United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, THURSDAY, MAY 13, 2004 No. 67

House of Representatives

The House met at 10 a.m.

The Reverend Dr. Larry D. Pickens, Senior Pastor, First United Methodist Church, Elgin, Illinois, offered the following prayer:

Gracious and loving God, we enter this day sensing Your awesome presence and capacity. Give these public servants the vision, wisdom, and courage to carry out their legislative and leadership responsibilities.

We pray for the will to create ''Beloved Community,'' where we all become brothers and sisters, working to create a world that is free from violence, hatred, and hopelessness. Grant Your Spirit upon this body, that each person realizes that he or she is an instrument of Your love and compassion.

We celebrate the architects of this Nation's Constitution, and the way in which we are gifted to merge our voices together around the concern for justice, holiness, and equity across the land.

We pray for this Nation and its people. Use each one of us to accomplish the Prophet Micah's challenge to walk, act, and love with humility, justice, and kindness.

This is our prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas (Mr. SANDLIN) come forward and lead the House in the Pledge of Allegiance.

Mr. SANDLIN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment concurrent resolutions of the House of the following titles:

H. Con. Res. 388. Concurrent resolution authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service.

H. Con. Res. 389. Concurrent resolution authorizing the use of the Capitol Grounds for the D.C. Special Olympics Law Enforcement Torch Run.

The message also announced that the Senate has passed concurrent resolutions of the following titles in which the concurrence of the House is requested:

S. Con. Res. 107. Concurrent resolution recognizing the significance of the 30th anniversary of the American Association for the Advancement of Science Congressional Science and Engineering Fellowship Program, and reaffirming the commitment of Congress to support the use of science in governmental decisionmaking through such program.

S. Con. Res. 108. Concurrent resolution supporting the goals and ideals of Tinnitus Awareness Week.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 10 one-minutes on each side.

HONORING SISTER JEANNE O'LAUGHLIN

(Mr. LINCOLN DIAZ-BALART of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.).

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to salute a dear friend who I love and who my entire community loves, Sister Jeanne O'Laughlin, president of Miami's Barry University. It has been a privilege to be able to work with Sister Jeanne. It has been one of the truly wonderful things I have been able to do in Congress.

You see, Mr. Speaker, Sister Jeanne is so special, it is difficult to choose only a few words to describe her. Talent, imagination, compassion, faith, perseverance, sense of humor, devotion, integrity, charisma, success, all those realities about Sister Jeanne are evident. But the meaning of one word outweighs all others in regard to her, one word describes her best, ''love.''

Thank you, Jeanne O'Laughlin, for loving your family, your neighbors, your community, for loving us all. Thank you for having put your love into action in your life and with your entire life.

AN ARROGANT ADMINISTRATION

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, I see in the morning papers that the Republicans have a problem with Senator KERRY's characterization of this administration as arrogant in its foreign policy.

Arrogance. What do you call it when they ignore their economic advisers that tell them the real cost of the war will be $200 billion, and not a couple of billion paid for by the Iraqis?

Arrogance. What do you call it when they ignore their military advisers on the number of troops that will be necessary, not only to win the war, but to keep the peace and protect our troops from harm?

Arrogance. What do you call it when they send their troops into combat without the proper equipment to protects those troops, such as bulletproof vests and armored Humvees, and still have not done it today?

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Arrogance. What do you call it when they ignore the advice of the State Department that we have to have international support for the war and international participation in the keeping of the peace? We had neither.

Arrogance. What do you call it when they rush to war, and the Pentagon says that rush to war prevented us from being able to protect our soldiers in a proper way, and now one out of four casualties is because we were improperly prepared to keep the peace?

Arrogance. That is what you call it.

CREATING AND KEEPING JOBS IN AMERICA

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, one of the most important domestic issues facing us and our children and grandchildren is America's ability to compete in the world market.

Over the last generation, Congress has passed laws and legislation, perhaps with good intentions, but with disastrous consequences, in the form of regulations and policies. These regulations and policies have made it difficult to stay competitive. We have divided the challenges into eight categories; and for a period of 8 weeks on the floor of the United States House, we will debate and vote on measures to change the system and make America more able to compete globally. Our goal is more high-quality, high-paying jobs. We call it Careers For the 21st Century.

The eight issues are lowering the rising cost of health care; cutting bureaucratic red tape; lifelong learning for a skilled work force; applying fair trade policies; tax relief and simplification for reducing the burden on tax preparation; energy policy that will create 700,000 jobs; research and development initiatives; and ending lawsuit abuse.

Real solutions for real problems, so that American working families can make their dreams come true.

GETTING ALL AMERICANS AFFORDABLE HEALTH COVERAGE

(Mr. LAMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAMPSON. Mr. Speaker, I would like to bring to this body's attention an editorial that was in the Houston Chronicle just a week or so ago by Dr. John Stobo, who is the president of the University of Texas Medical Branch in Galveston, Texas.

Dr. Stobo talks of a 43-year-old emergency room patient with shortness of breath who had already had a doctor's visit where x-rays had been ordered. She could not get the x-rays because she could not afford them, did not have the health insurance, and her employer, a small business owner, did not provide it.

She could not afford a second doctor's visit and is now diagnosed, when she made it to the emergency room, with lung cancer. Since she saw the doctor, the cancer spread aggressively; but if she had had that x-ray 9 months earlier, her prognosis might have been more positive.

It is an absolute moral scandal that Dr. Stobo's patient, along with 43 million hard-working Americans, people with jobs, have no health insurance.

A study by respected analysts Jack Handley and John Holahan estimates that basic health insurance for all uninsured Americans would cost $69 billion a year if typical of the sort now held by middle- and low-income Americans.

We will consider legislation next week that will change this. Let us get all Americans affordable health insurance.

OLD BACKPACK 4 IRAQ PROGRAM

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.).

Mr. WILSON of South Carolina. Mr. Speaker, Americans are rightfully confident that the prison abusers are a tiny few of the over 300,000 American troops who have served in the war on terror to protect American families.

A more representative symbol of our troops' efforts is the Old Backpack 4 Iraq Program of the 3–178 Field Artillery Battalion of the South Carolina Army National Guard led by Lt. Col. Mark King currently deployed in Iraq. They are collecting used and new backpacks containing school supplies to be provided to Iraqi children.

The backpacks can be loaded with pencils, pens, notebooks, crayons, rulers, construction paper, a small teddy bear, shampoo, toothpaste, toothbrush, BAND-AIDS, soap, wash cloth, and a towel.

I urge my colleagues to assist in this collection and bring backpacks to the Second Congressional District offices in Washington, West Columbia and Beaufort, along with offices of the Lexington County Chronicle. The first load must be completed by Thursday, May 21, so I can personally take them with me on a delegation to Iraq the next day. We will continue to collect them in the future.

In conclusion, God bless our troops, and we will never forget September 11.

ASK QUESTIONS OR STUPID THINGS HAPPEN

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, Chairman GRASSLEY from the other body said, ''We Republicans have never quite reached the level of competent oversight that the Democrats developed. We tried to emphasize legislating and we have delegated so much authority to the executive branch of government and we ought to devote more time to oversight than we do.''

This Congress in the last 43 days has been in session 14 days. What have we done with our time? We have named 11 post offices, recognized the Garden Club of America, recognized the importance of music education, authorized the use of the Capitol grounds for the Soap Box Derby.

