

availability of 2-1-1 telephone service for information and referral services, and for other purposes.

S. 1666

At the request of Mr. COCHRAN, the names of the Senator from Delaware (Mr. CARPER) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 1666, a bill to amend the Public Health Service Act to establish comprehensive State diabetes control and prevention programs, and for other purposes.

S. 1733

At the request of Mr. KOHL, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1733, a bill to authorize the Attorney General to award grants to States to develop and implement State court interpreter programs.

S. 1957

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1957, a bill to authorize the Secretary of the Interior to cooperate with the States on the border with Mexico and other appropriate entities in conducting a hydrogeologic characterization, mapping, and modeling program for priority transboundary aquifers, and for other purposes.

S. 2175

At the request of Mr. DODD, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2175, a bill to amend the Public Health Service Act to support the planning, implementation, and evaluation of organized activities involving statewide youth suicide early intervention and prevention strategies, and for other purposes.

S. 2179

At the request of Mr. BROWNBACKE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2179, a bill to posthumously award a Congressional Gold Medal to the Reverend Oliver L. Brown.

S. 2249

At the request of Mr. LIEBERMAN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2249, a bill to amend the Stewart B. McKinney Homeless Assistance Act to provide for emergency food and shelter.

S. 2262

At the request of Mr. BINGAMAN, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 2262, a bill to provide for the establishment of campaign medals to be awarded to members of the Armed Forces who participate in Operation Enduring Freedom or Operation Iraqi Freedom.

S. 2324

At the request of Mr. CHAMBLISS, the names of the Senator from Nevada (Mr. REID) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 2324, a bill to extend the deadline on the use of technology

standards for the passports of visa waiver participants.

S. 2336

At the request of Mr. DURBIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2336, a bill to expand access to preventive health care services and education programs that help reduce unintended pregnancy, reduce infection with sexually transmitted disease, and reduce the number of abortions.

S. 2363

At the request of Mr. HATCH, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2363, a bill to revise and extend the Boys and Girls Clubs of America.

S. 2406

At the request of Mrs. CLINTON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2406, a bill to promote the reliability of the electric transmission grid through the Cross-Sound Cable.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. CON. RES. 103

At the request of Mr. WARNER, his name was added as a cosponsor of S. Con. Res. 103, a concurrent resolution honoring the contribution of the women, symbolized by "Rosie the Riveter", who served on the homefront during World War II, and for other purposes.

S. RES. 317

At the request of Mr. HAGEL, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. Res. 317, a resolution recognizing the importance of increasing awareness of autism spectrum disorders, supporting programs for increased research and improved treatment of autism, and improving training and support for individuals with autism and those who care for individuals with autism.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON of Nebraska (for himself and Ms. COLLINS):

S. 2426. A bill to amend title XVIII of the Social Security Act to clarify the treatment of payment under the Medicare program for clinical laboratory tests furnished by critical access hospitals; to the Committee on Finance.

Mr. NELSON of Nebraska. Mr. President, today I introduce legislation that will overturn a new regulation that is putting critical access hospitals (CAH) at risk by arbitrarily lowering the Medicare reimbursement for laboratory services. Sixty rural hospitals in Nebraska will be negatively impacted unless this legislation is reversed.

This legislation would repeal a Center for Medicare and Medicaid Services' (CMS) regulation that would prohibit critical access hospitals from being reimbursed at-cost for laboratory services, unless patients are "physically present in a critical access hospital" when laboratory specimens are collected. Many CAHs provide laboratory services in rural health clinics (RHCs) and nursing homes in smaller, neighboring communities, as well as in home-health settings; however, the elimination of cost-based reimbursements may make it prohibitive for them to continue offering off-site laboratory testing. In short, under the new regulation, lab services would not be reimbursed by CMS unless the patient is at the facility where testing will occur.

This change jeopardizes rural Americans' access to care by imposing an additional burden on the frail elderly by requiring them to visit the hospital to get simple lab tests done. The additional time and expense incurred by the patient is unnecessary if the CAH is willing and able to conduct tests at the point of patient care and transport it back to the hospital for analysis.

Congress created the CAH program in 1997 to ensure that those in isolated, rural communities have access to health care. To protect the viability of these hospitals, often a community's only source of vital health care services, Congress established cost-based reimbursement for Medicare inpatient and outpatient services—regardless of where the services are provided. The new regulation would fundamentally alter this well-established practice.

We have tried to work with CMS to change the rule. In November of 2003, I was joined by 28 Senators in a bipartisan letter to the Administrator of CMS asking for his assistance in constructing a rule that does not penalize CAHs for offering off-site laboratory services. Unfortunately, CMS responded that the rule would stay intact.

I am pleased to be joined in this effort by Senator SUSAN COLLINS. Senator COLLINS has been a strong advocate for rural health care, and I look forward to working together on this legislation.

The Nebraska critical access hospitals affected by the regulation are:

Harlan County Health System in Alma, Fillmore County Hospital in Geneva, Pawnee County Memorial Hospital in Pawnee City, Niobrara Valley Hospital Corporation in Lynch, Thayer County Health Services in Hebron, Kimball County Hospital in Kimball, Kearney County Health Services/Hospital in Minden, Saunders County Health Services in Wahoo, Henderson Health Care Services in

Henderson, Community Memorial Hospital in Syracuse, Garden County Hospital & Nursing Home in Oshkosh, Franklin County Memorial Hospital in Franklin, Genoa Community Hospital in Genoa.

Gothenburg Memorial Hospital in Gothenburg, Annie Jeffrey Memorial County Health Center in Osceola, Brodstone Memorial Nuckolls County Hospital in Superior, Webster County Community Hospital in Red Cloud, Tilden Community Hospital in Tilden, Morrill County Community Hospital in Bridgeport, Jefferson Community Health Center in Fairbury, Memorial Hospital in Aurora, Oakland Memorial Hospital in Oakland, St. Francis Memorial Hospital in West Point.

Alegent Health Memorial Hospital in Schuyler, Nemaha County Hospital in Auburn, Brown County Hospital in Ainsworth, Antelope Memorial Hospital in Neligh, Cozad Community Hospital in Cozad, Litzenberg Memorial County Hospital in Central City, Avera St. Anthony's Hospital in O'Neill, Warren Memorial Hospital in Friend, Creighton Area Health Services in Creighton, Butler County Health Care Center in David City, Rock County Hospital in Bassett, Boone County Health Center in Albion, Callaway District Hospital in Callaway, York General Hospital in York.

Howard County Community Hospital in St. Paul, Memorial Hospital CAH in Seward, Dundy County Hospital in Benkelman, Chadron Community Hospital Health Services in Chadron, St. Mary's Hospital in Nebraska City, West Holt Memorial Hospital in Atkinson, Cherry County Hospital in Valentine, Providence Medical Center in Wayne, Plainview Public Hospital in Plainview, Osmond General Hospital in Osmond, Tri Valley Health System in Cambridge, Pender Community Hospital in Pender.

Johnson County Hospital in Tecumseh, Chase County Community Hospital in Imperial, Community Medical Center in Falls City, Valley County Hospital in Ord, Crete Area Medical Center in Crete, Ogallala Community Hospital in Ogallala, Perkins County Health Services in Grant, Memorial Health Center in Sidney, Gordon Memorial Hospital District in Gordon, Memorial Community Hospital in Blair, Box Butte General Hospital in Alliance.

By Mr. FEINGOLD:

S. 2427. A bill to amend title 10, United States Code, to improve transition assistance provided for members of the armed forces being discharged, release from active duty, or retired, and for other purposes; to the Committee on Armed Services.

Mr. FEINGOLD. Mr. President, today I am introducing legislation that will enhance and strengthen transition services that are provided to our military personnel.

This past weekend, people around our country honored our military personnel by marking Armed Forces Day. That day was even more poignant this year as we recognize the service and sacrifice of the thousands of brave men and women who are currently in harm's way in Iraq, Afghanistan, and elsewhere around the globe. These men and women serve with distinction and honor, and we owe them our heartfelt gratitude.

We also owe them our best effort to ensure that they receive the benefits to

which their service in our Armed Forces has entitled them. I have heard time and again from military personnel and veterans who are frustrated with the system by which they apply for benefits or appeal claims for benefits. I have long been concerned that tens of thousands of our veterans are unaware of Federal health care and other benefits for which they may be eligible, and I have undertaken numerous legislative and oversight efforts to ensure that the Department of Veterans Affairs makes outreach to our veterans and their families a priority. Our brave veterans have earned these benefits, and VA outreach regarding health care and other benefits is especially important as we welcome home a new generation of veterans who are serving in Iraq and in the fight against terrorism. Our veterans and their families have made great personal sacrifices to protect our freedoms. We owe them a great debt of gratitude. Making sure that our veterans know about the benefits that they have earned is an important first step in starting to repay this debt.

