

or thereabouts, and that company at one time produced a material that had asbestos in it. Even though this is a multibillion-dollar company, that small purchase they made is causing them a lot of grief. So I know the problems from the business perspective. There are lots of problems. I understand that. I understand that my friend, Ken Bowa, had the interests of his client at heart, as do the other businesspeople, and their representatives come to see us.

One of the issues we always have to understand with asbestos is that in addition to the companies having problems, people are killed as a result of messing around with asbestos, working with it, working around it. Women who washed their husbands' clothes now have very serious illnesses, such as asbestosis, mesothelioma. With mesothelioma, it is not a question of dying; it is only a question of how soon. The average life expectancy is 14 months.

There is no question that as a result of some of the books written in the past year on Libby, MT, "Fatal Deception," where companies knew the danger of this product and they covered it up, they hid it, as a result of that, people will get sick and will die.

This is an issue about which we must be very cautious before we do something. The main thing we need to do is make sure there is enough money to take care of the people who are tragically ill as a result of this substance.

My friend from Alabama, the distinguished junior Senator from Alabama, said: Why don't we take care of this bill; there has been a lot of work that has gone into it, speaking about the bill on which we are going to vote regarding cloture tomorrow.

We reported out a bill—the way it should be done around here—we reported a bill out of committee on a bipartisan vote. That bill had a price tag of \$154 billion. The bill we are being asked to deal with tomorrow has a price tag of \$109 billion. That is a huge difference. We were not allowed to work on the committee-reported bill. We are now being asked to vote on this aberration of that bill.

This is not about greedy lawyers. It is about sick people. It is about companies that are in dire straits as a result of asbestos.

In spite of all this, we have not taken appropriate action to ban the importation of this toxic, poisonous, horrible substance, asbestos. I have joined with Patty Murray to deal with the importation of this substance into our country, as other countries have done. We have not done that. This will need a lot of work.

#### NEGATIVE IMPACT OF NO CHILD LEFT BEHIND ACT

Mr. REID. Mr. President, the reason I came to the floor is, first, to express my appreciation to the former chairman, now the ranking member, of the Education Committee, the senior Sen-

ator from Massachusetts, for constantly reminding us of the importance of education, enabling America's families to improve the quality of their life.

I want to talk about the negative impact of the No Child Left Behind Act.

Congress is not expected to pass much legislation this year, even though there is much more that should be done. Of the dozens of issues we have yet to consider, addressing the consequences of the No Child Left Behind Act is paramount.

When the No Child Left Behind Act was passed, there were many who lauded President Bush's commitment to education. After all, who among us would allow any child to slip through the cracks of our educational system if it could be prevented? None of us would do that. At the time, many thought this was sweeping legislation and that sweeping legislation would fill those gaps.

Sadly, this has not been the case. The No Child Left Behind Act has done more harm than good in more States than not. In the State of Nevada, we are suffering under the burden of unfunded mandates this law imposed. In fact, a leading headline in the Reno newspaper, the second largest newspaper in the State of Nevada, reads:

Educators Give No Child Left Behind Act a Failing Grade.

The man who stated that is the superintendent of public instruction of Washington County, the second largest school district in the State of Nevada. He said it is not working. It took a lot of courage for this man to do this. He comes from a county that is a Republican county by registration, but it is a county that is very fair and very independent. I am sure they recognize that Jim Hager, the fine man that he is, the long-time superintendent he has been, would not say anything unless he truly believed it was true:

Educators Give No Child Left Behind Act a Failing Grade.

When I talk about Jim Hager, I am talking about the Washington County School District superintendent, but he is also president of the Nevada Association of School Superintendents. We have 17 counties in Nevada, 17 school superintendents, and he is speaking for them. He is speaking for the Nevada Association of School Superintendents.

Let me give a snapshot of the education landscape in Nevada. We have 17 counties, as I have mentioned, in the State of Nevada. Clark County, of course, is the county Las Vegas is in. Well over 70 percent of the people of the State of Nevada live in Clark County. It is a big county. The State of Nevada has approximately 400,000 students. About 280,000 students are from Clark County. It is the fifth or sixth largest school district in America.

I also want to say here, for future understanding of my remarks, in the Clark County School District, about 30 percent of the children in that school district are Hispanic. The vast majority of those Hispanic students come

from Mexico. Many of those children, even though they are as smart as any other kids in America, have language problems because some of their parents do not speak English.

