giving parents greater involvement in how their children are educated. I also hope that it will help identify children early—as infants and toddlers—so that they can receive the services they need before it is necessary for them to enter a special education classroom.

One notable provision that the Senate attached to this bill on the floor this week is a mechanism to guide Congress toward meeting its commitment to provide States with 40 percent of the excess costs associated with educating students with special needs.

Although the original special education law, which was passed in 1975, gave States assurances that the Federal Government would reimburse States for the cost of educating special education students, Congress has never come close to meeting its goal.

Today, for instance, States are receiving about 19 percent or $10 billion in Federal funding to be used for educating special needs children. And while Congress has worked hard over the last 7 years to make greater investments in special education, States continue to struggle to educate special needs students because of how costly it is to teach them.

The amendment offered by Senator GREGG and supported by myself and 95 other Senators sets up a timeline by which Congress will move toward its goal of funding 40 percent of the cost of special education. Every year, from now until 2011, Congress can use its discretion to appropriate up to $2 billion each year for special education.

This new funding mechanism will mean States could see their Federal share of special education funds double over the course of the next 6 years.

In California, where State schools educate 11 percent—or roughly 675,000 students—of the Nation's special education K through 12 population, school districts will receive $1.7 billion in Federal dollars this year. In spite of the large amount of funding the State receives, I am told that they have been forced to transfer billions of dollars annually from general education to special education due to Congress' failure to keep its promise to fully fund special education.

An increase in the Federal funding commitment will mean that California could receive up to $2.7 billion a year in special education funding by 2011 and will no longer have to shuffle money from their general education budgets to underwrite the cost of educating special needs students.

So this funding promise will make a huge difference to States and school districts and one that I was happy to support. Schools will now have predictable special education funding that they can count on when balancing their budgets and planning for future years.

I also urge the Senate's support, in conference, of a provision adopted by the House which would require that increases in Federal funding above fiscal year 2003 levels be directly allocated to the local level. This would ensure that all IDEA funding gets down to our school districts that are responsible for providing quality education to children with disabilities.

In California, this provision is critical in meeting the Federal responsibilities to assist all students with disabilities, including the thousands of students with physical and mental disabilities served by the State's large county education offices, such as Los Angeles, San Francisco, and San Diego, that are tasked with educating the State's vast majority of special needs children.

So I am satisfied that this bill will meet the needs of both school districts and parents. I hope it will help give students the tools they need to become productive citizens, teachers more flexibility to do their jobs, parents greater ability to work with schools to ensure that their children are getting the services to which they are entitled, and States the funding and oversight necessary to make sure that education for disabled students is as seamless as for nondisabled students. I am pleased to support it.

The PRESIDING OFFICER. The Senator from Kentucky.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

The Senator from Nevada.

ORDER OF BUSINESS

Mr. REID. Mr. President, while the distinguished majority whip is on the floor, Senator BINGAMAN has been working for more than a year on a medal that would go to those military men and women who participated in Afghanistan and Iraq. That matter has passed the House of Representatives without a single dissenting vote. Senator BINGAMAN has informed me he has spoken to Senator WARNER, and Senator WARNER believes this matter should come up at the earliest possible date.

In short, we hope we can get to this important piece of legislation today. We could do it very quickly. There would be very short speeches. I bet we could do it in an hour evenly divided. There would be no one against it, but both sides could speak in favor of this legislation. It would pass without a dissenting vote.

I think it would send a tremendous message to the fighting men and women in Afghanistan and Iraq that they would receive a medal for their participation in those conflicts in those two countries.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I respond by saying we are working that issue on this side of the aisle and hope to have a response to the Senator's request shortly.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

50-YEAR ANNIVERSARY OF BROWN v. BOARD OF EDUCATION

Mr. SPECTER. Madam President, I have sought recognition to comment on two subjects this afternoon. First, this is the 50-year anniversary of the historic decision in Brown v. Board of Education where the Supreme Court of the United States ruled that separate but equal education facilities violated the U.S. Constitution and ordered the integration of schools in the United States.