While we should do more to support our veterans, we must also ensure that the men and women who are currently serving in our Armed Forces receive adequate pay and benefits, as well as services that help them to make the transition from active duty to civilian life. I am concerned that we are not doing enough to support our men and women in uniform as they prepare to retire or otherwise separate from the service or, in the case of members of our National Guard and Reserve, to demobilize from active duty assignments and return to their civilian lives while staying in the military or preparing to separate from the military. We must ensure that their service and sacrifice, which is much lauded during times of conflict, is not forgotten once the battles have ended and our troops have come home.

My bill, the Veterans Enhanced Transition Services Act (VETS Act), will help to ensure that all military personnel have access to the same transition services as they prepare to leave the military to reenter civilian life, or, in the case of members of the National Guard and Reserve, as they prepare to demobilize from active duty assignments and return to their civilian lives and jobs or education while remaining in the military.

I have heard from a number of Wisconsinites and military and veterans service organizations that our men and women in uniform do not all have access to the same transition counseling and medical services as they are demobilizing from service in Iraq, Afghanistan, and elsewhere. I have long been concerned about reports of uneven provision of services from base to base and from service to service. All of our men and women in uniform have pledged to serve our country, and all of

them, at the very least, deserve to have access to the same services in return.

My bill will help to ensure that all military personnel receive the same services by making a number of improvements to the existing Transition Assistance Program/Disabled Transition Assistance Program (TAP/DTAP) and to the Benefits Delivery at Discharge program, by improving the process by which military personnel who are being demobilized or discharged receive medical examinations and mental health assessments, and by ensuring that military and veterans service organizations and state departments of veterans affairs are able to play an active role in assisting military personnel with the difficult decisions that are often involved in the process of discharging or demobilizing.

Under current law, the Department of Defense, together with the Departments of Veterans Affairs (VA) and Labor, provide pre-separation counseling for military personnel who are preparing to leave the service. This counseling provides service members with valuable information about benefits that they have earned through their service to our country such as education benefits through the GI Bill and health care and other benefits through the VA. Personnel also learn about programs such as Troops to Teachers and have access to employment assistance for themselves and, where appropriate, their spouses.

My bill would ensure that members of demobilizing National Guard and Reserve personnel are able to participate in this important counseling prior to being demobilized. In addition, my bill would require state-based follow-up within 180 of demobilization to give demobilized personnel the opportunity to follow up on any questions or concerns that they may have during a regular unit training period. Currently, most of the responsibility for getting information about benefits and programs falls on the military personnel. The Department of Defense should make every effort to ensure that all members participate in this important program, and that is what my bill would do.

My bill would help to improve the uniformity of services provided to personnel by directing the Secretary of Defense to ensure that consistent Transition Assistance Program/Disabled Transition Assistance Program briefings occur across the services and at all demobilization/discharge locations and to ensure that there are programs that are directed to the specific needs of active duty and National Guard and Reserve personnel as appropriate. It also includes a provision to ensure that personnel who are on the temporary disability retired list and who are being retired or discharged

from alternate locations will have access to transition services at a location that is reasonably convenient to them.

In addition, my bill would enhance the information that is presented to members by requiring that pre-separation counseling include the provision of information regarding certification and licensing requirements in civilian occupations and information on identifying military occupations that have civilian counterparts.

In response to concerns I have heard from a number of my constituents, the bill also directs the Secretaries of Defense and Labor to jointly explore ways in which DoD training and certification standards could be coordinated with state laws relating to the training and certification standards for corresponding civilian occupations.

Participation in pre-separation counseling through a TAP/DTAP program is a valuable tool for personnel as they transition back to civilian life. My bill is in no way intended to lengthen the time that military personnel spend away from their families or to provide them with information that is not relevant to their civilian lives or that they otherwise do not need. In order to ensure that this information remains a valuable tool and does not become a burden to demobilizing members of the National Guard and Reserve who experience multiple deployments for active duty assignments, my bill clarifies that participation in the Department of Labor's transitional services employment will not be required if a member has previously participated in the program or if a member will be returning to school or to a job that he or she held before being called to active duty.

My bill would make similar improvements to the joint DoD-VA Benefits Delivery at Discharge program, which assists personnel in applying for VA disability benefits before they are discharged from the military, to cover all discharging military installations and military hospitals to ensure that all personnel with service-connected disabilities have the same opportunity to receive this important service. This very successful program has helped to cut the red tape and to speed the processing time for many veterans who are entitled to VA disability benefits.

I have long been concerned about the immediate and long-term health effects that military deployments have on our men and women in uniform. I regret that, too often, the burden of responsibility for proving that a condition is related to military service falls on the personnel themselves. Our men and women in uniform deserve the benefit of the doubt, and should not have to fight the Department of Defense or the VA for benefits that they have earned through their service to our nation.

For example, since coming to the Senate in 1993, I have worked to focus attention on the health effects that are being experienced by military per-

sonnel who served in the Persian Gulf War. More than ten years after the end of the Gulf War, we still don't know why so many veterans of that conflict are experiencing medical problems. Of the nearly 700,000 U.S. military personnel who served in the Persian Gulf War in 1990 and 1991, more than 100,000 have suffered from an array of symptoms that have become known as Gulf War Syndrome. Military personnel who are currently deployed to the region face many of the same conditions that existed in the early 1990s. I have repeatedly pressed the Departments of Defense and Veterans Affairs to work to unlock the mystery of this illness and to study the role that exposure to depleted uranium may play in this condition. We owe it to these personnel to find these answers, and to ensure that those who are currently serving in the Persian Gulf region are adequately protected from the many possible causes of Gulf War Syndrome.

Part of this process is to ensure that the Department of Defense carries out its responsibility to provide post-deployment physicals for military personnel. I am deeply concerned about stories of personnel who are experiencing long delays as they wait for their post-deployment physicals and who end up choosing not to have these important physicals in order to get home to their families that much sooner. I am equally concerned about reports that some personnel who did not receive such a physical—either by their own choice or because such a physical was not available—are now having trouble as they apply for benefits for a service-connected condition.

For these reasons, my bill would require that the Department of Defense abide by current law and provide post-demobilization physicals to all military personnel, and would prohibit any waiver of these physicals. I firmly believe, as do the military and veterans groups that support my bill, that our men and women in uniform are entitled to a prompt, high quality physical examination as part of the demobilization process. These individuals have voluntarily put themselves into harm's way for our benefit. We should ensure that the Department of Defense makes every effort to determine whether they have experienced—or could experience—any health effects as a result of their service.

In light of concerns raised by many that each service and each installation uses a different process for demobilization physicals, my bill would require the Secretary of Defense to set minimum standards for these important medical examinations and to ensure that these standards are applied uniformly at all installations and by all branches of the Armed Forces.

My bill also would strengthen current law by ensuring that these medical examinations also include a mental health screening and assessment. Our men and women in uniform serve in difficult circumstances far from

home, and too many of them witness or experience violence and horrific situations that most of us cannot even begin to imagine. These men and women, many of whom are just out of high school or college when they sign up, may suffer long-term mental and physical fallout from their experiences and may feel reluctant to seek counseling or other assistance to deal with their experiences.

My bill would improve mental health services for demobilizing military personnel by requiring that the content and standards for the mental health screening and assessment that are developed by the Secretary include content and standards for screening acute and delayed onset post-traumatic stress disorder (PTSD), and, specifically, questions to identify all stressors experienced by military personnel that have the potential to lead to PTSD. Some Wisconsinites have told me that they are concerned that the multiple deployments of our National Guard and Reserve could lead to chronic PTSD, which could have its roots in an experience from a previous deployment and which could come to the surface by a triggering event that is experienced on a current deployment. The same is true for full-time military personnel who have served in a variety of places over their careers.

We can and should do more to ensure that the mental health of our men and women in uniform is a top priority, and that the stigma that is too often attached to seeking assistance is ended. One step in this process is to ensure that personnel who have symptoms of PTSD and related illnesses have access to appropriate clinical services, either through DoD or through the VA, which is required in my bill.

My legislation also requires the Secretaries of Defense and Veterans Affairs to report to Congress on planning for identification, intervention, and treatment of personnel with PTSD and related conditions and for appropriate training of DoD, military, and VA personnel with respect to PTSD and related conditions.

My bill will also ensure that the DoD and the VA take appropriate actions to ensure that personnel receive appropriate follow-up care for any other physical or mental conditions that are found—or suspected to have been found—as a result of a post-deployment medical examination, including care and treatment at a DoD or VA facility and any other care, treatment, or services that are required.