What has happened to our troops? 175 have died in the last 43 days, bringing the total in Iraq to 775.

While we name post offices and recognize sports teams, our constituents are asking questions of how we got in a war without an exit strategy, and for what purpose did we miscalculate and how did we miscalculate our entry into that war.

And this week, how are we handling controversies in Iraq? We are going home a day early. President Kennedy once said, ''To govern is to choose.'' We can name post offices, or we can ask questions, and even this Congress might try to do both.

JOBS AND TAX RELIEF

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, last month our economy created 288,000 jobs; 867,000 jobs have been created this year alone. Manufacturing employment is up, weekly jobless claims are at their lowest since October of 2000, our economy is on the rebound, and we have tax relief to thank for that. It is proof that when working families keep more of their own money, it works.

Today, we are going to act to prevent a tax increase. Current law says that the 10 percent tax bracket which was created in the 2001 jobs plan will expire. If that happens, 73 million working people will pay higher taxes next year, with an average tax increase of $2,400 in the next decade.

Today, we will see who in this House wants to prevent this tax increase. Working families need every penny we can let them keep.

SUPPORT BIPARTISAN TOBACCO BUYOUT LEGISLATION

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, for the past several years, I have worked with a bipartisan coalition of Members to pass critical tobacco buyout legislation on behalf of American tobacco farmers. Unfortunately, the House Republican leadership has opposed us at every turn.

This week, Senator JOHN KERRY announced his support for tobacco buyout legislation. His support stands in stark contrast to comments made last week

by President Bush, who dismissed the crisis facing tobacco farm families by saying the current tobacco system does not need to be changed.

Since 1997, tobacco farmers have seen their income cut by over half. Thousands of farm families have been forced out of business. The entire economic background of rural southeast America has been crippled, yet the President says nothing needs to be changed.

Senator KERRY supports a buyout to revitalize our corner of rural America. A buyout would create tens of thousands of jobs in rural America, which are desperately needed.

Time is running out for our tobacco farmers. I call on the Republican leadership in the House and the Congress to follow Senator KERRY's leadership and pass the bipartisan tobacco buyout and restore hope to tobacco country.

REFORMING CIVIL JUSTICE SYSTEM IN REGARD TO MEDICAL LIABILITY

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, yesterday on the floor of this House, we passed legislation that will once again reform the civil justice system in regards to medical liability. Then the question came up last night during the hours of debate on this House as to how in the world is that going to lower the cost of health insurance for the uninsured.

Well, true enough, lowering the cost of liability insurance will not have a direct effect upon the cost of providing insurance for the uninsured, but certainly removing the embedded cost of the civil justice system and the embedded cost of defensive medicine from the medical justice system will go a great way towards alleviating the crisis in the cost of medical insurance.

It is estimated from a study done in 1996 that $50 billion a year could be saved in the Medicare program if doctors were not practicing defensive medicine.

The fact of the matter remains, Mr. Speaker, we passed that bill in the House, it is awaiting action on the other side of the Capitol, we have a President right now who will sign that bill, and I think that is an important part for the American people to bear in mind.

STOP CALLING THOSE WHO ASK QUESTIONS UNPATRIOTIC

(Mr. PASCRELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PASCRELL. Mr. Speaker, a quote: ''I cannot support a failed foreign policy. History teaches us that it is often easier to make war than peace. This administration is just learning that lesson right now. The President began this mission with very vague objectives and lots of unanswered questions. There is no timetable, there is no legitimate definition of victory, there is no contingency plan for mission creep, there is no clear funding program, there is no agenda to bolster our overextended military, there is no explanation defining what vital national interests are at stake.''

Who said that? Not a Democrat, but the majority leader, the gentleman from Texas (Mr. DELAY), said that on March 28 of 1999.

□ 1015

I say, end calling those people who ask questions unpatriotic. Read your own history. Read your own legacy. This is a disgrace, what you did in 1999, and then you accuse us when we ask a question. Read your own literature.

TRIBUTE TO JEREMIAH KIRK JOHNSON

(Mr. BISHOP of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BISHOP of Utah. Today, a special service will be held at the National Peace Officers Memorial to honor those whose devotion resulted in the ultimate expression of Christ-like love: They sacrificed their lives for others.

Mr. Speaker, I rise today to pay special tribute to one who gave his life in the service of others. Jeremiah Kirk Johnson, who died in a tragic traffic accident while on duty for the Emery County Sheriff's Department, exemplifies the life of service which I wish to honor.

A devoted husband and father, he spent every spare moment around his children because of his great love for them. At the time of his death, he had been promoted to deputy sheriff in Emery County, and was instrumental in helping to set up the drug court which had the effect of getting drug offenders off the street. He was a giant of a man, yet gentle.

Jeremiah will be missed a lot. He cannot be replaced, but his example can be honored.

He was a model U.S. citizen. He devoted his life to service of our country, and he will be forever remembered as a hero, a son, a husband, and a father.

COVER THE UNINSURED AND SUPPORT KIND SUBSTITUTE

(Mr. ROSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSS. Mr. Speaker, as the Congress and the country mark Cover the Uninsured Week, I add my voice to those who are ready to do something meaningful about the problem of the uninsured.

Nearly 80 percent of the uninsured are the working poor, and often work in small businesses. They have jobs and are trying to do the right thing, but they cannot afford an insurance policy for themselves or for their families.

My colleagues on the other side of the aisle claim that association health plans are the answer, but more than 500 organizations representing millions of people oppose these plans, association health plans, because they know that they will compound the problem by creating an unlevel playing field that will likely lead to cherry-picking, adverse selection, and yes, increased costs for sicker individuals.

I urge my colleagues to support the Kind substitute, which will provide a tax credit to businesses that will pay for 50 percent of the premium for health insurance for their employees.

OFFICERS IN CHARGE IN IRAQ FAILED IN THEIR DUTY

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, as a Member of Congress, as a West Point graduate, and as a lieutenant colonel in the Army Reserves, I am saddened by recent revelations at Abu Ghraib Prison. I am sad and disappointed and feel personally attacked by an organization I hold in high esteem.

The Chaplain said today in his prayer that we seek justice, equity, and freedom. In this case, we failed.

A commander is responsible for all his unit does and fails to do. This is a basic creed of the United States Army.

As the criminal proceedings unfold and those involved receive the consequences of their actions, some officers in charge need to stand up and say, I was in command, and I failed.

IRAQ IMAGES

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, the ship of state sails without a rudder.

Increasingly, the world sees our presence in Iraq as an occupation, not a liberation. Any talk of democracy has been replaced with images of brute and brutal force.

The President talks about a superb Cabinet Secretary, but America and the world reel in horror and shame over what was done in the name of defending our country.

If only the administration had paid attention. The Red Cross knew, but the administration would not listen. American leadership and credibility have cratered deeper and deeper, yet the administration remains deaf to what happened and the need to act.

The administration heaps praise on one of its own, even as it seeks to silence the images. They sent him to Iraq, I guess, to get him out of town, but the images have stirred the world. As it has for so long, the world looks to

America again today. But today, the world looks with eyes averted, because the images that today define America in no way resemble America.