Clark County, which has this huge school district, needs \$1 million annually for recruitment efforts. They have to hire 2,000 new teachers a year.

We have a real problem graduating minority students. We are 49th in the Nation. We graduate overall about 63 percent of all students. That is not good. We recognize that. But you will not meet a single parent, teacher, principal, superintendent, or school administrator of any kind who is not concerned about preserving and improving the quality of education for the kids in Nevada. In fact, there is no one within the sound of my voice who is not committed to giving every child an opportunity to graduate and go on to higher education, whether that higher education is college or some kind of trade school.

Whatever it takes for us to get there, we are going to do that. In fact, Nevada did create its own accountability system that will work in our States. It addresses the needs of our children in our own way. The No Child Left Behind Act was passed and now we are living in its wake. It reminds me of when I went to Hawaii for the first time. There was this beautiful beach on the island of Maui. We were eating in a restaurant and it was such a beautiful view. We had a conversation with the waitress and she told us when she was a little girl the beach that we could see opened up and went out for a football field, way out into the ocean. The kids ran out there. There was a school nearby where the restaurant is now. They ran out there. What they did not realize is that was a tsunami and it pulled the water out and you could not see the waves coming in. It washed over everybody and killed a lot of kids and a lot of people were hurt.

That is what has happened with the No Child Left Behind Act. One cannot see on the surface what has happened, but the undertow, the tsunami, has wiped out a lot of children. It is ironic that this sweeping education reform legislation authored by President Bush is receiving a failing grade from every school system it was intended to help. There is no question about it, as I indicated before, that it is hurting kids in Nevada. It is so bad in Utah, they have withdrawn from the program. The State of Utah—I am sure it is the first of a number of States to do that—said: We want no part of it. We want to educate our kids the way we think we should, and not have these burdens that I will talk about in just a minute.

So more than 2 years after this legislation was passed, parents are still struggling to understand the basics of the law, especially when they learn about terms such as "annual yearly progress" and "failing school." As a parent, people want the best for their children. It is disturbing to be told

that the school their child attends is now considered failing.

As a result of this legislation, as my colleagues can see on this second chart I have, we have come up with some terms but hardly anyone understands them. In this glossary of terms, AYP—we will see that a lot—adequate yearly progress is a minimum level of improvement that school districts and schools must achieve each year as determined under the Federal No Child Left Behind Act.

Individualized educational plans are specific goals set by an educational team for a special education student and includes any special supports that are needed to help achieve these goals.

We can run through this whole list of definitions: Safe harbor, a provision intended for schools and districts that are making progress, at least 10 percent, in student achievement but are not yet making adequate yearly progress targets goals. It is designed to prevent the over identification of schools not making adequate yearly progress.

The definitions are unbelievably difficult. The people back in Washington do not understand them. The people in Nevada certainly do not understand them, nor do people around the rest of the country.

I have tried to help improve this legislation by introducing and supporting measures that will help, not hurt, our most vulnerable educational communities. I will give an example. Every day in Nevada, rural communities are confronted by a shortage of resources. We have 17 counties in Nevada. We have one county, Esmeralda County, that does not have 1,000 people living in it, and it is a pretty good size county. We have some schools that are very sparsely populated. We only have two counties that are heavily populated. Clark, I have talked about, that 70 percent of the people live there, and 20 percent in the metropolitan area of Washoe County. That leaves 10 percent of the people around the rest of the State.

It may surprise some people to know that there are still small towns in rural America where the citizens wait for a doctor to make rounds or a mail truck to drop off mail. These families have elected to stay in their communities despite all the obstacles, and they deserve an opportunity to enjoy a good quality of life.

We have rural schools in Clark County. My home is in Searchlight, NV. I am very fortunate the school there is named after me. It is not a very big school. There are about 50 kids in it, grades 1-6, but in Clark County we have schools that are rural schools. In Nevada, we still have one-room schools. So we are concerned about what is happening in rural America.

I have not traveled to Minnesota very much. After they immigrated to this country, my in-laws settled in Minnesota, and I know that a lot of very small communities are in Min-

nesota. People think of Minnesota as Minneapolis and St. Paul, but I am confident there are a lot of rural communities, just like in Nevada. That is why I introduced legislation entitled "Assisting America's Rural Schools Act" that addressed the concerns of rural school systems trying to comply with the teacher quality standards set by No Child Left Behind.