That is historic because for the first time it gave real meaning to equality and the equal protection of the law clause of the 14th amendment.

Prior to Brown v. Board of Education, segregation had been the rule of the day. The 14th amendment, incorporating the equal protection clause and due process of law, was enacted in 1868. At that time, the galleries of the Senate were segregated, and the manager of the 14th amendment in the House of Representatives, in commenting about what equal protection meant, did not mean that the races would share accommodations together. Then in the celebrated case of Plessy v. Ferguson decided by the Supreme Court of the United States in 1896, an 8-to-1 decision, the Supreme Court decided that the equal protection clause was satisfied if the facilities were equal even though they were separate. That remained the law of the land for the next 58 years until 1954 with Brown v. Board of Education.

The decisions in this field are the best examples of the vitality of the U.S. Constitution and the way the Constitution reflects the fundamental values of a society, which have changed in the course of time. Justice Cardoza, in the celebrated case of Palko v. Connecticut, articulated the changing constitutional doctrine when he talked about the fundamental values of our society.

There are still some who contend that original intent is the only way to interpret the U.S. Constitution. In the first place, it is very hard to divine what the intent was of the Founding Fathers in 1787 when the Constitution was signed, even more difficult to figure out the intent of the ratifiers of the U.S. Constitution; and then when there is the equal protection clause, there is no doubt that the intent of

those who spoke to equal protection was not to have integration. When the fundamental values of our society changed in the intervening years, the Supreme Court of the United States recognized that and interpreted the Constitution and equality and equal protection in a very different way.

When I was in the Philadelphia District Attorney's Office, I saw firsthand the changing values that led to new and different constitutional doctrines. The case of Mapp v. Ohio decided in 1961 started a cavalcade or an avalanche of Supreme Court decisions which changed the constitutional law of defendants' rights.

In Wolf v. Colorado in 1949, the Supreme Court of the United States said that the due process clause of the 14th amendment did not incorporate the fourth amendment prohibition against search and seizure.

Back in 1916, in Weeks v. The United States, the Supreme Court ruled that evidence obtained by an unreasonable search and seizure could not be introduced in a criminal prosecution. But that was not applicable to the States until the U.S. Supreme Court broadened what due process meant and said the fourth amendment prohibition against unreasonable search and seizure was a fundamental value in our society and it applied to State prosecutions as well.

I recall one case that came up in the Philadelphia criminal court not long thereafter where the defense advanced the concept of unreasonable search and seizure and cited Mapp v. Ohio, and the Philadelphia judge said, well, that is a Ohio case, and disregarded the constitutional law. He later found out that Ohio cases were binding in Pennsylvania when they are decided by the Supreme Court of the United States.

Mapp v. Ohio was then followed by a case involving a right to counsel, and it was decided that there was a constitutional right to counsel. Justice Black said that anyone who was hauled into court had a right to counsel in a State prosecution.

Then the Escobedo v. Illinois case in 1964 concluded that a defendant was entitled to certain warnings, and Miranda v. Arizona in 1966 expanded that doctrine.

In my tenure in the Philadelphia District Attorney's Office I saw firsthand on an ongoing basis the prosecutor's job being made more complicated, but understandably so, and in the long trail of history, decisions which improved the quality of our civilization so that due process of law had broader concepts.

The principal case in the field continues to be Brown v. Board of Education, and it is time to reminisce a bit, time to focus. There is still a great deal more to be done on equality in our society. If we take a look at the statistics of earnings of African Americans versus Caucasians—way down. If we take a look at the earning opportunities for women, the glass ceiling still prevails. There is decided improvement in the Senate. When I was elected, only Senator Nancy Kassebaum of Kansas had been in this Chamber as a woman, and Senator Paula Hawkins was elected in 1980 as the second woman. Now the number is 14 and growing. The Senate is a better place for the additional women whom we have. At the top of the list is the distinguished Presiding Officer—or near the top of the list, or tied for the top of the list; I do not want to get into too many comparisons—the distinguished Senator from Alaska, LISA MURKOWSKI.

