

I remember way back when I was chairing a subcommittee that had jurisdiction over this type of an area, back when this first started. We might remember when Al Gore came back, and they had developed this thing called the Kyoto treaty. They signed it on behalf of the United States, but they never submitted it to be confirmed by the Senate. Obviously, that is something that has to happen. They now are going to go in there to do a climate agreement. It was a real shocker on November 11 when the Secretary of State John Kerry made a public statement that the United States would not be a part of anything that is binding on the United States. The President of France didn't know that. He went into shock. He said that the Secretary must have been confused. They had to reconcile themselves at that time. That was 2 weeks before people arrived for the big party in Paris. They decided that we will put together something where we can have an understanding of what we want to do in the future—nothing binding.

The reason I am mentioning this now is that this afternoon there is supposed to be a plan that is going to be unveiled that is going to reflect what they want everybody to do with this. I want to keep one thing in mind. The last event I went to was in Copenhagen. They are designed to try to get 192 countries to agree that the world is coming to an end and that we are going to have to do something about cap and trade to stop the global warming. This has been going on for a long time. There are significant problems that remain. The negotiators can't agree on whether it is binding or what part of the agreement might be binding and still comply with our laws and constitutional restrictions. They can't agree on financing.

This morning, in order to entice the developing countries, Secretary Kerry, on behalf of the President, announced that the United States would contribute another \$800 million a year to help developing countries adapt to the effects of climate change. Let's keep in mind that this is in addition to the \$3 billion that the President expects Congress to appropriate to this cause.

Yesterday, in Paris, EPA Administrator Gina McCarthy again misrepresented to the international community the EPA's authority and confidence in the U.S. commitments. The highlight of her remarks was her claim that "the Clean Power Plan will stick and is here to stay." When attending international delegates asked questions about their legal vulnerability and the possibility of the future administration changing anything that is adopted by this administration, she reportedly walked around the question and many in the audience were upset that she wouldn't answer the question. The reason she wouldn't is because there is no answer to it.

I chair the committee called the Environment and Public Works Com-

mittee. We have the jurisdiction over these things. When the President came out with the Clean Power Plan, we said: All right, you are saying that you are committing the United States to a 28-percent reduction in CO<sub>2</sub> emissions by 2025. How are you going to get there?

They wouldn't say. No one to this day has talked about how they are going to do it. He said: Let's have a hearing.

We are the committee of jurisdiction. I don't recall any time when a bureaucracy that is in a committee's jurisdiction refused to testify, but they did refuse to testify. I think we all know why. We know there is no way of coming up with that type of a commitment. If you have all these costs and what it is going to cost us, does it address climate change? The Clean Power Plan will have no impact on the environment. It would reduce CO<sub>2</sub> emissions by less than 0.2 percent. It would reduce the rise of global temperature by less than one one-hundredth of a degree Fahrenheit, and it would reduce the sea level rise by the thickness of two sheets of paper. In fact, the EPA has testified before the environment committee that the Clean Power Plan is more about sending a signal that we are serious about addressing climate change than it is about clearing up pollution. The Justice Department requested that the DC Circuit Court of Appeals not rule on the Clean Power Plan, the principal domestic policy which supports our commitments to the climate conference, until after the conference concludes.

What they did was they went to the courts, knowing that the courts were going to be acting on this power plan and probably acting against it, and they didn't want that to happen before the party in France. I think it is the biggest signal to the international community that the administration lacks the confidence in their own rules.

Administrator McCarthy also claimed that the next administration cannot simply undo the Clean Power Plan because of the extensive comment period supporting the rule. The international community is not fooled by this either. Congress disagrees. Not only can Congress withhold funding from any element of an agreement that the administration refuses to send to Congress for approval, but the Congress has explicitly rejected the Clean Power Plan in the bipartisan Congressional Review Act, saying that we do not agree with this and we want to do away with this Clean Power Plan before it is finalized.

That should be the signal to the people who are at the party in Paris. I think that a lot of them do understand that. Even President Obama is now conceding that specific targets each country is setting to reduce greenhouse gas emissions may not have the force of treaties. He is hoping that 5 years or some type of periodic reviews of those countries would be in the form of a

binding commitment. But even if that is the case, that would merely be a review. Although the European Union and 107 developing countries are hoping for a legally binding long-term deal with review mechanisms and billions of dollars, any truly binding agreement must be sent to the Senate for approval.

Back when they first went down on the Kyoto treaty, we had the Byrd-Hagel rule. The Byrd-Hagel rule says that we are not going to ratify any treaty if it either is bad on our economy or it doesn't apply to countries such as China. So they have to do the same thing that we are doing. That passed 95 to 0. That was way back at the turn of the century.