In addition, in order to ensure that all military personnel who are eligible for medical benefits for the VA learn about and receive them, my bill requires that, as part of the demobilization process, assistance be provided to eligible members to enroll in the VA health care system.

My bill also requires that the medical records of all separating service members be transmitted to the VA and that DoD and the VA conduct a study

on how to improve coordination and cooperation between the two Departments to support the provision of benefits to members and veterans, including: compatibility of health care filing systems, consistency of claims forms, consistency of medical examination forms, and creating shared electronic database with appropriate privacy protections.

My bill would also make improvements to the DoD demobilization and discharge processes by ensuring that members of military and veterans service organizations (MSOs and VSOs) are able to counsel personnel on options for benefits and other important questions. The demobilization and discharge process presents our service members with a sometimes confusing and often overwhelming amount of information and paperwork that must be digested and sometimes signed in a very short period of time. My bill would authorize a "veteran to veteran" counseling program that will give military personnel the opportunity to speak with fellow veterans who have been through this process and who may be able to offer important advice about benefits and other choices that military personnel have to make.

Under current law, the Secretary of Defense may make use of the services provided by MSOs and VSOs as part of the transition process. But these groups tell me that they are not always allowed access to transition briefings that are conducted for our personnel. In order to help facilitate the new veteran-to-veteran program, my bill would require the Secretary to ensure that representatives of MSOs, VSOs, and state departments of veterans affairs are invited to participate in all TAP/DTAP and BDD programs. In addition, my bill requires that these dedicated veterans, who give so much of their time and of themselves to serving their fellow veterans and their families, are able to gain access to military installations, military hospitals, and VA hospitals in order to provide this important service. By and large, Mr. President, these groups are able to speak with our military personnel at hospitals and other facilities. But I am disturbed by reports that some of these groups were having a hard time gaining access to these facilities in order to visit with our troops. For that reason, I have included this access requirement in my bill.

I want to stress that my bill in no way requires military personnel to speak with members of MSOs or VSOs if they do not wish to do so. It merely ensures that our men and women in uniform have this option.

Finally, my bill would authorize the Secretary of Defense to create a program to help military personnel get college credit for applicable military training. The Wisconsin State Department of Veterans Affairs has such a program, called the Academic Credit for Military Experience (ACME) program. The National Veterans Training

Institute cites ACME as a national model for helping veterans to obtain college credit for training that they received while in the military. Such a program would help our veterans to maximize their GI Bill benefits, to avoid taking classes that repeat their military training, and to earn their degrees that much faster.

I am pleased that this legislation is supported by a wide range of groups that are dedicated to serving our men and women in uniform and veterans and their families. These groups include: the American Legion, the Enlisted Association of the National Guard of the United States; the Paralyzed Veterans of America; the Reserve Officers Association; the Veterans of Foreign Wars; the Wisconsin Department of Veterans Affairs, the Wisconsin National Guard; the American Legion, Department of Wisconsin; Disabled American Veterans, Department of Wisconsin; the Wisconsin Paralyzed Veterans of America; the Veterans of Foreign Wars, Department of Wisconsin; and the Wisconsin State Council, Vietnam Veterans of America.

I ask unanimous consent that the full text of my bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2427

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Enhanced Transition Services Act of 2004".

#### SEC. 2. IMPROVED ADMINISTRATION OF TRANSITIONAL ASSISTANCE PROGRAMS.

(a) TRANSMITTAL OF MEDICAL RECORDS OF ALL MEMBERS SEPARATING FROM ACTIVE DUTY TO DEPARTMENT OF VETERANS AFFAIRS.—Chapter 58 of title 10, United States Code, is amended—

(1) by inserting before subsection (c) of section 1142 the following:

**"§ 1142a. Members separating from active duty: transmittal of medical records to Department of Veterans Affairs";**

(2) by striking "(c) TRANSMITTAL OF MEDICAL INFORMATION TO DEPARTMENT OF VETERANS AFFAIRS.—"; and

(3) by striking "a member being medically separated or being retired under chapter 61 of this title" and inserting "each member who is entitled to counseling and other services under section 1142 of this title".

(b) PRESEPARATION COUNSELING.—(1) Subsection (a) of section 1142 of title 10, United States Code, is amended—

(A) in paragraph (1), by striking "shall provide for individual separation counseling" and inserting "shall provide individual separation counseling";

(B) by redesignating paragraph (4) as paragraph (6); and

(C) by inserting after paragraph (3) the following new paragraphs:

"(4) For members of the reserve components being separated from service on active duty for a period of more than 30 days, the Secretary concerned shall require that pre-separation counseling under this section be provided to all such members (including officers) before the members are separated.

"(5) The Secretary concerned shall ensure that commanders of members entitled to

services under this section authorize the members to obtain such services during duty time."

(2) Subsection (b)(4) of such section 1142 is amended by striking "(4) Information concerning" and inserting the following:

"(4) Provide information on civilian occupations and related assistance programs, including information about—

"(A) certification and licensure requirements that are applicable to civilian occupations;

"(B) civilian occupations that correspond to military occupational specialties; and

"(C)".

(3) Section 1142 of such title is further amended by adding at the end the following new subsections:

"(c) ADDITIONAL REQUIREMENTS.—(1) The Secretary concerned shall ensure that—

"(A) pre-separation counseling under this section includes material that is specifically relevant to the needs of persons being separated from active duty by discharge from a regular component of the armed forces and the needs of members of the reserve components being separated from active duty;

"(B) the locations at which pre-separation counseling is presented to eligible personnel include—

"(i) inpatient medical care facilities of the uniformed services where such personnel are receiving inpatient care; and

"(ii) in the case of a member on the temporary disability retired list under section 1202 or 1205 of this title who is being retired under another provision of this title or is being discharged, a location reasonably convenient to the member.

"(C) the scope and content of the material presented in pre-separation counseling at each location under this section are consistent with the scope and content of the material presented in the pre-separation counseling at the other locations under this section; and

"(D) followup counseling is provided for each member of the reserve components described in subparagraph (A) not later than 180 days after separation from active duty.

"(2) The Secretary concerned shall, on a continuing basis, update the content of the materials used by the National Veterans Training Institute and such officials' other activities that provide direct training support to personnel who provide pre-separation counseling under this section.

"(d) NATIONAL GUARD MEMBERS ON DUTY IN STATE STATUS.—(1) Members of the National Guard being separated from long-term duty to which ordered under section 502(f) of title 32 shall also be provided pre-separation counseling under this section to the same extent that members of the reserve components being discharged or released from active duty are provided pre-separation counseling under this section.

"(2) The Secretary of Defense shall prescribe in regulations the standards for determining long-term duty for the purposes of paragraph (1)."

(4)(A) The heading for section 1142 of such title is amended to read as follows:

**"§ 1142. Members separating from active duty: pre-separation counseling".**

(B) The table of sections at the beginning of chapter 58 of such title is amended by striking the item relating to section 1142 and inserting the following new items:

"1142. Members separating from active duty: pre-separation counseling.

"1142a. Members separating from active duty: transmittal of medical records to Department of Veterans Affairs."

(c) DEPARTMENT OF LABOR TRANSITIONAL SERVICES PROGRAM.—(1) Subsection (c) of

section 1144 of title 10, United States Code, is amended to read as follows:

“(c) PARTICIPATION.—(1) Subject to paragraph (2), the Secretary of Defense and the Secretary of Homeland Security shall require participation by members of the armed forces eligible for assistance under the program carried out under this section.

“(2) The Secretary of Defense and the Secretary of Homeland Security need not require, but shall encourage and otherwise promote, participation in the program by the following members of the armed forces described in paragraph (1):

“(A) Each member who has previously participated in the program.

“(B) Each member who, upon discharge or release from active duty, is returning to—

“(i) a position of employment previously held by such member; or

“(ii) pursuit of an academic degree or other educational or occupational training objective that the member was pursuing when called or ordered to such active duty.”.

(2) Subsection (a)(1) of such section is amended by striking “paragraph (4)(A)” in the second sentence and inserting “paragraph (6)(A)”.

(d) STUDY ON COORDINATION OF JOB TRAINING AND CERTIFICATION STANDARDS.—The Secretary of Defense and the Secretary of Labor shall jointly carry out a study to determine ways to coordinate the standards applied by the Armed Forces for the training and certification of members of the Armed Forces in military occupational specialties with the standards that apply under State laws to the training and certification of persons in corresponding civilian occupations.