When I went to school in Searchlight, we had one teacher who taught all eight grades. There is a small town in Nevada called Austin in Lander County. It is a community much like the one I was raised in. Austin boasts a total of 63 students in grades K-12. For grades 6-12, there are only three teachers for all subjects. These teachers are considered highly qualified in science, English, math, and physical education. In order for Austin to acquire a teacher who is highly qualified in the subject of history, the local education agency must either find and recruit another teacher or send one of its three current teachers back to school to get accredited in history via distance learning.

Unfortunately, Lander County does not have the money to do any of this. The issue is not whether teachers in rural areas should be qualified to teach multiple subjects. They should. However, requiring them to obtain highly qualified status in all subjects simultaneously is unreasonable.

So my legislation gave rural school systems some flexibility in meeting the definition of a highly qualified teacher without diminishing high accountability standards for teachers. Rural school districts would be able to give a one-year exemption to any teacher who is already qualified in at least one core academic subject. A highly qualified teacher who is working toward that certification in another subject can still teach both subjects. The Department of Education adopted the principle of this bill last month.

The Secretary of Education came to Reno and made that announcement. Teachers in eligible rural school districts who are highly qualified in at least one subject will now have 3 years to become highly qualified. I am certain rural school districts and teachers are relieved the administration recognized the burden No Child Left Behind had placed and they recognized that my legislation was important.

That was just one of the many glitches in this mammoth bill. How many more will we face in years to come? Superintendent Jim Hager—I have talked about him—is responsible for 60,000 students in Washoe County. He gave an honest assessment of what is going on with the Leave No Child Behind Act throughout the State, and probably every other State. One of his chief frustrations is that all students who come into the Nevada school system are facing formidable challenges—learning disabilities, language barriers, or influences beyond their control attributed to their living conditions.

These challenges are significant and oftentimes the school system is intended to be the primary system to fix, help, or remove these obstacles. No Child Left Behind expects these school districts to turn these troubled children into top flight students within 1 year without receiving full funding from the Federal Government to do so.

If the schools do not turn these children around in a timely manner, they go on what is called a watch list, a badge that is not good, a badge these schools have to wear. This badge puts these schools on the verge of being branded failure.

Let me show a chart that depicts Clark County's failing school cells. If we look here, we will find in the Clark County school district where the problems are. If we look across, we will find that white kids are doing just very nicely. They are doing very fine. The schools that are mostly white have no problem, but if we go to a school that is Hispanic, there is a problem. Every place we see the red, which is failure, is Hispanic—one, two, three, four, five categories, and if we look at other minorities, African Americans, the same thing. I think this is a glaring example of why this legislation is bad.

It would be nice if you had a school which represented the percentage of people within the community, but that is not how schools are. We find in Nevada, as every place else, schools that are heavily Hispanic. You have schools that have large numbers of African-American children. In these schools, these people who are teaching have problems with language arts.

Let's say you have somebody starting school who has bad English. The way I look at this, even though my skin is white, I look at every one of these problems here as me. When I grew up, my parents were uneducated. They were not dumb; they were uneducated. My father never even graduated from the 8th grade. My mother never even graduated from high school.

I would have been part of this failing school system. If they had tried to test me out of the schools then, I couldn't have made it. It is just like a lot of these children.

These children here are not dumb. They have social problems. Maybe their parents didn't graduate from the 8th grade. Maybe their parents didn't graduate from high school. Maybe they don't have both parents at home. That doesn't mean they are dumb. Maybe what these children need, rather than a badge that they are in a failing school is extra help. That has not happened.

I believe we should hold our teachers and students accountable. But if we expect them to achieve miracles without providing the resources they need, we are setting them up for failure. That is what this bill has done. It is not helping children learn and it is not helping teachers teach.

Testing a child to make him learn is like weighing a steer to make him gain weight. By weighing a steer, he doesn't

gain weight. You have to feed him. That is how you get a steer to gain weight. Testing a child to make him learn is the same thing. You can't test a child into being proficient in English or Spanish.

The No Child Left Behind Act is having a ripple effect throughout the State of Nevada and throughout the country. That is why I am going to sit down with every county superintendent in the State next month and ask them what needs to be fixed. I think I know, but I want to hear them. I want them to have the opportunity to speak to me. We need relief in Nevada, and if we have to do it bit by bit we will. But this law as it stands puts our educational system in peril.