HONORING MONSIGNOR JOHN O'DONNELL ON HIS GOLDEN JUBILEE

(Mr. BOOZMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOOZMAN. Mr. Speaker, I rise today to honor Monsignor John O'Donnell of Immaculate Conception Church in Fort Smith, Arkansas. Monsignor O'Donnell is celebrating his Golden Jubilee this year, which marks his 50th year in the priesthood.

Born in Philadelphia in 1928, Monsignor O'Donnell was ordained on May 27, 1954. He is a man who is known for his faith, service, and dedication to his neighbors. It seems that everyone at Immaculate Conception has a story about how Monsignor O'Donnell has touched their lives.

Immaculate Conception is the most diverse Catholic church in Fort Smith. It is the perfect fit for Monsignor O'Donnell, who constantly highlights and celebrates the diversity of the parish.

Mr. Speaker, Monsignor O'Donnell has influenced the lives of countless Arkansans. I thank Monsignor O'Donnell for his 50 years of service and being an inspiration to all of us.

WORKING TOGETHER ON TOP PRIORITIES FOR AMERICA

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, this morning we can refer to two pictures on the front of the Washington Post that show: the perplexity of General Taguba who tried to tell the truth, and the collapse of young Nick Berg's father when he heard of the tragedy that occurred. All of this falls at the feet of our administration, regardless of one taking a trip or not.

We need a full investigation which will include the Committee on the Judiciary, and we need it now. The American people and their values are owed this responsibility.

Let me change for a moment, Mr. Speaker, and talk about H.R. 4107, involving our firefighters, and say that this is a good first start, this bill, but we must make sure that the fire grant stays at the U.S. Fire Administration, and we must also recognize that firefighters have the rights of meeting and conferring and collective bargaining, and that should not diminish their service to the community. We welcome the volunteer fire agencies, but we also recognize that fire departments should control the work and the hours of their fire personnel so that all might be safe.

Let us work together to make H.R. 4107 a better bill, and let us have investigations so that the American people can have the answers on Iraq.

IN HONOR OF DAN PARKER

(Mr. BROWN of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of South Carolina. Mr. Speaker, last Friday, a constituent of mine, Mr. Daniel Parker, was struck down during his service in Iraq.

Mr. Parker, a dedicated Halliburton employee and retired teacher at a Border Patrol Academy in Charleston, was en route to Baghdad International Airport in a military convoy when an improvised explosive detonated near his vehicle.

Dan, a veteran of two tours in Vietnam, selflessly braved the perilous environment of a war zone and helped establish a peaceful and productive democracy in the Middle East. Civilian workers like Dan are the unsung heroes in pursuit of stability in Iraq.

With the deaths this past week of Dan and other civilians, we have been tragically exposed to the deadly hazards that these courageous American employees encounter during their daily work abroad.

Working alongside coalition troops and the Iraqi people, civilian contractors work tirelessly to improve the quality of life of strangers by helping to provide the simple resources that we in America most often take for granted: electric power, clean water, and public schools.

Dan Parker was an innocent victim of the treacherous conditions that Americans continue to endure in Iraq. His sacrifice and the sacrifice of others like him will not soon be forgotten.

My thoughts and prayers are with Dan and his family.

FAILURE OF CONGRESSIONAL OVERSIGHT

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUMENAUER. Mr. Speaker, I am pleased that in 5 minutes, the House Committee on International Relations is going to have a hearing about the post-Iraq situation. Since there are only 48 days left until the transfer of power, it is about time. Sadly, it is about 2 years late. It is an example of the sorry declining of congressional oversight and leadership of what was supposed to be a co-equal branch of government. The abuse of Iraqis never convicted of anything is just the latest example of that failure.

While some would claim that asking hard questions is an example of lack of support for our troops, the real lack of support for our troops is not giving them adequate water, and food, proper equipment, to say nothing of the relief of adequate support for troops on the ground and relief to rotate them home.

To the shame of this congressional leadership, we have failed to do our job as congressional watchdogs and policymakers. It has created problems for our troops in Iraq, it has created problems for the Iraqi people, and for the American public.

SINS OF A FEW MUST NOT TARNISH GOOD WORK OF MANY

(Mr. STEARNS asked and was given permission to address the House for 1 minute.)

Mr. STEARNS. Mr. Speaker, I rise today for two reasons. One, of course, is to acknowledge the misconduct of a few American soldiers in the Iraqi prison, conduct we all abhor. Unfortunately, war is an ugly thing, and there will always be egregious behavior under the expediency of war.

But, Mr. Speaker, my other purpose is to implore that we do not forget the nobility and heroism with which our soldiers serve this country. Millions and millions of Iraqis have been liberated from a murdering, raping dictator, thanks to American soldiers. We cannot let the sins of a few tarnish the good work of the many.

Despite the current negative attention, we will not lose faith in the rightness of our purpose or the ability of our troops to be victorious.

CONGRESS SHOULD PASS 5 MEANINGFUL INITIATIVES FOR AMERICA

(Mr. OWENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS. Mr. Speaker, working families continue to suffer under the oppressive policies of the Republican-controlled White House and Congress. With a new low in cynicism, Republicans have made a mockery of the suffering of the jobless.

The Republican unit of dirty tricks, deceitful slogans, and tricky titles has launched a new HOW initiative; Hire Our Workers, they call it. But Republicans refuse to support any of the actions that will relieve the suffering of working families.

Instead of bombarding the Nation with new rope-a-dope slogans, Republicans should just do the right thing and support five basic actions: extend Federal unemployment benefits; end the current tax incentives for shipping jobs overseas; raise the minimum wage from $5.15 an hour to at least $7 an hour; enact a robust highway bill to create 1.8 million good-paying jobs; and invest more resources in key education and job training programs.

Stop swindling the poor with words. Pass these five initiatives without further delay.

HONORING SISTER JEANNE O'LAUGHLIN

(Mr. SHAW asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker, today I rise to honor one of south Florida's most beloved treasures and one of our Nation's most outspoken advocates on behalf of higher education, Sister Jeanne O'Laughlin, retiring President of Barry University.

When Sister Jeanne became President in 1981, Barry University was a struggling college of 2,000 students. Since then, she has raised over $170 million and has transformed Barry into a thriving university, serving more than 8,500 students.

But for the record, Sister Jeanne impacted much on my life and I want to recognize it here today.

Mr. Speaker, Sister Jeanne and I are both lung cancer survivors.

Having gone through diagnosis and treatment before me, sister Jeanne's model of resolve and optimism has brought me through some of my darkest days. Today I thank Sister Jeanne O'Laughlin for her many gifts to south Florida over the years and for her personal gift to me at my time of crisis.

Mr. Speaker, we look forward to many wonderful things to come from Sister Jeanne as she moves to the next phase of her unending quest to make the world a smarter and more loving place for all of us.

