standard established by the No Child Left Behind Act. It defines highly qualified in a way that is consistent with No Child Left Behind, but it also provides flexibility for States, like Wyoming, that have a large number of special education teachers responsible for more than one subject. This change will ensure that disabled children will be taught by a highly qualified teacher and it also recognizes the reality of rural States and the challenges we have in recruiting and retaining teachers.

This bill also provides flexibility for States and school districts who are responsible for the largest portion of special education funding. An important change is the flexibility for States to use the same flexibility provided to districts if they provide 100 percent of the State's non-Federal education spending. Many of our districts in Wyoming and the State as a whole will benefit from this flexibility. They will be better able to support education programs serving our students' best interests, rather than having their hands tied by Federal law.

I am also pleased that we were able to reach consensus on the need to improve the due process and discipline sections under the current IDEA legislation. The amount of unnecessary litigation surrounding the provision of services for students with disabilities has become a burden for many districts, and it has been a problem that disproportionately affects small, rural districts. By adding mediation and other forms of alternative dispute resolution, we have given parents and schools the tools they need to resolve complaints outside of the courtroom. These changes represent a common sense approach to what has become a serious problem. I believe the revised due process and discipline sections address concerns we've heard from parents of students with disabilities and teachers, principals and administrators. They encourage parents and school leaders to work cooperatively to meet the needs of disabled children, which is in everyone's best interest.

I am pleased that we have been able to finish work on this important legislation before the close of the 108th Congress so these important improvements can be enacted.

Mrs. MURRAY. Mr. President, I will applaud passage of the Individuals with Disabilities Education Act. IDEA is based on the American principle of equal opportunity. IDEA recognizes that students have a civil right to a free, appropriate public education, even if they have special needs that require additional resources.

We still have a long way to go to meet the Federal Government's promise to fund 40 percent of special education, and we are working on that challenge. However, this bill that meets my highest priority—protecting the right of children with disabilities to a free, appropriate public education. In addition, this bill takes critical steps towards improving monitoring, enforcement, and public reporting. Our laws are only meaningful if we are willing to enforce them, and the provisions in this bill will help us do just that. I am pleased that this bill contains provisions that I fought for to provide the additional funding that school districts—especially small, rural districts or districts with major medical facilities—really need to provide FAPE for children whose disabilities result in extremely high costs. The bill also contains important improvements to early intervention services for infants and toddlers with disabilities.

I am particularly pleased that we were able to improve services for homeless and foster children with disabilities and children with disabilities in military families in this bill. I would like to thank my colleague, Senator DEWINE, and his staff, Mary Beth Luna, for working with me on these important provisions. These provisions are a major victory for America's most vulnerable disabled students. The bill ensures that a high quality education will follow them whenever they have to move to another school. The bill improves special education services and coordination of services for children with disabilities who transfer school districts; clarifies which appropriate adults can advocate for children with regard to their special education services, including when the parents cannot be located or are uninvolved with the child; improves coordination between McKinney-Vento and IDEA and overall representation of homeless and foster children in IDEA, and strengthens and expands early intervention services for infants and toddlers with disabilities who are homeless, in foster care, or in military families.

While I do believe that this bill takes critical steps to improve special education in this country, I am disappointed that the Federal Government continues to fail to meet the funding promises under IDEA. Nearly 30 years ago, the Federal Government made a commitment of equal opportunity to the Nation's children with disabilities. With that commitment, we promised that the Federal Government would uphold its end of the bargain and pay 40 percent of the average per student cost for every special education

student. Today, however, the Federal Government is paying about half of that cost.

Over the past few years, IDEA has received significant increases. However, according to the Congressional Research Service, at increases of \$1 billion each year, the Federal Government will never fulfill the promise of funding at 40 percent. Further, even if annual increases were \$1 billion plus inflation, we will not reach the promised level of 40 percent until 2035—more than 30 years from now.

Local schools are already struggling with the requirements of the No Child Left Behind Act, the lack of promised federal funding, and the dismal fiscal picture facing our state and local governments. I know we can do better for America's disabled students. Let's not make them wait another 30 years to fully-fund this law. I look forward to working with my colleagues to ensure that the Federal Government fulfills the promises of IDEA next year.