### SEC. 3. BENEFITS DELIVERY DISCHARGE PROGRAM.

(a) ACCESSIBILITY OF INFORMATION.—Chapter 58 of title 10, United States Code, is amended by adding at the end the following new section:

#### “§ 1154. Requirements applicable to all benefits delivery at discharge programs

“(a) LOCATIONS.—The Secretary of Defense, the Secretary of Homeland Security, and the Secretary of Veterans Affairs shall ensure that the benefits delivery at discharge programs for members of the armed forces are provided—

“(1) at each installation and inpatient medical care facility of the uniformed services at which personnel eligible for assistance under the programs are discharged from the armed forces; and

“(2) in the case of a member on the temporary disability retired list under section 1202 or 1205 of this title who is being retired under another provision of this title or is being discharged, at a location reasonably convenient to the member.

“(b) PARTICIPATION OF MILITARY AND VETERANS’ SERVICE ORGANIZATIONS.—The Secretary of Defense, the Secretary of Homeland Security, and the Secretary of Veterans Affairs shall ensure that representatives of military and veterans’ service organizations and representatives of veterans’ services agencies of States are invited to participate in the benefits delivery at discharge programs at the locations where assistance under the programs is provided.

“(c) BENEFITS DELIVERY AT DISCHARGE PROGRAMS DEFINED.—In this section, the term ‘benefits delivery at discharge programs’ means the programs under sections 1142 and 1144 of this title and any similar programs administered by, in conjunction with, or in consultation with the Secretary of Defense or the Secretary of a military department.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“1154. Requirements applicable to all benefits delivery at discharge programs.”.

### SEC. 4. POST-DEPLOYMENT MEDICAL ASSESSMENT AND SERVICES.

(a) IMPROVEMENT OF MEDICAL TRACKING SYSTEM FOR MEMBERS DEPLOYED OVERSEAS.—Section 1074f of title 10, United States Code, is amended—

(1) in subsection (b), by striking “(including an assessment of mental health” and inserting “(which shall include mental health screening and assessment”;

(2) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively; and

(3) by inserting after subsection (b) the following new subsections:

“(c) MEDICAL EXAMINATIONS.—(1) The Secretary of Defense shall prescribe the minimum content and standards that apply for the medical examinations required under this section. The Secretary shall ensure that the content and standards prescribed under the preceding sentence are applied uniformly at all installations and medical facilities of the armed forces where medical examinations required under this section are performed for members of the armed forces returning from a deployment as described in subsection (a).

“(2) The content and standards prescribed under paragraph (1) for mental health screening and assessment shall include content and standards for screening acute post-traumatic stress disorder and delayed onset post-traumatic stress disorder, and shall specifically include questions to identify all stressors experienced by members that have the potential to lead to post-traumatic stress disorder.

“(3) An examination consisting solely or primarily of an assessment questionnaire completed by a member does not meet the requirements of this subsection for a medical examination and does not meet the requirements of this section for an assessment.

“(4) An examination of a member required under this section may not be waived by the Secretary (or any official exercising the Secretary’s authority under this section) or by the member.

“(d) FOLLOWUP SERVICES.—(1) The Secretary of Defense, in consultation with the Secretary of Veterans Affairs, shall ensure that appropriate actions are taken to assist a member who, as a result of a medical examination carried out under the system established under this section, is identified or suspected as having an illness (including any mental health condition) or injury.

“(2) Assistance required to be provided a member under paragraph (1) includes the following:

“(A) Care and treatment and other services that the Secretary of Defense or the Secretary of Veterans Affairs may provide such member under any other provision of law, as follows:

“(i) Clinical services, including counseling and treatment for post-traumatic stress disorder and other mental health conditions.

“(ii) Any other care, treatment, and services.

“(B) Assistance to enroll in the Department of Veterans Affairs health care system for health care benefits for which the member is eligible under laws administered by the Secretary of Veterans Affairs.”.

(b) REPORT ON PTSD CASES.—(1) The Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to Congress a report on the services provided members and former members of the Armed Forces who experience post-traumatic stress disorder (and related conditions) associated with service in the Armed Forces.

(2) The report under paragraph (1) shall include a discussion of the policies, plans, and

procedures of the Department of Defense and the Department of Veterans Affairs for—

(A) the identification of cases of persons experiencing post-traumatic stress disorder or related conditions, intervention in such cases, and treatment of such persons; and

(B) the training of Department of Defense personnel and Department of Veterans Affairs personnel regarding such disorder and conditions.

(c) STUDY ON DoD-VA COORDINATION AND COOPERATION.—(1) The Secretary of Defense and the Secretary of Veterans Affairs shall jointly carry out a study to identify ways to improve the coordination and cooperation between the two departments to support the provision of veterans’ benefits to members and former members of the Armed Forces who have been deployed as described in section 1074f(a) of title 10, United States Code, as well as to other members and former members of the Armed Forces.

(2) The study under paragraph (1) shall, at a minimum, address the following matters:

(A) Compatibility of health care filing systems.

(B) Consistency of claims forms.

(C) Consistency of medical examination forms.

(D) Shared electronic database with appropriate privacy protections.

### SEC. 5. ACCESS OF MILITARY AND VETERANS SERVICE AGENCIES AND ORGANIZATIONS.

(a) DEPARTMENT OF DEFENSE.—(1) Chapter 58 of title 10, United States Code, as amended by section 3(a), is further amended by adding at the end the following new section:

#### “§ 1155. Veteran-to-veteran preseparation counseling

“(a) COOPERATION REQUIRED.—The Secretary of Defense shall carry out a program to facilitate the access of representatives of military and veterans’ service organizations and representatives of veterans’ services agencies of States to provide preseparation counseling and services to members of the armed forces who are scheduled, or are in the process of being scheduled, for discharge, release from active duty, or retirement.

“(b) ELEMENTS OF PROGRAM.—The program under this section shall include the following elements:

“(1) Invitation to representatives of military and veterans’ service organizations and representatives of veterans’ services agencies of States to participate in the preseparation counseling and other assistance briefings provided to members under the programs carried out under sections 1142 and 1144 of this title.

“(2) Support for the outreach programs of such organizations and agencies by providing the organizations and agencies with the names and addresses of members of the armed forces described in subsection (a), including, in particular, members who are being separated from active duty upon return from a deployment in support of a contingency operation.

“(c) LOCATIONS.—The program under this section shall provide for access to members—

“(1) at each installation of the armed forces;

“(2) at each inpatient medical care facility of the uniformed services administered under chapter 55 of this title; and

“(3) in the case of a member on the temporary disability retired list under section 1202 or 1205 of this title who is being retired under another provision of this title or is being discharged, at a location reasonably convenient to the member.

“(d) WAIVER OF ACCESS RESTRICTIONS.—To carry out elements of the program under subsection (b), the Secretary of Defense may waive the applicable provisions of the regulations promulgated under section 264(c) of

the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note) to the extent necessary to ensure that representatives of military and veterans' service organizations and representatives of veterans' services agencies of States have access to members and former members of the uniformed services in medical treatment facilities of the uniformed services.

“(e) CONSENT OF MEMBERS REQUIRED.—Access to a member of the armed forces under the program under this section is subject to the consent of the member.”.

(2) The table of sections at the beginning of such chapter, as amended by section 3(b), is amended by adding at the end the following new item:

“1155. Veteran-to-veteran pre-separation counseling.”.

(b) DEPARTMENT OF VETERANS AFFAIRS.—(1) Subchapter 1 of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

**“§ 1709. Veteran-to-veteran counseling**

“(a) COOPERATION REQUIRED.—The Secretary shall carry out a program to facilitate the access of representatives of military and veterans' service organizations and representatives of veterans' services agencies of States to veterans furnished care and services under this chapter to provide information and counseling to such veterans on the care and services authorized by this chapter and on other benefits and services available under the laws administered by the Secretary.

“(b) FACILITIES COVERED.—The program under this section shall provide for access to veterans described in subsection (a) at each facility of the Department or non-Department facility at which the Secretary furnishes care and services under this chapter.

“(c) WAIVER OF ACCESS RESTRICTIONS.—To carry out the program under this section, the Secretary may waive the applicable provisions of the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note) to the extent necessary to ensure that representatives of military and veterans' service organizations and representatives of veterans' services agencies of States have access to veterans described in subsection (a) at the facilities referred to in subsection (b).

“(d) CONSENT OF VETERANS REQUIRED.—Access to a veteran under the program under this section is subject to the consent of the veteran.”.

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 1708 the following new item:

“Veteran-to-veteran counseling.”.

**SEC. 6. COLLEGE CREDIT FOR SERVICE IN ARMED FORCES.**

(a) REQUIREMENT FOR PROGRAM.—Chapter 58 of title 10, United States Code, as amended by section 5(a), is further amended by adding at the end the following new section:

**“§ 1156. College credit for training in the armed forces**

“The Secretary of Defense shall carry out a program to assist members of the armed forces being discharged, released from active duty, or retired to obtain college credit for training received as a member of the armed forces.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as amended by section 5(a)(2), is amended by adding at the end the following new item:

“1156. College credit for training in the armed forces.”.