EXPRESSING SENSE OF CONGRESS THAT ALL AMERICANS OBSERVE THE 50TH ANNIVERSARY OF BROWN V. BOARD OF EDUCATION WITH A COMMITMENT TO CONTINUING AND BUILDING ON THE LEGACY OF BROWN

Mr. SENSENBRENNER. Mr. Speaker, pursuant to the previous order of the House, I call up the concurrent resolution (H. Con. Res. 414) expressing the sense of the Congress that, as Congress recognizes the 50th anniversary of the Brown v. Board of Education decision, all Americans are encouraged to observe this anniversary with a commitment to continuing and building on the legacy of Brown, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The text of H. Con. Res. 414 is as follows:

H. CON. RES. 414

Whereas on May 17, 1954, the United States Supreme Court announced in Brown v. Board of Education (347 U.S. 483) that, ''in the field of education, the doctrine of 'separate but equal' has no place'';

Whereas the Brown decision overturned the precedent set in 1896 in Plessy v. Ferguson (163 U.S. 537), which had declared ''separate but equal facilities'' constitutional and allowed the continued segregation of public schools in the United States on the basis of race;

Whereas the Brown decision recognized as a matter of law that the segregation of public schools deprived students of the equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States;

Whereas the Brown decision stood as a victory for plaintiff Linda Brown, an African American third grader who had been denied admission to an all white public school in Topeka, Kansas;

Whereas the Brown decision stood as a victory for those plaintiffs similarly situated to Linda Brown in the cases that were consolidated with Brown, which included Briggs v. Elliot (103 F. Supp. 920), Davis v. County School Board (103 F. Supp. 337), and Gephardt v. Belton (91 A.2d 137);

Whereas the Brown decision stood as a victory for those that had successfully dismantled school segregation years before Brown through legal challenges such as Westminster School District v. Mendez (161 F.2d 774), which ended segregation in schools in Orange County, California;

Whereas the Brown decision stands among all civil rights cases as a symbol of the Federal Government's commitment to fulfill the promise of equality;

Whereas the Brown decision helped lead to the repeal of ''Jim Crow'' laws and the elimination of many of the severe restrictions placed on the freedom of African Americans;

Whereas the Brown decision helped lead to the enactment of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, religion, or national origin in workplaces and public establishments that have a connection to interstate commerce or are supported by the State;

Whereas the Brown decision helped lead to the enactment of the Voting Rights Act of 1965 which promotes every American's right to participate in the political process;

Whereas the Brown decision helped lead to the enactment of the Fair Housing Act of 1968 that prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-relating transactions, on the basis of race, color, national origin, religion, sex, familial status, or disability; and

Whereas in 2004, the year marking the 50th anniversary of the Brown decision, inequalities evidenced at the time of such decision have not been completely eradicated: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) recognizes and celebrates the 50th anniversary of the Brown v. Board of Education decision;

(2) encourages all Americans to recognize and celebrate the 50th anniversary of the Brown v. Board of Education decision; and

(3) renews its commitment to continuing and building on the legacy of Brown with a pledge to acknowledge and address the modern day disparities that remain.

The SPEAKER pro tempore (Mr. OSE). The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 15 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

□ 1030

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Concurrent Resolution 414, currently under consideration.

The SPEAKER pro tempore (Mr. OSE). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support today of House Concurrent Resolution 414, which recognizes the 50th anniversary of the U.S. Supreme Court's decision in Brown v. Board of Education and calls on Americans to observe this anniversary with a commitment to continuing and building on the legacy of Brown.

In 1896, the Supreme Court decided Plessy v. Ferguson, which held that separate but equal public facilities were lawful. This decision paved the way for the systematic segregation of America based on race. In the wake of that decision, State legislatures felt vindicated passing a number of laws, including the infamous Jim Crow laws, which ensured that the right to equal protection of the laws was a right in name only for African Americans and other minorities.

Many fought for years to try and reverse this pattern of discrimination. Some met with limited success, such as Gonzalo and Felicitas Mendez, who in 1947 prevailed in their efforts to allow students of Mexican ancestry to attend the same California public elementary schools as attended by white children, but it was not until Oliver Brown and his brave fellow plaintiffs from Kansas, Virginia, South Carolina, and Delaware successfully challenged the school segregation policies in those States that this pattern of inequality began to change for all persons.

As Chief Justice Earl Warren, who had recently been appointed to the Supreme Court by President Eisenhower, stated for a unanimous majority, ''We conclude that in the field of public education the doctrine of 'separate but equal' has no place.''

In the 50 years since the Brown decision, much has changed in this country. Brown provided the spark for the Eisenhower administration to push through the 1957 and 1960 Civil Rights Acts. These acts, in turn, provided the blueprint for the passage of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968.

All of these acts served to further dismantle the barriers to equality that African Americans and other members of minority groups had faced in the decades after Plessy. It is for this reason that Congress, and indeed, all Americans, should celebrate the anniversary of Brown and take this opportunity to reflect anew on the importance of equality in society.

I would like to commend the gentleman from Michigan (Ranking Member CONYERS) for introducing this resolution and would also like to thank the gentleman from New Jersey (Mr. PAYNE), the gentleman from Kansas (Mr. RYUN), the gentlewoman from California (Ms. LORETTA SANCHEZ), and the gentleman from California (Mr. COX) for their own resolution which helped inform the measure we have before us today. I am pleased to note that most of the leadership of both parties have signed on as cosponsors of this resolution, and I urge all my colleagues to join me in supporting it.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, this is indeed a historic moment in the history of this country and in the Congress as well.

I begin by really lifting up the name of the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), who, with me, was able to get a unanimous resolution on this matter celebrating Brown v. the Board from the Committee on the Judiciary. I sincerely thank him.

I have two colleagues that I want to mention because they had resolutions that we worked into ours, and we came up with one. The first was the gentlewoman from California (Ms. LORETTA SANCHEZ), who brought to our committee's attention that in California they had worked out, in effect, a Brown v. Board-type solution even before the Brown decision, and we will hear from her later on this matter.

The other person was the gentleman from New Jersey (Mr. PAYNE), who is on the floor now, who had an important resolution as a ranking member of the Committee on Education and the Workforce. His interests on this were very large, and we were able to all work these regulations out.

What is the significance of Brown? It reversed an 1896 decision, Plessy v. Ferguson, which indicated that under the 14th amendment separate and equal was acceptable. Of course, there is very little in real-time that separate can be equal, but that was the law up until 1954 when a unanimous Supreme Court decision changed it.

But the Brown decision went further. It was a decision about education; but thanks to the civil rights movement, Dr. King, Rosa Parks and even our own gentleman from Georgia (Mr. LEWIS) in the Congress, it was expanded to cover all forms of social life in the country.

Finally, this resolution seeks to renew our commitment. Everything is not okay, as our colleagues all know and as this resolution which we are to support makes clear. So I am very happy to be with all of my colleagues today.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. RYUN), who represents Topeka, Kansas, that led the way to get the Brown decision decided by the Supreme Court.

Mr. RYUN of Kansas. Mr. Speaker, I thank the gentleman for the time.

Mr. Speaker, I rise to honor the 50th anniversary of the Supreme Court decision of Brown v. Board of Education, the landmark case that desegregated schools in America. This Monday, May 17, 2004, I will be pleased to welcome people from across this Nation to my district for a celebration of this anniversary.

On Monday, we will look back over 50 years of work to bring equality to America, specifically to our public education system.

May 17 will also mark the culmination of an effort I began 3 years ago to honor the 50th anniversary of Brown v. the Board. In the 107th Congress, I was privileged to author legislation to establish a Federal commission tasked with educating the public about this decision. With the help of my colleagues in Congress, the commission became a reality and has played a vital role in planning for next week's anniversary.