I want to thank Senator KENNEDY, Chairman GREGG, Chairman BOEHNER, and Congressman MILLER for their leadership on this bill. I also want to thank their staffs, Connie Garner, Denzel McGuire, Bill Lucia, Sally Lovejoy, David Cleary, Melanie Looney, Alex Nock, and Alice Cain for all of their hard work on this bill. The time and effort that they and their staff have put into this bill really show in the quality of the final product, which I am pleased to support.

Ms. MIKULSKI. Mr. President, I am pleased that we are finally reauthorizing this important legislation, the Individuals with Disabilities Education Act. I thank Senator KENNEDY, Senator GREGG, Congressman BOEHNER, and Congressman MILLER. I know how hard you worked on this bill. You tackled complicated issues and found common ground. I appreciate your efforts.

Overall, I think this is a good bill. It's not perfect. I know there are Marylanders who will be disappointed. I've heard from parents who are concerned that this bill rolls back the guarantee of a quality education for their children. And I've heard from teachers, principals, and school superintendents who want to know where the resources will come from, because this bill doesn't fully fund IDEA. But I'm going to vote for it because we can't let the perfect be the enemy of the good.

This bill takes important steps towards improving special education for students, families, and schools. It sets a clear path for fully funding IDEA. It protects the rights of students. It simplifies complicated rules and makes it easier for schools and parents to navigate—not litigate. And it allows schools to help students who need special attention, but not necessarily special education.

I've talked to Marylanders about this, like the women of Delta Sigma Theta Sorority. They see their children being racially sidelined—pushed into special education when what they real-

ly need is special attention. I'm so pleased that we are doing something in this bill to stop racial sidelining.

My top priority in this reauthorization was full funding. I think it's a shame that the bill doesn't fully fund IDEA. But I'm pleased it takes the first step towards full funding by authorizing specific funding levels for each year, until we get to full funding in 2008.

Why is this important? The Federal Government is supposed to pay 40 percent of the cost of educating children with disabilities, yet it has never paid more than 18 percent. That means local districts must make up the difference by skimping on special ed, cutting from other education programs, or raising taxes. I don't want to force States and local school districts to forage for funds, cut back on teacher training, or delay school repairs because the Federal Government has failed to live up to its commitment to special education. As a member of the Appropriations Committee I will fight to put this money in the Federal checkbook so special education is not a hollow promise.

Parents today are under a lot of stress, sometimes working two jobs just to make ends meet. They're trying to find day care for their kids and elder care for their own parents. The Federal Government shouldn't add to their worries by not living up to its obligations. With the Federal Government not paying its share of special ed these parents have a real question in their minds: Will my child will have a good teacher? Will the classes have up-to-date textbooks? Will they be learning what they need to know?

Parents of disabled children face such a tough burden already. Caring for a disabled child can be exhausting. School should not be one of the many things they worry about, particularly when the laws are already on the books to guarantee their child a public school education.

Special education has made such a huge difference in the lives of students with disabilities. It gives disabled children a chance to succeed in school and in life. I want to do what's best for families and schools. Parents and students need to be able to count on a quality education. That's why I'm voting for this legislation. But know that I will continue to fight for full funding of IDEA, because I don't want special education to be a hollow promise.

Mr. BINGAMAN. Mr. President, I am so pleased to be here today to talk about the Individuals with Disabilities Education Improvement Act of 2004. This legislation represents a significant step forward in advancing the academic achievement of millions of children with disabilities. The purpose of this bill is to improve the educational and functional outcomes for students with disabilities.

I believe this legislation accomplishes this goal by: aligning IDEA to the requirements of No Child Left Be-

hind; protecting the civil rights of children with disabilities; providing new opportunities for schools and parents to resolve disputes equitably; simplifying the discipline provisions and makes it easier for schools to administer the law; reducing unnecessary paperwork burdens; providing quality services and instruction for children from early childhood through graduation; providing resources to support teachers, principals, and other school personnel; providing local school districts with significant flexibility in the use of Federal IDEA dollars; and holding States and local school districts accountable for implementation of the law.