Everyone knows that he can't unilaterally do these things, even though he tries. In 1992, when the Senate approved President H.W. Bush's agreement to have the United States participate in the conference of parties—that is the one that is going on right now, the 21st one—the process, any emissions, targets or requirements were going to have to be approved by the Senate. This is the President who was in charge at that time, George H.W. Bush. That was the agreement in 1992, and that agreement hasn't changed. Legally binding agreements must go before the Senate for consideration, and there is no way around it.

This is the message I conveyed when I attended the COP convention in 2009 in Copenhagen, and nothing has changed since that time. Nothing is happening over there now. They are having a good time. I am sure there are lots to drink and lots to eat, but that party will be over.

Let me share one experience I had. I have been very active in Africa for a number of years. There is an office-holder in the tiny country in West Africa of Benin. I saw him at the convention that was in Copenhagen.

I said: What are you doing here? You don't believe all this stuff.

He said: No, but they are passing out hundreds of billions of dollars, and we want to get some of ours. Besides that, this is the biggest party of the year.

Enjoy your party over there. Nothing binding is going to happen. Nothing binding is going to take place on this issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

#### EVERY STUDENT SUCCEEDS BILL

Mr. MURPHY. Mr. President, I come to the floor today to congratulate my colleagues on passage of the repeal and replacement of No Child Left Behind, the Every Child Succeeds Act. In particular, I want to thank Chairman ALEXANDER and Ranking Member MURRAY. It is really an example of how things can work in the Senate when we put our minds to trying to get to good policy instead of simply trying to get to good politics. There is a lot of politics surrounding early childhood education and elementary education.

There is a lot of hyperbole out there about the role the Federal Government should play in local education—issues such as the common core. Yet we were able to set aside all of those potentially inflammatory and toxic politics and get to a bill that despite those challenges has broad consensus from Republicans and Democrats. It ends up in a place that is really going to support a lot of teachers, students, parents and administrators out there.

When you look at that vote tally, it is impressive. It is a piece of legislation that has been able to unite progressive Democrats and conservative Republicans. In many ways it is a credit in this Chamber to debate that Senator ALEXANDER and Senator MURRAY set us upon. They were determined to get to a product that both parties could support. When you start with the idea that we can achieve a bipartisan solution, rather than your starting point being having a debate in order to maximize political impact and political division, it is miraculous what we get. We can all be blamed for falling into that trap far too often.

Mr. President, like you, my entire life has been spent in and around public education. I went to Connecticut's public schools. My mother was a public school teacher. My wife is a former public school teacher. I have two beautiful boys—one of whom is in the public school system as well. As it is for many of us, this conversation is deeply personal. It is also deeply personal for me as someone who is going to raise two boys in a country whose greatness depends more than ever on the quality of our public schools. The reality is that when my great-grandfather got off of a boat and showed up in New Britain, CT, he was guaranteed to get a good job in one of the ball bearing factories there, regardless of his education. He could get a good wage, a pension, and a decent health care benefit without a lot of skills that he couldn't learn on the job inside that factory.

Of course, our economy has radically changed since those days. We are lucky that we have declining unemployment. We are lucky we continue to grow jobs, as we have over the course of the last several years. They are totally different kinds of jobs than were available to my forefathers, immigrants who came to this country from places such as Ireland and Poland and worked in those factories. We now have jobs that require highly skilled professionals. We are competitive globally, not because of the price of our workforce but because of the productivity, competence, and educational level of our workforce. We are more dependent now than ever on the quality and capacity of our workforce, which is, of course, dictated by the quality and capacity of our educational system. So getting an education policy right is not just about serving kids; it is about serving our economy.

The fact is, we have been doing a disservice to students and teachers all

across America since the passage of No Child Left Behind. This is a law that by and large was a disaster for us in Connecticut. I am somebody who believes that a strong Federal Government can play a beneficial role in people's lives, whether it is smoothing out the rough edges of the financial system, building roads and bridges, or protecting America from attacks, but the Federal Government has not done a good job in guaranteeing universal, quality education. Why? Because bureaucrats in Washington ultimately have a hard time intersecting with the provision of a service which has largely been administered at a local level. The prescriptive rules that were inherent in No Child Left Behind haven't matched the realities of how Connecticut assesses schools and student performance or how we think it is best to turn schools around.