Recently, I was also pleased to draft language calling on Congress to honor the anniversary of Brown v. Board. I am grateful that the resolution we consider today accomplishes this goal, and I am pleased to lend it my support.

I would like to thank the Brown Foundation, located in Topeka, Kansas, for its leadership in helping America remember its struggle for equality. I want to specifically thank Cheryl Brown Henderson for her undying dedication to this issue. Cheryl's assistance has been invaluable, and I am grateful for her contributions.

President Bush's presence in Topeka on Monday will lend national significance to this occasion and also indicates his ongoing commitment to the ideals embodied in Brown v. Board. I am grateful for the President's support, and I look forward to welcoming him to Kansas.

Finally, I encourage all Americans to take this opportunity to rededicate themselves to the ideals set forth in our Constitution that all men are created equal; that they are endowed by our Creator with certain unalienable rights; that among these are life, liberty and the pursuit of happiness.

Mr. Speaker, I thank my colleague for the opportunity to highlight this monumental anniversary on the floor. I thank the chairman for his work, and I urge my colleagues to lend their support to this measure.

The SPEAKER pro tempore. Does the gentleman from New Jersey (Mr. PAYNE) seek to control the time?

Mr. PAYNE. Yes, I do, Mr. Speaker.

The SPEAKER pro tempore. Without objection, the gentleman from New Jersey will control the time.

There was no objection.

Mr. PAYNE. Mr. Speaker, I yield myself such time as I may consume.

(Mr. PAYNE asked and was given permission to revise and extend his remarks.)

Mr. PAYNE. Mr. Speaker, let me commend the gentleman from Wisconsin (Mr. SENSENBRENNER) for bringing this resolution and certainly the gentleman from Michigan (Ranking Member CONYERS), who is a living history of what is great about this country with his own history in the House of Representatives, being the second-longest-serving Member here.

Mr. Speaker, I rise today to express my strong support for H. Con. Res. 414, a resolution which urges Congress to renew its commitment to continuing and building on the legacy of Brown v. the Board of Education.

This month marks the 50th anniversary of the landmark Brown v. the Board of Education decision, declaring segregation of public schools unconstitutional. The chain of events began in Topeka, Kansas, where an African American third grader by the name of Linda Brown had to walk 1 mile through a railroad switchyard to get to her segregated elementary school, even though a white school was only seven blocks away.

Linda's father, Oliver Brown, tried to enroll her in the white elementary school, but the principal refused to admit her. Mr. Brown, along with other parents, went to the Topeka NAACP, filing a request for an injunction that would forbid the segregation of Topeka's public schools. In the initial trial, the court sided with the Board of Education saying that the precedent of Plessy v. Ferguson, passed in 1896, allowed separate but equal school systems.

Led by Thurgood Marshall, who later, of course, became the first African American to serve on the United States Supreme Court, the case was brought before the Nation's highest Court. At first, in 1952, the Supreme Court sent the case back to a lower court. The case came back to the High Court in 1953 and was heard along with others from South Carolina, Virginia, Delaware, and the District of Columbia.

Interestingly, in September of 1953, with the courts seemingly split, and the cases sent back down, the cases were in jeopardy; but what happened was that Chief Justice Fred Vinson died in his sleep. President Eisenhower, therefore, nominated a new Supreme Court Justice, the Republican Governor of California, Earl Warren. It was under Earl Warren's leadership that he brought the Court together; and he persuaded the Court, after the persuasive arguments of Brown v. the Board of Education, to have a unanimous decision. He wanted no dissent, and a unanimous decision was given by the Supreme Court under the leadership of Earl Warren. It surprised many Americans, but he lived up to that great title.

So separate but equal was thrown out, and Thurgood Marshall's argument that the 14th amendment equal protection clause precluded States from imposing distinctions based on race had prevailed.

So I conclude, I believe that Brown v. the Board of Education was one of the

most significant cases regarding segregation. The Brown case provided momentum for increased civil rights advocacy and legislation, opening equal opportunity to education to all in our society and then to other public accommodations.

However, we should remember that Brown was neither the beginning nor the end of the struggle for justice and equality. Today, equal education opportunities for all children are still a dream for many. In both the North and South, segregation has been thrown into reverse gear with 70 percent of the Nation's African American students in predominantly minority schools, and so I urge my colleagues to support H. Con. Res. 414, which commemorates the historic Brown v. the Board of Education decision and encourage Congress to continue to build on the legacy of Brown.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman for the time.

Let me congratulate the gentleman from Michigan (Mr. CONYERS), the ranking member, and the chairman of the full Committee on the Judiciary for this joining together of a unanimous consent order to bring this historic civil rights resolution to the floor of the House. This is historic; and allow me to thank the gentleman from New Jersey (Mr. PAYNE) for not only his knowledge but also the work he has done on the Committee on Education and the Workforce in trying to implement the Brown decision; and my good friend and colleague the gentlewoman from California (Ms. LORETTA SANCHEZ) for working and informing us and adding to the history of the Brown decision as it relates to California and our many friends around the Nation.

I am proud to be an original cosponsor, and I stand to acknowledge that Brown did open the door. As was stated in Grotter v. Bollinger: ''We have repeatedly acknowledged the overriding importance of preparing students for work and citizenship, describing education as pivotal to 'sustaining our political and cultural heritage' with a fundamental role in maintaining the fabric of society.''

Why the case was so important is because the Court in Brown said this Court has long recognized that education is the very foundation of good citizenship and, might I say, opportunity.

So, as the Grotter case concluded, we still recognize even with Brown that in this Nation race unfortunately still matters.

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And so it is imperative that all of the Nation on May 17, 2004, lift up the song of Brown v. Board of Education to be able to announce, if you will, the vitality of that case and yet where we have to go.

It is important to note that after Brown, there is still work. Even with the Civil Rights Acts of 1964 and 1965, we must in fact follow through on getting rid of the alternative schools, poor test scores in the minority community, and poor physical conditions of those schools.

As Dr. Martin Luther King said, ''There are at least three basic reasons why segregation is evil. The first reason is that segregation inevitably makes for inequality. There was a time that we attempted to live with segregation. There was always a strict enforcement of the separate, without the slightest intention to abide by the equal.''

But even so, we must promote equality. I thank Dr. Martin Luther King and for all those who worked so hard, and I give thanks to the decision rendered in Brown v. Board of Education.

Mr. Speaker, let me begin to honor a great decision out of the highest Court in the land with an excerpt from its progeny, the 2003 decision of Grotter v. Bollinger:

> We have repeatedly acknowledged the overriding importance of preparing students for work and citizenship, describing education as pivotal to ''sustaining our political and cultural heritage'' with a fundamental role in maintaining the fabric of society. *Plyler* v. *Doe*, 457 U.S. 202, 221 (1982). This Court has long recognized that ''education . . . is the very foundation of good citizenship.'' *Brown* v. *Board of Education*, 347 U.S. 483, 493 (1954). For this reason, the diffusion of knowledge and opportunity through public institutions of higher education must be accessible to all individuals regardless of race or ethnicity. Effective participation by members of all racial and ethnic groups in the civic life of our Nation is essential if the dream of one Nation, indivisible, is to be realized. . . . diminishing the force of such stereotypes is both a crucial part of the Law School's mission, and one that it cannot accomplish with only token numbers of minority students. Just as growing up in a particular region or having particular professional experiences is likely to affect an individual's views, so too is one's own, unique experience of being a racial minority in a society, like our own, *in which race unfortunately still matters*. (emphasis added)

It is with great pride and hope that I rise in support of H. Con. Res. 414 to recognize the 50th anniversary of a historic piece of jurisprudence in the name of education, civil rights, human rights, democracy, and diversity. Yesterday, in a markup of the Full Committee on the Judiciary, we voted 27 yeas and 0 nays—unanimously to report this resolution out favorably and to move to conference, and I would expect to see the same kind of alliance at the full House scale, the Senate scale, the joint conferee scale, and on a worldwide scale to pay tribute to the spirit of a decision that changed the structure and focus of U.S. education and began the process of meeting the challenges and opportunities of equal opportunity and a quality education for all students.