By Mr. DODD (for himself, Mr. KENNEDY, Mr. REED, Mr. BINGA-

MAN, Mrs. CLINTON, Mr. SARBANES, Mr. REID, Mr. AKAKA, Mr. JOHNSON, Ms. STABENOW, Mr. CORZINE, Mr. LAUTENBERG, and Mr. DURBIN):

S. 2428. A bill to provide for educational opportunities for all students in State public school systems, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today with Senators KENNEDY, REED, BINGAMAN, CLINTON, SARBANES, REID, AKAKA, JOHNSON, STABENOW, CORZINE, LAUTENBERG and DURBIN to introduce the “Student Bill of Rights.” This bill is critical to ensuring that every child in America receives the educational opportunity that is the foundation of America's promise of equal opportunity for all.

The Student Bill of Rights attempts to ensure that every American child has an equal opportunity to receive a good education—including, highly qualified teachers, challenging curricula, small classes, current textbooks, quality libraries, and up-to-date technology—to all students in all schools in a State. Current law requires that schools within the same district provide comparable educational services. This bill would extend that basic protection to the State level by requiring comparability across school districts. And, this bill would help ensure that States comply with State or Federal court orders concerning the fairness of their public school systems.

Fifty years ago, *Brown vs. Board of Education* struck down segregation in law. Fifty years later, we know that just because there is no segregation in law does not mean that it does not persist in fact. Fifty years after *Brown v. Board of Education*, our education system remains largely separate and unequal.

All too often, whether an American child is taught by a high quality teacher in a small class, has access to the best courses and instructional materials, goes to school in a new, modern building, and otherwise benefits from educational resources that have been shown to be essential to a quality education, still depends on where the child's family can afford to live. In fact, the United States ranks last among developed countries in the difference in the quality of schools available to wealthy and low-income children. This is simply unacceptable, and it is why the Student Bill of Rights is so important to our children's ability to achieve academically, to gain the skills they need to be responsible, participating citizens in our diverse democracy, and to compete and succeed in the global economy.

Of course, factors besides resources are also important to academic achievement—supportive parents, motivated peers, and positive role models in the community, just to name a few. But at the same time, we also know

that adequate resources are vital to providing students with the opportunity to receive a solid education.

This bill does not represent a radical notion. Last Congress, 42 Senators and 183 Representatives voted for similar legislation that Mr. FATTAH offered in the other body and I offered here in the Senate. A radical notion is the idea that a country founded on the principle of equal opportunity for all can continue to accept an educational system that provides real educational opportunity for just a select few.

When he signed the No Child Left Behind Act two years ago, President Bush promised that the Federal Government would make sure schools have the resources necessary to meet the new law's requirements. This year alone, the President's budget resolution underfunds the law by \$9.4 billion. The President's budget also fails to fully fund the Federal Government's commitment to special education—leaving families and local communities struggling to make up the difference. We will never close the achievement gap as long as our nation's most disadvantaged students in the neediest schools are forced to make do with far less than other students. The Federal Government needs to become a more equal partner in funding education.

States need to do more, too. At the federal level we have created programs to help ensure that students from low-income communities start school healthy and ready to learn and to succeed in school once they get there. Programs such as Head Start, the School Lunch Program, The Children's Health Insurance Program and Title I, all assist in meeting the needs of low-income kids from their very first days.

In the end, this bill is about the simple fact that the quality of a child's education should not be determined by their zip code. The Student Bill of Rights will help ensure that each and every child's school has the resources to provide them with a decent education, and in turn, an equal opportunity for a successful future.

I urge my colleagues to join me in supporting the Student Bill of Rights, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2428

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Student Bill of Rights”.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

Sec. 1. Short title.  
Sec. 2. Table of contents.  
Sec. 3. Findings and purposes.

**TITLE I—EDUCATIONAL OPPORTUNITY IN STATE PUBLIC SCHOOL SYSTEMS**

Subtitle A—Access to Educational Opportunity

Sec. 101. State public school systems.



Sec. 102. Fundamentals of educational opportunity.

Subtitle B—State Accountability

Sec. 111. State accountability plan.

Sec. 112. Consequences of failure to meet requirements.

Subtitle C—Report to Congress and the Public

Sec. 121. Annual report on State public school systems.

Subtitle D—Remedy

Sec. 131. Civil action for enforcement.

**TITLE II—EFFECTS OF EDUCATIONAL DISPARITIES ON ECONOMIC GROWTH AND NATIONAL DEFENSE**

Sec. 201. Effects on economic growth and productivity.

Sec. 202. Effects on national defense.

**TITLE III—GENERAL PROVISIONS**

Sec. 301. Definitions.

Sec. 302. Rulemaking.

Sec. 303. Construction.

**SEC. 3. FINDINGS AND PURPOSES.**

(a) **FINDINGS.**—Congress finds the following:

(1) A high-quality, highly competitive education for all students is imperative for the economic growth and productivity of the United States, for its effective national defense, and to achieve the historical aspiration to be one Nation of equal citizens. It is therefore necessary and proper to overcome the nationwide phenomenon of State public school systems that do not meet the requirements of section 101(a), in which high-quality public schools typically serve high-income communities and poor-quality schools typically serve low-income, urban, rural, and minority communities.

(2) There exists in the States a significant educational opportunity gap for low-income, urban, rural, and minority students characterized by the following:

(A) Continuing disparities within States in students' access to the fundamentals of educational opportunity described in section 102.

(B) Highly differential educational expenditures (adjusted for cost and need) among school districts within States.

(C) Radically differential educational achievement among students in school districts within States as measured by the following:

(i) Achievement in mathematics, reading or language arts, and science on State academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)) and on the National Assessment of Educational Progress.

(ii) Advanced placement courses taken.

(iii) SAT and ACT test scores.

(iv) Dropout rates and graduation rates.

(v) College-going and college-completion rates.

(vi) Job placement and retention rates and indices of job quality.

(3) As a consequence of this educational opportunity gap, the quality of a child's education depends largely upon where the child's family can afford to live, and the detriments of lower quality education are imposed particularly on—

(A) children from low-income families;

(B) children living in urban and rural areas; and

(C) minority children.

(4) Since 1785, Congress, exercising the power to admit new States under section 3 of article IV of the Constitution (and previously, the Congress of the Confederation of States under the Articles of Confederation), has imposed upon every State, as a fundamental condition of the State's admission, that the State provide for the establishment

and maintenance of systems of public schools open to all children in such State.

(5) Over the years since the landmark ruling in *Brown v. Board of Education*, 347 U.S. 483, 493 (1954), when a unanimous Supreme Court held that "the opportunity of an education...., where the State has undertaken to provide it, is a right which must be made available to all on equal terms", courts in 44 States have heard challenges to the establishment, maintenance, and operation of State public school systems that are separate and not educationally adequate.

(6) In 1970, the Presidential Commission on School Finance found that significant disparities in the distribution of educational resources existed among school districts within States because the States relied too significantly on local district financing for educational revenues, and that reforms in systems of school financing would increase the Nation's ability to serve the educational needs of all children.

(7) In 1999, the National Research Council of the National Academy of Sciences published a report entitled "Making Money Matter, Financing America's Schools", which found that the concept of funding adequacy, which moves beyond the more traditional concepts of finance equity to focus attention on the sufficiency of funding for desired educational outcomes, is an important step in developing a fair and productive educational system.

(8) In 2001, the Executive Order establishing the President's Commission on Educational Resource Equity declared, "A quality education is essential to the success of every child in the 21st century and to the continued strength and prosperity of our Nation. . . . [L]ong-standing gaps in access to educational resources exist, including disparities based on race and ethnicity." (Exec. Order No. 13190, 66 Fed. Reg. 5424 (2001))

(9) According to the Secretary of Education, as stated in a letter (with enclosures) from the Secretary to States dated January 19, 2001—

(A) racial and ethnic minorities continue to suffer from lack of access to educational resources, including "experienced and qualified teachers, adequate facilities, and instructional programs and support, including technology, as well as...the funding necessary to secure these resources"; and

(B) these inadequacies are "particularly acute in high-poverty schools, including urban schools, where many students of color are isolated and where the effect of the resource gaps may be cumulative. In other words, students who need the most may often receive the least, and these students often are students of color."