Nevada is not the only State that has problems. I was pleased the Department of Education adopted the principle of this bill last month, as I said. But if we look at the failing school system—look at another chart I have. Look at this one. This really, as far as I am concerned, is showing that it is pathetically horrible.

You can have a school that meets every criterion that is important under the No Child Left Behind Act—except one. Everything is just fine. But if there is limited English proficiency in that school, they are a failing school. If everything else is fine but they have limited English proficiency, they are given the red badge and now they are held up to being a failing school.

It is because they have children in the school who have come to school not being able to speak very good English. They are not dumb. They deserve an education. The No Child Left Behind Act is having a ripple effect throughout Nevada and throughout the Nation.

Nevada is not the only State having difficulties implementing this law; it is a national problem. Thousands of school districts are already trying to juggle school construction costs, increase graduation rates, find money for textbooks that they don't have. Reducing class sizes is impossible. They are figuring out what to do about overcrowded schools.

During the April recess I spoke with concerned citizens of Nevada. I went to several schools in what I call my Capitol Classroom program. I talked about overcrowded schools. There is one high school in Clark County with about 5,000 students in it. There are others almost that big: a high school with 5,000 students. More than 70 percent of our Na-

tion's high schools have 1,500 or more students.

When the President signed the No Child Left Behind Act, he signaled his support for programs that were supposed to help students learn, including smaller schools and smaller classes. In contrast to that promise, in this year's budget the President zeros out the Smaller Learning Communities Program—zero.

I had the good fortune at one time in my career to be chairman of the Democratic Policy Committee. We had one of our retreats up in Wilmington, DE. I brought in there a woman by the name of Deborah Meyer. She was from New York. Deborah Meyer was a school principal of a big school in New York, an elementary school. Her kids were doing so awful that she decided to go to the school authorities and she said: Look, this is not working. Trust me. I want to try something. I want to take this school and, instead of having one school, we are going to have four schools. We are going to have four principals, four separate faculties, four separate lunch hours—everything is going to be like a separate school.

The school administrators said: We have nothing to lose. You are doing so bad you can't do any worse than you have done.

She did that and within one quarter, in 3 months, the scores had risen in every category and Deborah Meyer has become famous because of that and she has gone other places and tried the same thing. We need to understand smaller schools help.

Senator BINGAMAN and I, along with 14 other colleagues, sent a letter to the labor subcommittee requesting funding be restored. Not enough, but \$200 million in the Smaller Learning Communities Program. We really need that.

The President has been given bad advice by the budgeteers down there. Common sense tells us students do best when they receive plenty of personal attention from their teachers. Studies tell us the same thing. According to the Department of Education, research suggests that positive outcomes associated with smaller schools stem from their ability to have close, personal environments where teachers can work with a small set of students, challenging and inspiring them.

They build big schools because it is cheaper. Smaller learning communities can achieve in different ways: small learning centers, core academics, magnet programs, schools within a school,

as I have just described. It would seem to me, if this administration really wanted to help our teachers teach and help our students learn they wouldn't be trying to eliminate a program like this, to create smaller learning communities, which have been proven to do just that.

I touched only on a few things tonight dealing with problems of the No Child Left Behind Act. It is going to take a lot of work to improve this bill and make it what it promised to be, a tool that will help teachers and students in every public school in America. It is a difficult job but we must keep our promise to America's children. We can't afford to leave them behind.

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#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 7:27 p.m., adjourned until Thursday, April 22, 2004, at 9:30 a.m.

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#### CONFIRMATIONS

Executive nominations confirmed by the Senate April 21, 2004:

##### IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE COMMANDANT OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 47:

##### *To be vice admiral*

VICE ADM. TERRY M. CROSS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDER, ATLANTIC AREA OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 47:

##### *To be vice admiral*

REAR ADM. VIVIEN S. CREA

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDER, PACIFIC AREA OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 47:

##### *To be vice admiral*

REAR ADM. HARVEY E. JOHNSON

THE FOLLOWING NAMED OFFICER TO SERVE AS THE DIRECTOR OF THE COAST GUARD RESERVE PURSUANT TO TITLE 14, U.S.C. SECTION 53 IN THE GRADE INDICATED:

##### *To be rear admiral (lower half)*

RADM (L) JAMES C. VAN SICE

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

COAST GUARD NOMINATION OF GLENN M. SULMASY. COAST GUARD NOMINATIONS BEGINNING GEORGE W. MOLESSA AND ENDING YAMASHEKA Z. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 12, 2004.