I joined the distinguished Ranking Member from Michigan as an original co-sponsor of this important resolution celebrating the 50th anniversary of some of the most profound and meaningful jurisprudence in the history of the United States. On May 17, 1954, Brown v. Board of Education of Topeka Kansas reversed Plessy v. Ferguson, which established the ''separate but equal'' doctrine that stamped African Americans with a badge of inferiority as articulated by Judge John Marshall Harlan, the lone dissenter in that case.

With the Brown decision, the meaning of ''equal protection of the laws'' took on real meaning for African Americans and other minorities. It fueled the momentum of the Civil Rights Movement that spurred America's realization of change.

I take a special interest in supporting Brown and its progeny both in the courtroom and out on the battlefields of society. We should all recall the recent threat to affirmative action that was defeated in Grutter v. Bollinger. It is shameful that almost a century from the great decision, the principles of equality were again challenged by way of college admissions criteria. It is shameful that the Board of Regents at Texas A&M University chose to abandon the jurisprudence of Brown and Bollinger and refused to utilize affirmative action to repair its significantly disparate racial student body ratio—this fall, it was 82% white, 2% black, 9% Hispanic, and 3% Asian-American.

At Prairie View A&M University, a District Attorney challenges students' right to vote in a local primary election based on domicile. Ultimately, the student body, Waller County activists, elected officials, educators, spiritual leaders, and many other supporters were successful in bringing about a settlement offered by the challengers. Nevertheless, from that experience, we learned that this Nation is still a long way from where it should be in terms of providing equal opportunity and access to education, voting rights, and civil rights.

The sentiment and mentality that threaten to erode our progress are not always as clear as at Prairie View or in a blatantly anti-affirmative action admissions policy. Socioeconomic status plays a role in rendering meaningless the promise of Brown v. Board of Education. When children are poor, expectations are lower. Unfortunately, if your mother or father works in the sweatshops in East Harlem or picks broccoli in Northern California, you are likely receiving a sub-standard and slower-paced education. Teachers have a duty to show these children that their neighborhoods do not define who they are and what their futures hold.

On the third anniversary, Dr. Martin Luther King, Jr. made one of his first important addresses to discuss the implications of the Supreme Court's decision in Brown. He referred to that decision as ''simple, eloquent and unequivocal'' and a ''joyous daybreak to end the long night of enforced segregation.'' At that address, Dr. King said the following profound words:

> There are at least three basic reasons by segregation is evil. The first reason is that segregation inevitably makes for inequality. There was a time that we attempted to live with segregation. . . . there was always a strict enforcement of the separate without the slightest intention to abide by the equal. . . .
>
> But even if it had been possible to provide the Negro with equal facilities in terms of external construction and quantitative distribution we would have still confronted inequality . . . in the sense that they would not have had the opportunity of communicating with all children. You see, equality

is not only a matter of mathematics and geometry, but it's a matter of psychology. . . . The doctrine of separate but equal can never be. . . .

But not only that, segregation is evil because it scars the soul of both the segregated and the segregator. . . . It gives the segregated a false sense of inferiority and it gives the segregator a false sense of superiority. . . . It does something to the soul. . . .

Then there is a third reason why segregation is evil. That is because it ends up depersonalizing the segregated. . . . The segregated becomes merely a thing to be used, not a person to be respected. He is merely a depersonalized cog in a vast economic machine. And this is why segregation is utterly evil and utterly un-Christian. It substitutes an ''I/It'' relationship for the ''I/Thou'' relationship.

We should be moving ahead instead of backward. Mr. Speaker, as Dr. King said of the great decision that we now honor, I challenge this nation to also be unequivocal about committing to equality. I support the Ranking Member's resolution and encourage the Members of this Committee to do the same.

Mr. PAYNE. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I commend the gentleman from Michigan (Mr. CONYERS) and the chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER) for bringing to the floor this important resolution recognizing and celebrating the 50th anniversary of Brown v. Board of Education, and I am pleased to be an original cosponsor of this resolution.

Mr. Speaker, it is important to note that this resolution calls upon Congress to do more than just noting the historical significance of the 50th anniversary of the Brown decision. It asks Congress to renew its commitment to continue building on the legacy of Brown with a pledge to acknowledge and address the modern-day disparities that perpetuate a separate but unequal society.

Yet while we celebrate the Brown I decision, we must candidly discuss the many challenges that remain in the quest to achieve equal opportunity for all Americans. Professor Charles Ogletree of the Harvard Law School has written a very powerful book on the legacy of the Brown decision, entitled ''All Deliberate Speeds: Reflections on the First Half-Century of Brown v. Board of Education.'' Professor Ogletree reminds us the second Brown case, decided on December 31, 1955, was every bit as important as the first Brown case, which was decided on May 17, 1954.

While the first case contains the powerful language that we all know, declaring that separate but equal educational facilities were inherently unequal and no longer had a place in American society, in the Brown II decision the Court called for school desegregation to proceed, and I quote, ''with all deliberate speed.'' Mr. Speaker, deliberate means slow, and, unfortunately, while we surely are making progress, the last 50 years of history demonstrates that our progress toward a color-blind, racially equal society has been slow indeed.

Mr. Speaker, let me briefly quote Professor Ogletree's powerful words. He said, and I quote, ''Brown v. Board of Education was important because it ended legal segregation. However, the Court's decision, though unanimous, contained a critical compromise which undermined the broad purposes of the campaign to end racial segregation immediately and comprehensively.''

Mr. PAYNE. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I thank the gentleman from Wisconsin for introducing this resolution, and, in particular, I want to thank my friend, the gentleman from Michigan (Mr. CONYERS) for including in this important bill a reference to Mendez v. Westminster.

I rise today in support of this resolution recognizing the importance of Brown v. Board of Education. But Brown v. Board of Education was actually built on a few important cases, one of which is the Mendez v. Westminster, which happened, if you can believe this, in Orange County, California.

In 1945, Felicitas Mendez took her child, Silvia, and her niece and her nephew down the block to the local school to enroll them. The niece and the nephew were lighter skinned; they could go to that school. She was told that her own daughter, who was darker skinned, would have to go across town to the Mexican school. Felicitas Mendez was a Puerto Rican.

The Mexican school took the Asians and the blacks and all the other dark-skinned people, like Mexicans and Puerto Ricans. Well, Gonzalo and Felicitas Mendez decided to fight that, and they filed a lawsuit, along with four other families, against Westminster, Anaheim, Santa Ana, and El Modena districts, seeking an injunction against all schools in Orange County.

