

State educational agencies to enable the State educational agencies to develop or increase the capacity of data systems for accountability purposes and award subgrants to increase the capacity of local educational agencies to upgrade, create, or manage information databases for the purpose of measuring adequate yearly progress.

"(b) PRIORITY.—In awarding grants under this section the Secretary shall give priority to State educational agencies that have created, or are in the process of creating, a growth model or proficiency index as part of their adequate yearly progress determination.

"(c) STATE USE OF FUNDS.—Each State that receives a grant under this section shall use—

"(1) not more than 20 percent of the grant funds for the purpose of increasing the capacity of, or creating, State databases to collect information related to adequate yearly progress; and

"(2) not less than 80 percent of the grant funds to award subgrants to local educational agencies within the State to enable the local educational agencies to carry out the authorized activities described in subsection (d).

"(d) AUTHORIZED ACTIVITIES.—Each local educational agency that receives a subgrant under this section shall use the subgrant funds to increase the capacity of the local educational agencies to upgrade databases or create unique student identifiers for the purpose of measuring adequate yearly progress, by—

"(1) purchasing database software or hardware;

"(2) hiring additional staff for the purpose of managing such data;

"(3) providing professional development or additional training for such staff; and

"(4) providing professional development or training for principals and teachers on how to effectively use such data to implement instructional strategies to improve student achievement.

"(e) STATE APPLICATION.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(f) LEA APPLICATION.—Each local educational agency desiring a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require. Each such application shall include, at a minimum, a demonstration of the local educational agency's ability to put such a database in place.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part \$80,000,000 for each of fiscal years 2005, 2006, and 2007."

#### SEC. 4. TARGETING TRANSFER OPTIONS AND SUPPLEMENTAL SERVICES.

(a) TARGETING TRANSFER OPTIONS AND SUPPLEMENTAL SERVICES.—Section 1116 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316) is amended—

(1) in paragraphs (1)(E)(i), (5)(A), (7)(C)(i), and (8)(A)(i) of subsection (b), by striking the term "all students enrolled in the school" each place such term appears and inserting "all students enrolled in the school, who are members of a group described in section 1111(b)(2)(C)(v) that fails to make adequate yearly progress as defined in the State's plan under section 1111(b)(2)";

(2) in subsection (b)(1), by adding at the end the following:

"(G) MAINTENANCE OF LEAST RESTRICTIVE ENVIRONMENT.—A student who is eligible to receive services under the Individuals with

Disabilities Education Act and who uses the option to transfer under subparagraph (E), paragraph (5)(A), (7)(C)(i), or (8)(A)(i), or subsection (c)(10)(C)(vii), shall be placed and served in the least restrictive environment appropriate, in accordance with the Individuals with Disabilities Education Act."

(3) in clause (vii) of subsection (c)(10)(C), by inserting "who are members of a group described in section 1111(b)(2)(C)(v) that fails to make adequate yearly progress as defined in the State's plan under section 1111(b)(2)", after "Authorizing students"; and

(4) in subparagraph (A) of subsection (e)(12), by inserting "who is a member of a group described in section 1111(b)(2)(C)(v) that fails to make adequate yearly progress as defined in the State's plan under section 1111(b)(2)" after "under section 1113(c)(1)".

(b) STUDENT ALREADY TRANSFERRED.—A student who transfers to another public school pursuant to section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)) before the effective date of this section and the amendments made by this section, may continue enrollment in such public school after the effective date of this section and the amendments made by this section.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall be effective for each fiscal year for which the amount appropriated to carry out title I of the Elementary and Secondary Education Act of 1965 for the fiscal year, is less than the amount authorized to be appropriated to carry out such title for the fiscal year.