(10) In the amendments made by the No Child Left Behind Act of 2001, Congress—

(A)(i) required each State to establish standards and assessments in mathematics, reading or language arts, and science; and

(ii) required schools to ensure that all students are proficient in mathematics, reading or language arts, and science not later than 12 years after the end of the 2001-2002 school year, and held schools accountable for the students' progress; and

(B) required each State to describe how the State will help local educational agencies and schools to develop the capacity to improve student academic achievement.

(11) The standards and accountability movement will succeed only if, in addition to standards and accountability, all schools have access to the educational resources necessary to enable students to achieve.

(12) Raising standards without ensuring access to educational resources may in fact exacerbate achievement gaps and set children up for failure.

(13) According to the World Economic Forum's Global Competitiveness Report 2001-2002, the United States ranks last among developed countries in the difference in the quality of schools available to rich and poor children.

(14) The persistence of pervasive inadequacies in the quality of education provided by State public school systems effectively deprives millions of children throughout the United States of the opportunity for an education adequate to enable the children to—

(A) acquire the knowledge and skills necessary for responsible citizenship in a diverse democracy, including the ability to participate fully in the political process through informed electoral choice;

(B) meet challenging student academic achievement standards; and

(C) be able to compete and succeed in a global economy.

(15) Each State government has ultimate authority to determine every important aspect and priority of the public school system that provides elementary and secondary education to children in the State, including whether students throughout the State have access to the fundamentals of educational opportunity described in section 102.

(16) Because a well educated populace is critical to the Nation's political and economic well-being and national security, the Federal Government has a substantial interest in ensuring that States provide a high-quality education by ensuring that all students have access to the fundamentals of educational opportunity described in section 102 to enable the students to succeed academically and in life.

(b) **PURPOSES.**—The purposes of this Act are the following:

(1) To further the goals of the Elementary and Secondary Education Act of 1965 (as amended by the No Child Left Behind Act of 2001), by holding States accountable for providing all students with access to the fundamentals of educational opportunity described in section 102.

(2) To ensure that all students in public elementary schools and secondary schools receive educational opportunities that enable such students to—

(A) acquire the knowledge and skills necessary for responsible citizenship in a diverse democracy, including the ability to participate fully in the political process through informed electoral choice;

(B) meet challenging student academic achievement standards; and

(C) be able to compete and succeed in a global economy.

(3) To end the pervasive pattern of States maintaining public school systems that do not meet the requirements of section 101(a).

**TITLE I—EDUCATIONAL OPPORTUNITY IN STATE PUBLIC SCHOOL SYSTEMS**

**Subtitle A—Access to Educational Opportunity**

**SEC. 101. STATE PUBLIC SCHOOL SYSTEMS.**

(a) **REQUIREMENTS.**—Each State receiving Federal financial assistance for elementary or secondary education shall ensure that the State's public school system provides all students within the State with an education that enables the students to acquire the knowledge and skills necessary for responsible citizenship in a diverse democracy, including the ability to participate fully in the political process through informed electoral choice, to meet challenging student academic achievement standards, and to be able to compete and succeed in a global economy, through—

(1) the provision of fundamentals of educational opportunity described in section 102, at adequate or ideal levels as defined by the State under section 111(a)(1)(A) to students

at each public elementary school and secondary school in the State;

(2) the provision of educational services in school districts that receive funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) that are, taken as a whole, at least comparable to educational services provided in school districts not receiving such funds; and

(3) compliance with any final Federal or State court order in any matter concerning the adequacy or equitableness of the State's public school system.

(b) DETERMINATIONS CONCERNING STATE PUBLIC SCHOOL SYSTEMS.—Not later than October 1 of each year, the Secretary shall determine whether each State maintains a public school system that meets the requirements of subsection (a). The Secretary may make a determination that a State public school system does not meet such requirements only after providing notice and an opportunity for a hearing.

(c) PUBLICATION.—The Secretary shall publish and make available to the general public (including by means of the Internet) the determinations made under subsection (b).

#### SEC. 102. FUNDAMENTALS OF EDUCATIONAL OPPORTUNITY.

The fundamentals of educational opportunity are the following:

(1) HIGHLY QUALIFIED TEACHERS, PRINCIPALS, AND ACADEMIC SUPPORT PERSONNEL.—

(A) HIGHLY QUALIFIED TEACHERS.—Instruction from highly qualified teachers in core academic subjects.

(B) HIGHLY QUALIFIED PRINCIPALS.—Leadership, management, and guidance from principals who meet State certification standards.

(C) HIGHLY QUALIFIED ACADEMIC SUPPORT PERSONNEL.—Necessary additional academic support in reading or language arts, mathematics, and other core academic subjects from personnel who meet applicable State standards.

(2) RIGOROUS ACADEMIC STANDARDS, CURRICULA, AND METHODS OF INSTRUCTION.—Rigorous academic standards, curricula, and methods of instruction, as measured by the extent to which each school district succeeds in providing high-quality academic standards, curricula, and methods of instruction to students in each public elementary school and secondary school within the district.

(3) SMALL CLASS SIZES.—Small class sizes, as measured by—

(A) the average class size and the range of class sizes; and

(B) the percentage of classes with 17 or fewer students.

(4) TEXTBOOKS, INSTRUCTIONAL MATERIALS, AND SUPPLIES.—Textbooks, instructional materials, and supplies, as measured by—

(A) the average age and quality of textbooks, instructional materials, and supplies used in core academic subjects; and

(B) the percentage of students who begin the school year with school-issued textbooks, instructional materials, and supplies.

(5) LIBRARY RESOURCES.—Library resources, as measured by—

(A) the size and qualifications of the library's staff, including whether the library is staffed by a full-time librarian certified under applicable State standards;

(B) the size (relative to the number of students) and quality (including age) of the library's collection of books and periodicals; and

(C) the library's hours of operation.

(6) SCHOOL FACILITIES AND COMPUTER TECHNOLOGY.—

(A) QUALITY SCHOOL FACILITIES.—Quality school facilities, as measured by—

(i) the physical condition of school buildings and major school building features;

(ii) environmental conditions in school buildings; and

(iii) the quality of instructional space.

(B) COMPUTER TECHNOLOGY.—Computer technology, as measured by—

(i) the ratio of computers to students;

(ii) the quality of computers and software available to students;

(iii) Internet access;

(iv) the quality of system maintenance and technical assistance for the computers; and

(v) the number of computer laboratory courses taught by qualified computer instructors.

(7) QUALITY GUIDANCE COUNSELING.—Qualified guidance counselors, as measured by the ratio of students to qualified guidance counselors who have been certified under an applicable State or national program.

#### Subtitle B—State Accountability

#### SEC. 111. STATE ACCOUNTABILITY PLAN.

(a) GENERAL PLAN.—

(1) CONTENTS.—Each State receiving Federal financial assistance for elementary and secondary education shall annually submit to the Secretary a plan, developed by the State educational agency, in consultation with local educational agencies, teachers, principals, pupil services personnel, administrators, other staff, and parents, that contains the following:

(A) A description of 2 levels of high access (adequate and ideal) to each of the fundamentals of educational opportunity described in section 102 that measure how well the State, through school districts, public elementary schools, and public secondary schools, is achieving the purposes of this Act by providing children with the resources they need to succeed academically and in life.

(B) A description of a third level of access (basic) to each of the fundamentals of educational opportunity described in section 102 that measures how well the State, through school districts, public elementary schools, and public secondary schools, is achieving the purposes of this Act by providing children with the resources they need to succeed academically and in life.

(C) A description of the level of access of each school district, public elementary school, and public secondary school in the State to each of the fundamentals of educational opportunity described in section 102, including identification of any such schools that lack high access (as described in subparagraph (A)) to any of the fundamentals.

(D) An estimate of the additional cost, if any, of ensuring that the system meets the requirements of section 101(a).

(E) Information stating the percentage of students in each school district, public elementary school, and public secondary school in the State that are proficient in mathematics, reading or language arts, and science, as measured through assessments administered as described in section 111(b)(3)(C)(v) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(C)(v)).

(F) Information stating whether each school district, public elementary school, and public secondary school in the State is making adequate yearly progress, as defined under section 111(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)).

(G)(i) For each school district, public elementary school, and public secondary school in the State, information stating—

(I) the number and percentage of children counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); and

(II) the number and percentage of students described in section 111(b)(3)(C)(xiii) of the

Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(C)(xiii)).

(ii) For each such school district, information stating whether the district is an urban, mixed, or rural district (as defined by the National Center for Education Statistics).