On February 18, 1946, Mendez v. Westminster was decided in favor of the Mendez family, and on April 14, 1947, the Ninth Circuit Court of Appeals ruled in favor of the Mendez family's case. It was the first case in Federal Court of the doctrine of separate but equal, naming it unconstitutional. California Governor Earl Warren signed desegregation of California, 8 years ahead of the rest of the Nation.

Of course, 8 years later Thurgood Marshall would use that case as he argued Brown v. Board of Education, and Warren sat on that Supreme Court. The bravery and the dedication of Gonzalo and Felicitas Mendez opened the doors for better education to all children in the United States, and I thank this Congress for acknowledging how important Brown v. Board of Education is.

Mr. PAYNE. Mr. Speaker, I yield 3 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

The SPEAKER pro tempore (Mr. OSE). The gentleman from New Jersey has 2 minutes remaining.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentlewoman from the District of Columbia (Ms. NORTON).

The SPEAKER pro tempore. The gentleman from New Jersey yields 2 minutes and the gentleman from Wisconsin yields 1 minute.

The gentlewoman from the District of Columbia is recognized for 3 minutes.

Ms. NORTON. Mr. Speaker, I thank the chairman of the full committee for his generosity, and I thank him for his leadership, and I thank the ranking member, the gentleman from Michigan (Mr. CONYERS) as well for his leadership on this important issue. I also thank the gentleman from New Jersey (Mr. PAYNE) for his leadership on education issues in our Congress.

I think it is fair to say that the Brown decision is the most important court decision in American history. The decision saved our country from catastrophic racial division that could have come to race war rather than to a nonviolent revolution led by Dr. Martin Luther King that began with the peaceful overthrow of legal discrimination with Brown v. Board of Education.

Most shamefully, our country tolerated segregated schools here in the Nation's Capital as well. I attended those segregated schools. We pay tribute and I offer my personal thanks to the plaintiffs in Bolden v. Sharp, the decision which was one of the cases that went to the Supreme Court grouped together under Brown v. Board of Education.

But, Mr. Speaker, Brown is much larger than school desegregation, as large a mission as that decision took on. After Brown, public funding of segregated policies or programs became constitutionally untenable. Brown did more than we had the right to expect from any one court decision, but Brown could not prevent resegregation through white flight, or discriminatory housing. Brown could not fund our Nation's schools. And Brown cannot raise test scores of children.

On this 50th anniversary, let us remember that Brown did its job, and it left the Congress and the American people with work still to do.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, if one looks back at the history of the consideration of civil rights bills in the Congress, the Civil Rights Act of 1957, the Civil Rights Act of 1960, the Civil Rights Act of 1964, the Voting Rights Act 1 year later, and the Fair Housing Act of 1968, these were all passed due to bipartisan support on the floor of the House and the Senate and bipartisan cooperation with whichever administration was in office at the time, the Eisenhower administration, the Kennedy administration, or the Johnson administration.

This resolution is in the spirit of bipartisanship because there is no difference between Republicans and

Democrats, historically, as well as today, in their commitment to equal rights for all Americans.

The Constitution is color-blind. We should not discriminate based upon race, creed, color, national origin, gender or disability, and those are the types of protections that this Congress, through bipartisan effort, was able to enact into law, but more importantly to get the American public, even those who held out almost to the bitter end, to support today.

And that is why America is so much different than countries in the rest of the world, because we faced up to our discriminatory history, and we were able to overcome that first legally, but the hearts of America followed the law in this case.

Yes, there is more work to do. Nobody argues that point. But the framework that provided the tremendous progress that has been made in the last 50 years since the landmark decision of Brown v. Board of Education has been because people of differing political ideologies and people of differing political party affiliations have gotten together.

We can make that progress in the next 50 years, like we did in the last, if that type of bipartisan cooperation continues. This is a bipartisan resolution, and I am happy, on behalf of the majority party on the Committee on the Judiciary, to bring this resolution to the floor, a resolution that has been offered by our ranking minority party member. It is a good resolution, and it ought to be approved unanimously.

Mrs. JONES of Ohio. Mr. Speaker, I rise today to celebrate the upcoming 50th anniversary of Brown v. Board of Education. It was 50 years ago that the Supreme Court unanimously decreed segregated public schools unconstitutional. The effects of that decision live on in myriad ways, and yet, in much of America, equality and integration remain ideals rather than realities.

In 1954 the U.S. Supreme Court stated that separate is inherently unequal. The Court concluded, ''that in the field of public education, the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal.'' The Court found that the evils of racial segregation affected students' motivation and retarded educational and mental development.

Education is a right, not a privilege. The Court wrote: ''. . . it is doubtful that any child may reasonably be expected to succeed in life if he (or she) is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.''

In the 11th Congressional District of Ohio, Barbara Byrd-Bennett, CEO of the Cleveland Municipal School District continues this legacy Brown v. Board of Education, championing the rights of our young people and working to ensure that they are afforded the best education possible. Six years ago, in 1998, the Cleveland Municipal School District ranked last among Ohio school systems, and was placed in academic emergency status. Under the direction of Ms. Byrd-Bennett the Cleveland Municipal School District now stands as one of Ohio's ''most improved school districts.''

Under Ms. Byrd-Bennett's leadership academic successes are clear:

Reading scores have increased by more than 30 percent;

Children have breakfast and lunch at school at no cost, and over 93 percent are immunized;

Graduation rates have increased by 10 percent and 74 percent of last year's graduates went on to college;

Suspensions are down nearly 45 percent, expulsions are down 9 percent and assaults on students are down 13 percent;

Fourth and 6th grade reading results were up 19 percent and 28 percent, respectively, in 1 academic year; and

Only 22 percent of 4th grade students passed the State reading test in 1998 compared to 59 percent passed, in 2003, an increase of 37 percent from 5 years ago. Reading performance at the 6th grade has improved by 32 percent.

I believe that education is the key to success. I am working on behalf of all the constituents of the 11th Congressional District in Ohio to make sure that public education remains the number one issue in America. I want for those who have a desire to go to college to be prepared and equipped with the tools necessary for success.

While highlighting successes and recognizing achievements, we must also focus on current realities to further aid us in shaping national education priorities. According to the National Education Association:

Poor and minority children risk doing poorly in school. Contributing factors include: rigorous curriculum, teacher preparation/experience/attendance, class size, technology-assisted instruction, school safety, parent participation, student mobility, birth weight, lead poisoning, and nutrition;

In 1994, 31 percent of black, 24 percent of Hispanic, and 35 percent of American Indian high school graduates took remedial courses, compared to 15 percent of whites and Asians;

Few minorities have access to or are enrolled in Advanced Placement courses,

Student achievement gap still wide; and

Only 5 percent of African American 4th grade students and 4 percent of 8th grade students met national proficiency standards in 1996.

In addition, under the Bush budget $9.4 billion less for education than was promised in the No Child Left Behind Act; this means that 2.4 million children will not get the help with reading and math they were promised. Under the Bush budget 56,000 teachers won't get trained and 1.3 million children won't get the after school programs they were promised.

According to the National Education Association, the budget eliminates funds for 38 programs, including dropout prevention and gifted and talented education, and once again fails to increase Pell Grants for our Nation's poorest college students. Yet, incredibly, the President wants $50 million for a national experiment with school vouchers, which take away much needed resources from public schools, and trillions more in tax cuts continue to flow to the wealthy.