#### SEC. 5. DEFINITION OF HIGHLY QUALIFIED TEACHERS.

Section 9101(23)(B)(ii) of the Elementary and Secondary Act of 1965 (20 U.S.C. 7801(23)(B)(ii)) is amended—

(1) in subclause (I), by striking "or" after the semicolon;

(2) in subclause (II), by striking "and" after the semicolon; and

(3) by adding at the end the following:

"(III) in the case of a middle school teacher, passing a State approved middle school generalist exam when the teacher receives the teacher's license to teach middle school in the State;

"(IV) obtaining a State social studies certificate that qualifies the teacher to teach history, geography, economics, and civics in middle or secondary schools, respectively, in the State; or

"(V) obtaining a State science certificate that qualifies the teacher to teach earth science, biology, chemistry, and physics in middle or secondary schools, respectively, in the State; and"

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 3047. Mr. KYL proposed an amendment to the bill S. 2329, to protect crime victims' rights.

#### TEXT OF AMENDMENTS

SA 3047. Mr. KYL proposed an amendment to the bill S. 2329, to protect crime victims' rights; as follows:

On page 7, line 24, strike the first period and insert the following: ", subject to appropriation."

On page 10, line 20, strike the first period and insert the following: ", subject to appropriation."

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, April 22, 2004, at 9:30 a.m. on the U.S. Commission on Ocean Policy.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 22, 2004, at 9:30 a.m. to hold a hearing on Iraq Transition: Obstacles and Opportunities.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 22, 2004, at 1:30 p.m. to hold a hearing on Nominations.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 22, 2004, at 2:30 p.m. to hold a Subcommittee on East Asian and Pacific Affairs hearing on U.S.-China Relations: Status of Reforms in China.

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

##### COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 22, 2004, at 4 p.m. to hold a hearing on Nominations.

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

##### COMMITTEE ON THE JUDICIARY

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, April 22, 2004, at 11 a.m. in Senate Dirksen Building Room 226.

#### Agenda

I. Nominations: Henry W. Saad to be U.S. Circuit Judge for the Sixth Circuit; William Duane Benton to be United States Circuit Judge for the Eighth Circuit; Robert Bryan Harwell to be United States District of South Carolina; George P. Schiavelli to be United States District Judge for the Central District of California; and Curtis V. Gomez to be Judge for the District Court of the Virgin Islands.

II. Legislation: S. 1735. Gang Prevention and Effective Deterrence Act of

2003 [Hatch, Chambliss, Cornyn, Feinstein, Graham, Grassley, Schumer]; S. Res. 310. A resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers [Campbell, Hatch, Leahy]; H. Con. Res. 328. Recognizing and honoring the United States Armed Forces and supporting the goals and objectives of a National Military Appreciation Month; S. 2270. No Oil Producing and Exporting Cartels (NOPEC) Act of 2004 [DeWine, Durbin, Feingold, Grassley, Kohl, Leahy, Schumer, Specter]; S. 2107. A bill to authorize an annual appropriations of \$10,000,000 for mental health courts through fiscal year 2009 [DeWine, Leahy]; S. 2192. Cooperative Research and Technology Enhancement (CRE-ATE) Act of 2004 [Hatch, Feingold, Leahy]; H.R. 1561. United States Patent and Trademark Fee Modernization Act of 2004; S. 1933. Enhancing Federal Obscenity Reporting and Copyright Enforcement (ENFORCE) Act of 2003 [Hatch, Cornyn, Feinstein]; S. 2237. Protecting Intellectual Rights Against Theft and Expropriation (PIRATE) Act of 2004 [Leahy, Hatch]; and S. 1932. Artists' Rights and Theft Prevention (ART) Act of 2003 [Cornyn, Feinstein, Graham, Hatch].

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

#### SELECT COMMITTEE ON INTELLIGENCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 22, 2004, at 2:30 p.m. to hold a closed business meeting.

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

#### SUBCOMMITTEE ON CHILDREN AND FAMILIES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Children and Families, be authorized to meet for a hearing on Parents Raising Children: The Workplace during the session of the Senate on April 22, 2004, at 10 a.m.