This legislation represents a truly bipartisan effort. This process did not happen overnight, however. The Senate began working on this bill in the fall of 2002, and after years of work and negotiation, passed it earlier this spring by an overwhelming vote of 95 to 3. The House passed its own version of the bill in 2003, but it passed largely along partisan lines. The House-passed bill and the Senate version were very different bills. But in the end, I am pleased to say, both parties in both Houses of Congress worked diligently, and in good faith, to pass the best bill possible. Earlier this week, Senate and House Conferees approved the legislation by a decided vote of 29 to 1. I would like to thank the Chairman and the Ranking Member of the HELP Committee for their commitment to passing this legislation. Their staffs, Denzel McGuire and Connie Garner, have worked tirelessly on behalf of our Nation's students with disabilities, and deserve recognition.

IDEA is sometimes seen as a controversial piece of legislation. It is a unique blend of civil rights law and state grant program, and as a result, often pits the constitutional rights of children with disabilities to a free appropriate public education against the flexibility teachers need to teach. While this bill is certainly not perfect, I believe it strikes a good, fair balance.

Earlier this year, this country celebrated 50 years of public school desegregation. In the landmark decision of *Brown v. Board of Education*, Chief Justice Warren wrote that "in the field of public education, the doctrine of 'separate but equal' has no place." This decision literally opened the doors of our public schools to all children, regardless of race.

But, the doors to a public education did not open quite so quickly for children with disabilities. Prior to enactment of IDEA in 1975, children with disabilities were still being segregated. More than one million students were excluded from public schools, and another 3.5 million did not receive appropriate services. Many States had laws excluding certain students, including those who were blind, deaf, or labeled "emotionally disturbed" or "mentally retarded." The likelihood of exclusion was significantly greater for children

with disabilities living in low-income, ethnic and racial minority, or rural communities.

Parents, however, began asserting their children's rights to attend public schools, using the same equal protection arguments used on behalf of the African American children in *Brown*; the 14th Amendment of the U.S. Constitution guarantees their children equal protection under the law. Recognizing the Constitution's guarantee of equal protection under the law, Congress enacted the law now known as IDEA, creating the statutory right to a free appropriate public education in the least restrictive environment.

We have come a long way since that law was first enacted. In 2001, we passed the No Child Left Behind Act. In that legislation, we recognized that every child has the capacity to learn, and we required our States to improve the academic achievement of all children. For the first time, we held schools accountable for the academic achievement of students with disabilities.

By all accounts, this challenge is great. States and schools try their best with both inadequate resources and inadequate technical assistance from the Department of Education. But, we cannot allow "a pass" for these children. We cannot turn our back on the six million children with disabilities and their families. It is our obligation to ensure that students with disabilities count too.

This legislation ensures that local school districts measure the performance of students with disabilities on State or district-wide assessments, including alternate assessments aligned to the State's academic content standards or alternative standards. The legislation also ensures that students with disabilities are taught by highly qualified teachers, and sets forth rigorous yet flexible criteria for States to meet. The legislation requires special education teachers to be certified in special education, have at least a bachelor degree, and demonstrate appropriate subject knowledge. The bill, however, gives states significant flexibility in determining how a teacher meets those standards.

It is essential that children with disabilities have access to, and succeed in, the general education curriculum. The due process and procedural safeguard provisions are the most important means of protecting the constitutional rights of children with disabilities to a free appropriate public education. This legislation maintains these vital civil rights protections.

Yet, we also recognize that IDEA is sometimes seen as too litigious and confrontational. Accordingly, we have created new opportunities for parents and schools to address concerns before the need for a due process hearing, and encourage parents and schools to resolve differences by clarifying that mediation is available at any time.

Further, this bill addresses the problems associated with discipline, which

is often viewed as complex and difficult to administer. The bill simplifies the framework for schools to administer the law, while ensuring the rights and the safety of all children. It requires schools to determine if a child's behavior was the result of his or her disability or poor implementation of their Individualized Education Program, IEP, when considering a disciplinary action. It requires that schools conduct functional behavioral assessments and give behavioral interventions to students who are disciplined beyond 10 days, in order to prevent future behavior problems. And, the bill provides resources to help develop and enhance behavioral supports in schools while improving the quality of interim alternative education settings.