(2) LEVELS OF ACCESS.—For purposes of the plan submitted under paragraph (1)—

(A) in defining basic, adequate, and ideal levels of access to each of the fundamentals of educational opportunity, each State shall consider, in addition to the factors described in section 102, the access available to students in the highest-achieving decile of public elementary schools and secondary schools, the unique needs of low-income, urban and rural, and minority students, and other educationally appropriate factors; and

(B) the levels of access described in subparagraphs (A) and (B) of paragraph (1) shall be aligned with the challenging academic content standards, challenging student academic achievement standards, and high-quality academic assessments required under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(3) INFORMATION.—The State shall annually disseminate to parents, in an understandable and uniform format, the descriptions, estimate, and information described in paragraph (1).

(b) ACCOUNTABILITY AND REMEDIATION.—

(1) ACCOUNTABILITY.—If the Secretary determines under section 101(b) that a State maintains a public school system that fails to meet the requirements of section 101(a)(1), the plan submitted under subsection (a)(1) shall—

(A) demonstrate that the State has developed and is implementing a single, statewide State accountability system that will be effective in ensuring that the State makes adequate yearly progress under this Act (as defined by the State in a manner that annually reduces the number of public elementary schools and secondary schools in the State without high access (as described in subsection (a)(1)(A)) to each of the fundamentals of educational opportunity described in section 102);

(B) demonstrate, based on the levels of access described in paragraph (1) what constitutes adequate yearly progress of the State under this Act toward providing all students with high access to the fundamentals of educational opportunity described in section 102; and

(C) ensure—

(i) the establishment of a timeline for that adequate yearly progress that includes interim yearly goals for the reduction of the number of public elementary schools and secondary schools in the State without high access to each of the fundamentals of educational opportunity described in section 102; and

(ii) that not later than 12 years after the end of the 2001–2002 school year, each public elementary or secondary school in the State shall have high access to each of the fundamentals of educational opportunity described in section 102.

(2) REMEDIATION.—If the Secretary determines under section 101(b) that a State maintains a public school system that fails to meet the requirements of section 101(a)(2), not later than 1 year after the Secretary makes the determination, the State shall include in the plan submitted under subsection (a)(1) a strategy to remediate the conditions that caused the Secretary to make such determination, not later than the end of the second school year beginning after submission of the plan.

(c) AMENDMENTS.—A State may amend the plan submitted under subsection (a)(1) to improve the plan or to take into account significantly changed circumstances.



(d) **DISAPPROVAL.**—The Secretary may disapprove the plan submitted under subsection (a)(1) (or an amendment to such a plan) if the Secretary determines, after notice and opportunity for hearing, that the plan (or amendment) is inadequate to meet the requirements described in subsections (a) and (b).

(e) **WAIVER.**—

(1) **IN GENERAL.**—A State may request, and the Secretary may grant, a waiver of the requirements of subsections (a) and (b) for 1 year for exceptional circumstances, such as a precipitous decrease in State revenues, or another circumstance that the Secretary determines to be exceptional, that prevents a State from complying with the requirements of subsections (a) and (b).

(2) **CONTENTS OF WAIVER REQUEST.**—A State that requests a waiver under paragraph (1) shall include in the request—

(A) a description of the exceptional circumstance that prevents the State from complying with the requirements of subsections (a) and (b); and

(B) a plan that details the manner in which the State will comply with such requirements by the end of the waiver period.

#### **SEC. 112. CONSEQUENCES OF FAILURE TO MEET REQUIREMENTS.**

(a) **INTERIM YEARLY GOALS.**—

(1) **IN GENERAL.**—For a fiscal year and a State described in section 111(b)(1), the Secretary shall withhold from the State 2.75 percent of funds otherwise available to the State for the administration of Federal elementary and secondary education programs, for each covered goal that the Secretary determines the State is not meeting during that year.

(2) **DEFINITION.**—In this subsection, the term “covered goal”, used with respect to a fiscal year, means an interim yearly goal described in section 111(b)(1)(C)(i) that is applicable to that year or a prior fiscal year.

(b) **CONSEQUENCES OF NONREMEDATION.**—Notwithstanding any other provision of law, if the Secretary determines that a State required to include a strategy under section 111(b)(2) continues to maintain a public school system that does not meet the requirements of section 101(a)(2) at the end of the second school year described in section 111(b)(2), the Secretary shall withhold from the State not more than 33½ percent of funds otherwise available to the State for the administration of Federal elementary and secondary education programs until the Secretary determines that the State maintains a public school system that meets the requirements of section 101(a)(2).

(c) **CONSEQUENCES OF NONCOMPLIANCE WITH COURT ORDERS.**—If the Secretary determines under section 101(b) that a State maintains a public school system that fails to meet the requirements of section 101(a)(3), the Secretary shall withhold from the State not more than 33½ percent of funds otherwise available to the State for the administration of Federal elementary and secondary education programs.

(d) **DISPOSITION OF FUNDS WITHHELD.**—

(1) **DETERMINATION.**—Not later than 1 year after the Secretary withholds funds from a State under this section, the Secretary shall determine whether the State has corrected the condition that led to the withholding.

(2) **DISPOSITION.**—

(A) **CORRECTION.**—If the Secretary determines under paragraph (1), that the State has corrected the condition that led to the withholding, the Secretary shall make the withheld funds available to the State to use for the original purpose of the funds during 1 or more fiscal years specified by the Secretary.

(B) **NONCORRECTION.**—If the Secretary determines under paragraph (1), that the State

has not corrected the condition that led to the withholding, the Secretary shall allocate the withheld funds to public school districts, public elementary schools, or public secondary schools in the State that are most adversely affected by the condition that led to the withholding, to enable the districts or schools to correct the condition during 1 or more fiscal years specified by the Secretary.

(3) **AVAILABILITY.**—Amounts made available or allocated under subparagraph (A) or (B) of paragraph (2) shall remain available during the fiscal years specified by the Secretary under that subparagraph.

#### **Subtitle C—Report to Congress and the Public**

#### **SEC. 121. ANNUAL REPORT ON STATE PUBLIC SCHOOL SYSTEMS.**

(a) **ANNUAL REPORT TO CONGRESS.**—Not later than October 1 of each year, beginning the year after completion of the first full school year after the date of enactment of this Act, the Secretary shall submit to Congress a report that includes a full and complete analysis of the public school system of each State.

(b) **CONTENTS OF REPORT.**—The analysis conducted under subsection (a) shall include the following:

(1) **PUBLIC SCHOOL SYSTEM INFORMATION.**—The following information related to the public school system of each State:

(A) The number of school districts, public elementary schools, public secondary schools, and students in the system.

(B)(i) For each such school district and school—

(I) information stating the number and percentage of children counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)); and

(II) the number and percentage of students, disaggregated by groups described in section 1111(b)(3)(C)(xiii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(C)(xiii)).

(ii) For each such district, information stating whether the district is an urban, mixed, or rural district (as defined by the National Center for Education Statistics).

(C) The average per-pupil expenditure (both in actual dollars and adjusted for cost and need) for the State and for each school district in the State.

(D) Each school district's decile ranking as measured by achievement in mathematics, reading or language arts, and science on State academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)) and on the National Assessment of Educational Progress.

(E) For each school district, public elementary school, and public secondary school—

(i) the level of access (as described in section 111(a)(1)) to each of the fundamentals of educational opportunity described in section 102;

(ii) the percentage of students that are proficient in mathematics, reading or language arts, and science, as measured through assessments administered as described in section 1111(b)(3)(C)(v) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)(C)(v)); and

(iii) whether the school district or school is making adequate yearly progress—

(I) as defined under section 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)); and

(II) as defined by the State under section 111(b)(1)(A).

(F) For each State, the number of public elementary schools and secondary schools that lack, and names of each such school that lacks, high access (as described in section 111(a)(1)(A)) to any of the fundamentals

of educational opportunity described in section 102.

(G) For the year covered by the report, a summary of any changes in the data required in subparagraphs (A) through (F) for each of the preceding 3 years (which may be based on such data as are available, for the first 3 reports submitted under subsection (a)).

(H) Such other information as the Secretary considers useful and appropriate.

(2) **STATE ACTIONS.**—For each State that the Secretary determines under section 101(b) maintains a public school system that fails to meet the requirements of section 101(a), a detailed description and evaluation of the success of any actions taken by the State, and measures proposed to be taken by the State, to meet the requirements.

(3) **STATE PLANS.**—A copy of each State's most recent plan submitted under section 111(a)(1).

(4) **RELATIONSHIP BETWEEN COMPLIANCE AND ACHIEVEMENT.**—An analysis of the relationship between meeting the requirements of section 101(a) and improving student academic achievement, as measured on State academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(3)).

(c) **SCOPE OF REPORT.**—The report required under subsection (a) shall cover the school year ending in the calendar year in which the report is required to be submitted.