No Child Left Behind did at least have one redeeming quality. The legislation required an assessment of every single student no matter where they lived, what their background was, or what their learning ability was. The law did shed light on some unjustifiable, unconscionable disparities that existed in this country, and it put pressure on school districts and States to address those disparities. The law brought attention to the fact that there were disparities, such as the fact that the graduation rate for African Americans in this country is 16 points lower than that of their white peers. The results showed disparities with Latino fourth graders. Only 25 percent of them are meeting expectations for their grade level in math, which is half the rate of their white peers.

The law also shed light on the practices within school districts, such as school discipline. If you are an African American and commit the exact same offense in this country inside of a school, you are twice as likely to get suspended or expelled as your white peer.

No Child Left Behind forced us to understand, recognize, and address those disparities. The challenge with this repeal and rewrite was to hand control back to States and local districts without removing the imperative to identify those disparities and cure them.

I voted against the version of this bill that was originally passed by the U.S. Senate, and I did so because I labored under the belief, as a member of the HELP Committee, that it is not worth passing a national education law if it isn't also a civil rights law. I wasn't convinced that we had that balance in the bill that initially came before the Senate. I am grateful to Chairman ALEXANDER, Ranking Member MURRAY, Representatives KLINE, SCOTT, and others who managed to get that balance right in the conference committee.

Today we were able to pass a bill that is both a proper return of authority to the States and a preservation of civil rights protections that are going

to guarantee the perpetuity of the small, positive legacies of No Child Left Behind.

What we have in the bill is a recognition that school systems should identify the 5 percent of schools that are the lowest performing schools and have specific plans to attack those schools and turn them around. Those interventions will be decided at the local and State level rather than at the Federal level.

There is a requirement in this bill to identify what we call dropout factories—schools in which a disproportionate number of students show up freshman year but don't graduate. Similarly, States have to have a plan to turn those schools around, dictated by decisions that are made at the local level.

Lastly, this bill contains a provision that requires us to continue to track the performance of certain subsets of students, whether they are minority students, disabled students, poor students, or non-English speaking students. Again, it requires those vulnerable populations that may not be hitting the goals that are set by the State or school district to have interventions to try to do better. All of the accountability will occur locally, but the mandate is to pay attention to those lower performing schools or those populations that sometimes get the short end of the stick within a school system or State educational system and ensure that they get special attention.

I think this is the right balance. This is a bill that rightfully returns power to States and school districts but retains civil rights protections that have been the foundation of our Federal education policy since the 1950s and 1960s.

I am also happy that there were a number of other civil rights wins in this bill. States have to note on their report cards indicators of school climate and safety. They have to disclose rates of suspension and expulsion, school-based arrests, and referrals to law enforcement so we can get a better handle on whether minority students are being treated fairly when it comes to school discipline policies.

States have to submit plans on how they will reduce the use of discipline practices that threaten student safety, including seclusion and restraint. Increasingly, school districts are relying on the restraint of kids by binding their hands and feet or the seclusion of children by locking them in padded rooms as a means of discipline. In almost all cases, those means of discipline make the underlying behavior worse, not better. They disproportionately affect disabled kids and children with autism whose school districts unfortunately don't understand their students' issues as well as they should. This legislation will require States to submit plans as to how they will reduce the use of seclusion and restraint.

Finally, this bill retains the requirement that every kid, regardless of learning ability, should be expected to

meet the same standard. This bill still allows for 1 percent of students to take an alternate assessment, but it requires the majority of special education students, or students with learning disabilities, to be tested against their nondisabled peers. They will have to compete against their nondisabled peers in the workforce, so they should be measured against their nondisabled peers while they are in the school system. Those are all important wins as well.

In the end, as someone who was educated in the public school system and spent his lifetime around teachers, I know that No Child Left Behind not only sucked the effectiveness out of schools, but it also sucked the joy out of learning and teaching because so much of it was driven toward that test which became the only measurement of what a good school is.

I am a parent who is deeply involved in looking at schools and deciding which one is right for my kid. While I pay attention to the test scores that come out of that school, that is not the beginning and end of my analysis. I take careful pains to meet with the administrators, talk to other parents, look at their curriculum, and look at other measurements, such as attendance and graduation rates, in order to build a full picture of what a good school is.

Now States will be able to devise systems of measuring schools that mirror the way almost every responsible parent measures schools—in a comprehensive, robust way that doesn't just look at that test. Perhaps more importantly, as we try to grow a healthy economy that recognizes the strengths we have and the quality of our workforce under this new law, the Every Child Succeeds Act, we will be able to create a new generation that will have great innovators, great leaders, great mold breakers, and not just great test takers.

Congratulations to Senator ALEXANDER and Senator MURRAY, and many others, like Senator BOOKER and Senator WARREN, who worked closely with me on the accountability provisions.