We also recognize that too many teachers get bogged down in burdensome paperwork chores. According to the Department of Education, 53 percent of special education teachers reported that paperwork and other routine duties interfered with their job of teaching students to a great extent. Clearly, the amount of paperwork involved in a special education teacher's job is a problem. I am pleased that this bill takes significant steps to reduce the paperwork burden.

For example, under this legislation: teachers will have increased access to technology; teachers and other staff will conduct fewer evaluations; IEPs and IEP meetings will be simplified; procedural safeguards notices will not be provided multiple times in a year, unless there are special circumstances; the Department of Education will create model forms to show States and districts how to meet the requirements of IDEA while reducing paperwork; and up to 15 States will be allowed to participate in a "Paperwork Reduction Demonstration." This demo would allow states to waive burdensome statutory and regulatory requirements that interfere with a teacher's ability to teach, while at the same time ensuring that a State does not impinge upon the constitutional rights of children with disabilities to a free appropriate public education.

The bill also expands services to students with disabilities in many ways. The legislation ensures educational services for homeless and foster students with disabilities, as well as for other students who frequently transfer from one school to another. The bill improves access to instructional materials for students who are blind or for students with other visual disabilities. It also provides extensive early intervention services for children ages zero through 5, increasing the focus on school readiness activities. The bill improves the IEP process, making it easier for parents and teachers to more meaningfully develop a student's education plan. And, the bill significantly improves transition services to ensure that students with disabilities are prepared for postsecondary education or employment.

This legislation recognizes that approximately 1/3 of the students with disabilities in this country spend a majority of the school day in general education classrooms, and accordingly provides local school districts with significant flexibility in the use of its Federal IDEA dollars. For example, a local school district may use up to 15 percent of its IDEA funds to develop an educational support system to help students who have not been identified as needing special education, but who require additional academic and behavioral supports to succeed in the general education curriculum. Or, a school district may reduce its maintenance of effort by up to 50 percent of its increases in Federal funds to support other educational activities.

One of the most critical features of this bill is the level of support provided to teachers, principals, and other school personnel. We all know the difference a well-prepared, highly qualified teacher can make in the life of a student. This legislation provides personnel development grants to States to help recruit, prepare, and retain highly qualified special educators. It also provides grants to institutions of higher education to focus exclusively on training for beginning special educators through extended clinical experience or teacher-faculty partnerships.

Finally, and perhaps most importantly, this legislation holds States and school districts accountable for the academic and functional achievement of students with disabilities. It provides the Secretary of Education and the States with the authority and the tools to implement, monitor, and enforce the law.

We recognize the potential burden these provisions might place on State departments of education, and accordingly have increased the amount of funds States may reserve for statewide activities to carry out these provisions. In addition, we have authorized the Secretary to set-aside a portion of its funds to provide technical assistance to States to help implement these provisions.

In order to ensure the constitutional right to a free appropriate public education for children with disabilities, the Department of Education must have the tools necessary to enforce compliance with IDEA. The Department of Education has found widespread noncompliance with the law and regulations, with more than half of the violations directly related to the provision of student services.

In 2003, New Mexico served nearly 64,000 students under IDEA. I strongly believe these provisions are absolutely necessary to ensuring that these students receive the special education and related services they are entitled to.

This legislation takes a significant step forward in providing the millions of students with disabilities the accountability, tools, and resources necessary to access, and succeed in, the general education curriculum. While I

am certainly disappointed that we have not provided full funding, and we have not addressed all of the issues to the complete satisfaction of parents, teachers, and schools, I am confident that this bill will help students with disabilities achieve to their highest potential.

Mr. CORZINE. Mr. President, I am pleased that Congress is in the final stage of reauthorization of the Individuals with Disabilities Education Act, IDEA. While I am glad that the bill emerged in a bipartisan way, I am still frustrated that Congress has yet again failed to fulfill its promise to fully fund IDEA. With IDEA still drastically underfunded, schools are left without the necessary resources to provide the best services to children with disabilities, and our communities are burdened with an unfulfilled federal promise.

In my home State of New Jersey, school budgets are capped by law at 3 percent annual growth. Therefore, districts often have to cut other programs to accommodate mandated and rising special-education costs. Or—local property taxpayers, who already are overburdened—have to pay increased taxes to cover expenses that the Federal Government should be sharing.