(d) **SUBMISSION OF DATA TO SECRETARY.**—Each State receiving Federal financial assistance for elementary and secondary education shall submit to the Secretary, at such time and in such manner as the Secretary may reasonably require, such data as the Secretary determines to be necessary to make a determination under section 101(b) and to submit the report under this section. Such data shall include the information used to measure the State's success in providing the fundamentals of educational opportunity described in section 102.

(e) **FAILURE TO SUBMIT DATA.**—If a State fails to submit the data that the Secretary determines to be necessary to make a determination under section 101(b) regarding whether the State maintains a public school system that meets the requirements of section 101(a)—

(1) such State's public school system shall be deemed not to have met the applicable requirements until the State submits such data and the Secretary is able to make such determination under section 101(b); and

(2) the Secretary shall provide, to the extent practicable, the analysis required in subsection (a) for the State based on the best data available to the Secretary.

(f) **PUBLICATION.**—The Secretary shall publish and make available to the general public (including by means of the Internet) the report required under subsection (a).

#### **Subtitle D—Remedy**

#### **SEC. 131. CIVIL ACTION FOR ENFORCEMENT.**

A student or parent of a student aggrieved by a violation of this Act may bring a civil action against the appropriate official in an appropriate Federal district court seeking declaratory or injunctive relief to enforce the requirements of this Act, together with reasonable attorney's fees and the costs of the action.

#### **TITLE II—EFFECTS OF EDUCATIONAL DISPARITIES ON ECONOMIC GROWTH AND NATIONAL DEFENSE**

#### **SEC. 201. EFFECTS ON ECONOMIC GROWTH AND PRODUCTIVITY.**

(a) **STUDY.**—The Commissioner for Education Statistics, in consultation with the Secretary of Commerce, Secretary of Labor, Secretary of the Treasury, and the National Research Council of the National Academy of Sciences, shall conduct a comprehensive

study concerning the effects on economic growth and productivity of ensuring that each State public school system meets the requirements of section 101(a). Such study shall include assessments of—

(1) the economic costs to the Nation resulting from the maintenance by States of public school systems that do not meet the requirements of section 101(a);

(2) the economic gains to be expected from States' compliance with the requirements of section 101(a); and

(3) the costs, if any, of ensuring that each State maintains a public school system that meets the requirements of section 101(a).

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Commissioner for Education Statistics shall submit to Congress a final report detailing the results of the study required under subsection (a).

#### SEC. 202. EFFECTS ON NATIONAL DEFENSE.

(a) STUDY.—The Commissioner for Education Statistics, in consultation with the Secretary of Defense, shall conduct a comprehensive study concerning the effects on national defense of ensuring that each State public school system meets the requirements of section 101(a). Such study shall include assessments of—

(1) the detriments to national defense resulting from the maintenance by States of public school systems that do not meet the requirements of section 101(a), including the effects on—

(A) knowledge and skills necessary for the effective functioning of the Armed Forces;

(B) the costs to the Armed Forces of training; and

(C) efficiency resulting from the use of sophisticated equipment and information technology; and

(2) the gains to national defense to be expected from ensuring that each State public school system meets the requirements of section 101(a).

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Commissioner for Education Statistics shall submit to Congress a final report detailing the results of the study required under subsection (a).

### TITLE III—GENERAL PROVISIONS

#### SEC. 301. DEFINITIONS.

In this Act:

(1) REFERENCED TERMS.—The terms “elementary school”, “secondary school”, “local educational agency”, “highly qualified”, “core academic subjects”, “parent”, and “average per-pupil expenditure” have the meanings given those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) FEDERAL ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.—The term “Federal elementary and secondary education programs” means programs providing Federal financial assistance for elementary or secondary education, other than programs under the following provisions of law:

(A) The Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(B) Title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6801 et seq.).

(C) The Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(D) The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(3) PUBLIC SCHOOL SYSTEM.—The term “public school system” means a State's system of public elementary and secondary education.

(4) STATE.—The term “State” means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

#### SEC. 302. RULEMAKING.

The Secretary may prescribe regulations to carry out this Act.

#### SEC. 303. CONSTRUCTION.

Nothing in this Act shall be construed to require a jurisdiction to increase its property tax or other tax rates or to redistribute revenues from such taxes.

By Mr. DURBIN (for Mr. DASCHLE (for himself and Mr. JOHNSON)):

S. 2429. A bill to authorize the Secretary of the Interior to reallocate costs of the Pactola Dam and Reservoir, South Dakota, to reflect increased demands for municipal, industrial, and fish and wildlife purposes; to the Committee on Energy and Natural Resources.

S. 2429

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Pactola Reservoir Reallocation Authorization Act of 2004”.

#### SEC. 2. FINDINGS.

Congress finds that—

(1) it is appropriate to reallocate the costs of the Pactola Dam and Reservoir, South Dakota, to reflect increased demands for municipal, industrial, and fish and wildlife purposes; and

(2) section 302 of the Department of Energy Organization Act (42 U.S.C. 7152) prohibits such a reallocation of costs without congressional approval.

#### SEC. 3. REALLOCATION OF COSTS OF PACTOLA DAM AND RESERVOIR, SOUTH DAKOTA.

The Secretary of the Interior may, as provided in the contract of August 2001 entered into between Rapid City, South Dakota, and the Rapid Valley Conservancy District, reallocate, in a manner consistent with Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)), the construction costs of Pactola Dam and Reservoir, Rapid Valley Unit, Pick-Sloan Missouri Basin Program, South Dakota, from irrigation purposes to municipal, industrial, and fish and wildlife purposes.

### SUBMITTED RESOLUTIONS

#### SENATE CONCURRENT RESOLUTION 109—COMMENDING THE UNITED STATES INSTITUTE OF PEACE ON THE OCCASION OF ITS 20TH ANNIVERSARY AND RECOGNIZING THE INSTITUTE FOR ITS CONTRIBUTION TO INTERNATIONAL CONFLICT RESOLUTION

Mr. INOUE (for himself, Mr. HARKIN, and Mr. WARNER) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 109

Whereas the United States Institute of Peace (the Institute) was established by Congress in 1984 as an independent, nonpartisan Federal institution dedicated to the prevention, management, and peaceful resolution of international conflict;

Whereas the Institute fulfills its mandate from Congress through programs and

projects that support peacemaking and the peaceful resolution of conflict abroad;

Whereas the Institute's broad congressional mandate has allowed the Institute to become a valued source of innovative ideas and practical policy analysis on peacemaking in zones of conflict around the world, thereby enhancing United States foreign policy;

Whereas the Institute is the result of long-term public interest and dedication from Senator Spark Matsunaga of Hawaii, Senator Jennings Randolph of West Virginia, Senator Mark Hatfield of Oregon, Senator Nancy Kassebaum of Kansas, Senator Claiborne Pell of Rhode Island, Representative Pat Williams of Montana, Representative Dante Fascell of Florida, Representative Dan Glickman of Kansas, Representative John Porter of Illinois, as well as Members of Congress today;

Whereas the Institute trains thousands of government officials, military and law enforcement personnel, humanitarian workers, and civic activists from the United States and abroad in the skills of professional peacemaking;

Whereas the Institute works to alleviate religious and ethnic strife through mediation, training programs, research, and opening of dialogue between and among religious factions;

Whereas the Institute promotes the development of the rule of law in post-conflict and transitional societies and provides assistance on constitution-drafting, judicial and police reform, law revision, and war crimes accountability;

Whereas the Institute examines the role of the media in international conflict including incitement and freedom of the press;

Whereas the Institute attracts new generations to the practice of peacemaking and has funded more than 150 graduate students as Peace Scholars specializing in the resolution and management of international conflict;

Whereas the Institute brings together practitioners and scholars from around the world as fellows in the distinguished Jennings Randolph Fellows Program to advance knowledge and to publish reports and books on topics related to the peaceful resolution of international conflict;

Whereas the Institute has trained hundreds of teachers and enhanced curricular materials related to international conflict, and has conducted educational seminars for thousands of educators at schools and universities around the country;

Whereas the Institute is strengthening curricula and instruction, from high school through graduate school, on the changing character of international conflict and non-violent approaches to managing international disputes and has inspired the creation of dozens of courses and programs dedicated to these topics;

Whereas the Institute has made more than 1,500 grants totaling nearly \$50,000,000 to individuals and nonprofit organizations in 48 States in support of educational, training, and research projects that have helped define and build the field of conflict prevention and conflict management in more than 64 foreign countries;

Whereas the Institute contributes to the advancement of conflict resolution education by awarding college scholarships to high school students through the annual National Peace Essay Contest, training and developing teaching guides for high school teachers, awarding grants to university students pursuing doctoral degrees in international conflict resolution, and awarding grants to universities and professors in the United States researching international conflict resolution;