This is a really important day for teachers, students, and parents all across the country. It is also a pretty good day for us when we get to come together and do something very important in a bipartisan way.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. TOOMEY). Without objection, it is so ordered.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent to speak in morning business for 15 minutes.

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

#### BIPARTISAN SPORTSMEN'S ACT

Ms. MURKOWSKI. Mr. President, I have come to the floor to speak about a measure that has moved through the Energy and Natural Resources Committee. This legislation is a pretty significant bipartisan accomplishment and I would like to share our progress with my colleagues.

On November 19, our committee reported S. 556. We refer to it as the Sportsmen's Act. This is a measure I have been working on, and we were able to report it out by voice vote. This is a bill that would benefit millions of sportsmen and sportswomen all across our country. It includes some key items within our jurisdiction that are part of a broader Sportsmen's package. That portion is being worked on by another committee. I have been working on our iteration of this bill with Senator HEINRICH of New Mexico, and I truly appreciate his leadership, his support, and his guidance on this measure.

As many Members in this Chamber are aware, the broader Sportsmen's bill has had a long history of bipartisan support in the Senate, but year after year it has failed to advance for a host of different reasons. It has been the victim of political brinkmanship in what for years was a Chamber that wasn't working, but I think this year is different. I outlined some of the successes yesterday when I came to speak on the floor and I think we are getting back to regular order. The committees are working hard—certainly the Energy and Natural Resources Committee is working hard—and we are working to advance legislation to go to the floor, whether it is this Sportsmen's bill or whether it is our Energy Policy Modernization Act that we reported out of the committee on an 18-to-4 margin back in July.

Our Sportsmen's Act is the latest example of a bipartisan bill that encompasses both good policy and good process. I think both of those are key. Staff from both sides of our committee—and the Sportsmen's Caucus, which is led by Senator RISCH and Senator MANCHIN, worked diligently with outside stakeholders to improve and refine the bill. So I want to briefly summarize some of the contents found within the Sportsmen's Act.

First, we included a congressional declaration of national policy to require all Federal agencies and departments to facilitate the expansion and the enhancement of hunting, fishing, and recreational shooting on Federal lands. This is our clear goal. It is a pretty clear and explicit direction for the executive branch.

The next component within the bill—and this is the heart of the bill—is a provision we are referring to as "open unless closed." Through these, we are setting a new national standard, and that standard is that our Federal lands will be open unless they are closed. They are going to be open unless they are closed, not closed due to bureaucratic inertia. What we are trying to do

is pretty simple. We are trying to allow all Americans to be able to access and enjoy their public lands. Under our bill, if Federal lands are going to be closed even temporarily, agencies will have to notify the public and provide opportunities for meaningful public comment. The agencies, whether they are the BLM or the Forest Service, will need to justify any proposed closures and address issues that have been raised by the public.

Our bill will also prevent temporary closures from becoming permanent by limiting any of these designations to just 180 days. Currently the BLM can close lands for 2 years and does not guarantee the opportunity for any public comment. BLM has acknowledged to us that they regularly implement what they call temporary closures while they prepare the paperwork to make them permanent. My Sportsmen's Act will allow BLM and the Forest Service to renew temporary closures, but they can only do it up to three times. Each and every time they do so, we are going to require them to engage in a public comment and notification process. What this "open unless closed" policy does is it reverses the practice of public lands being closed until opened or closed altogether. As a result of it, our sportsmen and sportswomen will have increased access to our public lands, they will have a real voice in decisions regarding any temporary closure, and they will also receive justifications for any temporary closures that are deemed necessary. So we are providing a more fulsome public process but also a more genuine opportunity for access to our public lands.

My Sportsmen's bill also addresses concerns raised about the unnecessary difficulty of securing permission for commercial filming on our public lands. Among other steps in the bill, we require the publication of a single joint land use fee schedule within 180 days, but we also say there are small crews that shouldn't have to go through this big rigmarole and pay this big fee. So small film crews of three or fewer people will be exempt from having to pay a fee.

I have heard a lot of stories about the horrors some of our outfitters or guides have experienced while they were trying to film some kind of promo-type material on a trip. Agencies are making them jump through hoops by telling them that they need a separate permit and have to pay additional fees. It gets to the point where you can't take a video or a picture on our public lands. That is just wrong. These folks already have a permit to be out there, and filming may be incidental to that.

In this bill we ensure that small crews and businesses can film on public lands without having to pay to do it. That seems pretty reasonable and fair to me. We also protect First Amendment rights by preventing content from becoming a factor in issuing permits, and we protect free speech by clarifying that journalism is not commercial activity.