THE FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT

Mr. SPECTER. I have also sought recognition to comment about the status of pending asbestos legislation under S. 2290, the Fairness in Asbestos Injury Resolution Act. The Judiciary Committee passed out of committee a bill in July of last year, largely along party lines, which I supported because I thought it important to move the legislation forward even though I had grave reservations about the quality of the bill.

There was no doubt that there was an urgent need for Federal legislation on this subject because some 70 corporations have gone bankrupt, thousands of individuals who have been exposed to asbestos have deadly diseases, mesothelioma and other ailments, and were not being compensated because their employers, potential defendants, were bankrupt. I enlisted the aid—he is still a very young man, although a senior judge—of the former chief judge for the Court of Appeals for the Third Circuit, Edward Becker, who is now a senior judge, having taken that status in May of last year, and I asked him to assist in trying to resolve many of the problems in the asbestos issue. For 2 days in August of last year he and I met in his chambers with representatives of the manufacturers, the insurers, the reinsurers, the AFL–CIO, and the trial lawyers, trying to work through many of the problems. On many intervening days since last August, he and I have met with those parties in my conference room, trying to work out many of the complex issues.

These efforts were recognized by the majority leader, Senator FRIST, and the leader of the Democrats, Senator DASCHLE, who asked Judge Becker to take on formal status as a mediator. He has spent many hours, many days working under the auspices of the leaders.

Right now, the efforts to find a legislative solution have been held in abeyance because of the differences between the manufacturers, insurers, and reinsurers on one side, and the stakeholders, representing the injured parties, the AFL–CIO, and the trial lawyers, on the other, as to what the amount of the trust fund ought to be.

The concept of a trust fund is an outstanding idea. Senator HATCH, the chairman of the Judiciary Committee, deserves great credit for moving the legislation in the direction of a trust fund with a schedule of payments analogous to workmen's compensation so the cases would not have to go through the litigation process. But a fund would be established to pay them once their damages were determined; credit also to Senator LEAHY, the ranking member, and credit also to members of the Judiciary Committee and the leadership, Senator FRIST and Senator DASCHLE, and many others.

I asked Judge Becker to submit a memorandum summarizing where the issue stood, which at an appropriate time I will ask to have printed in the RECORD. Judge Becker's memorandum notes:

. . . the achievements on an administrative structure for processing claims, and on provisions for judicial review.

And, further:

. . . other significant matters such as the definition of exigent claims, timing of payments, and . . . some consensus on certain concepts such as the anatomy of the ''start up''. . . .

There was:

. . . a much clearer understanding [as a result of these mediation efforts] on the troublesome issue of projecting disease incidence . . . and claim filings over the next [many] years.

Judge Becker noted that:

. . . there are still some loose ends to be tied down, especially on the issue of distribution of non-cancer asbestos claimants with increasing degrees of lung impairment claims . . .

And noted further:

. . . a significant breakthrough on the related issue of partial ''sunset''. . . .

And then itemized some of the issues which have yet to be resolved:

Treatment of pending claims and bankruptcies; subrogation of workers compensation payments; and the venue of any revision to the tort system as a vehicle for ''sunset''. . . .

As noted, these mediation efforts have achieved a great deal. Much of the controversy has been resolved and many of the other issues, although not resolved, have seen very substantial progress.

There is a considerable difference, as noted, as to what the fund ought to be with the insurers, reinsurers, and manufacturers on one side and the injured workers represented by the AFL–CIO and the trial lawyers on the other side. Judge Becker notes in his memorandum he is duty-bound not to make a disclosure as where the parties stand, but also noted there have already been disclosures by the parties. So it is not really a secret matter. But I will respect the confidentiality the leaders asked for, and not talk about that.

I think maybe a certain hiatus in the negotiations would be appropriate. Judge Becker concluded his intensive 6 days of mediation last week. I have been talking to the parties on both sides and it is my hope to reconvene the mediation process.