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

#### SUBCOMMITTEE ON IMMIGRATION AND BORDER SECURITY

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Immigration and Border Security be authorized to meet conduct a hearing on "State and Local Authority To Enforce Immigration Law: Evaluating a unified approach for stopping terrorists" on Thursday, April 22, 2004, at 2:30 p.m. in SD226

#### Witness List:

Panel I: Professor Kris W. Kobach, Former Counsel to the Attorney General, Professor of Law, University of Missouri-Kansas City School of Law, Kansas City, MO; E.J. Picolo, Regional Director, Florida Department of Law Enforcement, Ft. Myers, FL; Michelle

Malkin, Journalist and Author of Invasion, Bethesda, MD; and David A. Harris, Balk Professor of Law and Values, University of Toledo College of Law, Toledo, OH.

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

#### PRIVILEGES OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent for a legislative fellow, Erik Winchester, to be granted the privilege of the floor throughout today.

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

Mr. KYL. Mr. President, I ask unanimous consent that Tom Stack and Kevin Patrick Wilson be granted the privilege of the floor during the course of debate on S. 2329.

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

#### INTERNET TAX NONDISCRIMINATION ACT

Mr. FRIST. Mr. President, as I have announced on several occasions, we intend to begin consideration of the Internet tax access legislation next week. To review for a moment, the bill was reported by the Commerce Committee on September 29 of last year and the Finance Committee on October 29. The Senate began consideration of the bill on November 6 of last year.

Since that time, there have been many discussions as to how to best proceed through this issue. I understand Members have been continuing their efforts to find a solution, but it is time to come forward and debate the underlying issue. It would be my hope to begin consideration of the bill on Monday, and Senators could offer their amendments and the Senate could then work its will on the moratorium.

I understand some of my colleagues desire to delay this bill, but I would respectfully say it is now time to start the process and begin the debate.

Having said that, at this point I would have asked consent that at 1 p.m. on Monday, April 26, the Senate proceed to the consideration of Calendar No. 353, S. 150, a bill relating to taxes on Internet access. Given the objections from Members on both sides of the aisle, I will withhold that request.

#### CLOTURE MOTION

I now move to proceed to the consideration of S. 150. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the cloture motion.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 353, S. 150, a bill to make permanent a moratorium on taxes on Internet access and multiple and

discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

Bill Frist, George Allen, Jon Kyl, Orrin Hatch, James Inhofe, Elizabeth Dole, Larry Craig, John Ensign, Gordon Smith, Mitch McConnell, Norm Coleman, Sam Brownback, Trent Lott, Conrad Burns, James Talent, John Sununu, Mike Crapo.

Mr. FRIST. I now ask consent that the mandatory quorum under rule XXII be waived and the vote occur on the motion to invoke cloture at 5:30 p.m. on Monday, April 26.

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

#### MEASURE PLACED ON THE CALENDAR—H.R. 2844

Mr. FRIST. I understand H.R. 2844 is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The assistant legislative read as follows:

A bill (H.R. 2844) to require States to hold special elections to fill vacancies in the House of Representatives not later than 45 days after the vacancy is announced by the Speaker of the House of Representatives in extraordinary circumstances, and for other purposes.

Mr. FRIST. I now ask for its second reading and, in order to place the bill on the calendar under the provisions of rule XIV, object to further proceeding on this matter.

The PRESIDING OFFICER. Objection is heard.

#### ORDERS FOR MONDAY, APRIL 26, 2004

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today it adjourn until 1 p.m. on Monday, April 26. I further ask that, following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and following the time for the two leaders the Senate begin a period of morning business until 2 p.m. with Senators permitted to speak for up to 10 minutes each; provided that at 2 p.m. the Senate resume consideration of the motion to proceed to Calendar No. 353, S. 150, the Internet tax bill, and at 5:30 p.m. the Senate proceed to the cloture vote on the motion to proceed, as provided under the previous order.

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

#### PROGRAM

Mr. FRIST. On Monday at 2 p.m. the Senate will resume consideration of the motion to proceed to the Internet tax bill. This is a piece of legislation that was on the floor for debate only last November. However, minutes ago I was forced to file cloture in order to bring the bill back for consideration.

The cloture vote on the motion to proceed will occur at 5:30 p.m. on Monday, and that will be the next rollcall