I have received many letters, phone calls, and emails from concerned constituents urging Congress to fulfill the promise of full funding for the services mandated under IDEA. I have supported efforts to require full funding of IDEA and intend to continue the fight so that every child receives the free and appropriate public education the law guarantees and we can ease the burden on our local communities.

In addition, I would like to highlight one specific issue related to IDEA that has not only affected the children of New Jersey, but children across this nation. That is the staggering increase in the number of children diagnosed with autism spectrum disorder, ASD. Recent epidemiology studies have shown that autism spectrum disorders are ten times more prevalent than they were just 10 years ago, making ASD the second most common developmental disability. While there is currently much debate and still no conclusive evidence as to the cause of this alarming trend, it is clear that this trend will continue. Equally clear is the critical need for Congress to address the issue of early intervention and effective treatment for children diagnosed with ASD.

Scientific evidence has proven that early intervention is a key to success when treating ASD. Over the last 20 years, experts have developed effective strategies for the correction of autism disorder, and research shows that with the early application of an effective therapy, substantial gains can be accomplished toward the remediation of autistic disorder in many children. With autism diagnoses escalating, expanding access to treatment, especially at an early age, is vital to improving

the outcomes for children affected by ASD. That is why I introduced the Teacher Education for Autistic Children Act or TEACH Act. I worked closely with New Jersey Center for Outreach and Community Services for the Autism Community, NJCOSAC, Autism Coalition for Research and Education, and Parents of Autistic Children to create this legislation that addresses the needs of autistic children by bringing more qualified teachers into the classroom, helping families receive the support and services they need for their children, and ensuring quality vocational programs to assist people with autism transition from school to work.

I am happy to report that some critical provisions of the TEACH Act have been included in the IDEA conference report currently being considered by the Senate. These provisions will make Federal funds available to develop and improve programs for children with autism, using research grounded in science. The grants will help ensure quality professional development for special education teachers by providing in-service training to schools and personnel who teach children with ASD. With the demand for services grossly outpacing the supply of qualified teachers and therapists, these provisions are critical to increasing the number of special education teachers trained to teach children diagnosed with ASD and help them reach their full potential.

I would like to extend my heartfelt thanks to the entire HELP Committee for their tireless efforts in working with me to get this essential language included in the bill. In particular, I would like to single out Connie Garner for her dedication and diligent work on behalf of children with special needs. I look forward to continuing to work on this important issue with my colleagues in Congress and with the autism community to ensure that all children with ASD have access to quality teachers trained in providing cutting-edge treatments.

The conference report was agreed to. Mr. SESSIONS. Mr. President, I will note that is a significant piece of legislation that just passed. I serve on that committee. We spent several years working on it. We have improved some of the discipline problems. We have reduced some of the paperwork. I believe maybe there is more we can still do, but that is a big deal for hundreds of thousands of teachers and students all over our country.

MAKING CERTAIN CORRECTIONS TO THE ENROLLMENT OF H.R. 1350

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 524, which was received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 524) directing the Clerk of the House of Representatives to make certain corrections to the enrollment of H.R. 1350.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 524) was agreed to.

EXPRESSING THE SENSE OF THE SENATE IN SUPPORT OF A REINVIGORATED UNITED STATES VISION OF FREEDOM, PEACE, AND DEMOCRACY IN THE MIDDLE EAST

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 477, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 477) expressing the sense of the Senate in support of a reinvigorated United States vision of freedom, peace, and democracy in the Middle East.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the matter be printed in the RECORD.

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

The resolution (S. Res. 477) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 477

Whereas the President articulated to the world on November 12, 2004, a vision of freedom, peace, and democracy for the broader Middle East;

Whereas this vision was also shared and expressed by Prime Minister Blair of the United Kingdom;

Whereas that vision includes a just and peaceful resolution of the Arab-Israeli conflict based on 2 democratic States, Israel and Palestine, living side by side in peace and security;

Whereas the President again stated his commitment to the security of Israel as a Jewish State;

Whereas the road map, endorsed by the United States, the United Kingdom, Israel, the Palestinian Authority, the European Union, Russia, and the United Nations, remains a realistic and widely recognized plan for making progress toward peace;

Whereas the international community should support Palestinian efforts to build the necessary political, economic, and security infrastructure essential to establishing a viable, democratic state;