According to Barbara Bowman, professor of early childhood education at the Erikson Institute, ''We're still quite a long way from a concerted national effort. What Brown did was make for a concerted national effort, but it required people to change. We haven't gotten that kind of centering of interest right now.''

America's public schools are dealing with a level of linguistic and cultural diversity unknown 50 years ago, when the Supreme Court outlawed school segregation in its Brown v. Board of Education decision of May 17, 1954.

Today, public schools struggling to fulfill the spirit of the Brown decision, equal access to educational opportunity for all now we have a task made more complex and difficult by an ever-growing number of students who aren't even native English speakers.

In this information-based economy, the stakes are increasingly high for those who don't get the education they need—potentially hundreds of thousands of dollars in earning power over the course of a lifetime, middle class vs. minimum wage.

According to the National Center for Education Statistics, more than 3.7 million public school students were offered English language learner services in the 2001–2002 academic year.

Segregated housing patterns make racially mixed schools a rarity. New York City schools, for example, have grown more segregated over the last decades. And with de facto segregation comes separate and unequal education.

Cheryl Brown Henderson, one of the children who helped desegregate public schools, brought her message to Cleveland earlier this month. Brown says over the years she's watched schools become more integrated but feels we're not there yet. ''The country is far more inclusive than it has ever been and obviously we have some unfinished business to do because not all of our schools are functioning as they should be; not all our communities are as open and inviting as they should be.''

We have come a long way; however, we still have a long way to go.

Today I rise to celebrate the anniversary of Brown v. Board of Education. I am proud to be an American. I saluted African Americans like Barbara Byrd-Bennett who believed in the fight for justice, believed in their dreams for equality and continue to pave the way for a better tomorrow.

Mr. CUMMINGS. Mr. Speaker, I rise in support of H. Con. Res. 414, a resolution celebrating the 50th anniversary of the Brown. v. Board of Education Supreme Court decision, brought to the floor by my very good friend; a pioneer for civil rights in this House and the ranking member of the House Judiciary Committee, Representative JOHN CONYERS. Mr. CONYERS, I thank you for your continued leadership on issues that affect the center of people's lives.

May 17, 2004 marks the 50th anniversary of the U.S. Supreme Court decision that unanimously held that racial segregation of public schools violated the 14th amendment. The legacy of the Brown decision lives on throughout the Nation, and I, as well as million of Americans throughout the country, are the direct beneficiaries of this monumental court decision.

In the early 1950's, racial segregation in public schools was the norm across America. But in 1954, the United States Supreme Court affirmed that separate facilities are indeed inherently unequal. The court determined that the segregation in public schools based solely upon race deprives minority children of equal

opportunity. As such, the Court concluded that in the field of public education, the doctrine of ''separate but equal'' has no place.

Mr. Speaker, as we celebrate the 50th anniversary of this historic groundbreaking case it is incumbent upon us to reflect and assess where we stand today. As students of history know, we study the past in order to learn about the present and build a better future.

However, for many Americans Brown's promises to seem unfulfilled. America's schools remain imperiled by segregation. Poor children living in disadvantaged urban communities of color overwhelmingly attend re-segregated schools, as more affluent white families have departed for the suburbs. Methods of school funding virtually assure that wealthy district will offer superior educational opportunities. In addition, the one compelling pledge that this administration has made to raise standards in our schools, the No Child Left Behind Act, remains under funded to the tune of $9 billion.

Mr. Speaker, we must not allow this nation to return to a time before Brown. The lesson of Brown is that segregation clearly does not work. I encourage my colleagues to use this opportunity to renew their commitment to eradicating all vestiges of segregation by voicing their support for H. Con. Res. 414.

Furthermore, I call upon my colleagues and the administration to fully fund the No Child Left Behind Act. Unless we ensure that every child in this nation receives an equitable and quality education, this Nation's children will be suffocated once again by the legacy that segregation has left behind in our schools.

Mr. PAUL. Mr. Speaker, I rise to explain my objection to H. Con. Res. 414, the resolution commending the anniversary of the decision in Brown v. Board of Education and related cases. While I certainly agree with the expression of abhorrence at the very idea of forced segregation I cannot, without reservation, simply support the content in the resolution.

The ''whereas clauses'' of this resolution venture far beyond the basis of Brown and praise various federal legislative acts such as the Fair Housing Act of 1968, the Civil Rights Act of 1964 and the Voting Rights Act of 1965. This final Act was particularly pernicious because it was not applied across the board, but targeted only at certain areas of the country. As such, it violates the spirit of the very equal protection it claims to promote. Moreover, we certainly should ask what constitutional authority lies behind the passage of such legislation.

The history of racism, segregation and inferior facilities that led to Brown cannot be ignored, and should not pass from our condemnation. Still, thinking people must consider the old adage that ''two wrongs do not make a right.'' Simply, the affects of Brown have been, at best, mixed. As this anniversary has approached there have been a large number of events and articles in the media to celebrate the decision and analyze its impact. Most people, regardless of their opinion of the decision, seem to be aware that it has not achieved its goals.

In many places in our country the public school system continues to fail many American children, particularly those in the inner city. Research shows that our schools are more segregated than at any point from the 1960s. Some of this is undoubtedly due to the affects of the Brown decision. Do we really mean to celebrate the failures of forced busing? Forced integration largely led to white flight from the cities, thus making society even more segregated. Where children used to go to different schools but meet each other at the little league field, after Brown these people would now live in different cities or different counties. Thus, forced integration led only to even more segregation. A recent Washington Post article about McKinley High School makes this very point. Worse still, prior to this re-segregation racial violence was often prevalent.

We need also to think about whether sacrificing quality education on the altar of equality is not a terrible mistake, especially as it applies to the opportunities available to those who are historically and economically disadvantaged. For example, research has shown that separating children on the basis of gender enhances academic performance. Attempts to have such schools have been struck down by the courts on the basis of Brown. Just last night Fox News reported the academic successes at schools separating children based on gender, as approved by this body is the so-called ''No Child Left Behind Act.'' Yet the National Organization of Women continues to oppose this policy on the basis of Brown's ''separate is inherently not equal'' edict, despite the statistically evident positive impact this policy has had on the achievement of female students in mathematics and science classes.

Mr. Speaker, in short forced integration and enforced equality are inimical to liberty; while they may be less abhorrent than forced segregation they are nonetheless as likely to lead to resentment and are demonstrably as unworkable and hence ineffective.

While I completely celebrate the end of forced segregation that Brown helped to bring about, I cannot unreservedly support this resolution as currently worded.

Mr. BOEHNER. Mr. Speaker, I rise today to commemorate the 50th anniversary of the U.S. Supreme Court's Brown v. Board of Education decision and to draw a parallel from this historic ruling to the landmark No Child Left Behind education reform law.

The words penned by Chief Justice Earl Warren on May 17, 1954 still ring true today and provide a clear roadmap for improving America's public education system in the future. Fifty years ago, Mr. Warren wrote:

> In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

By striking down the doctrine of ''separate but equal'' as unconstitutional, the Brown decision flung open wide the doors of public education for all children, regardless of their color or back ground. It ensured every child a seat in an integrated classroom. It guaranteed access to an equal education for everyone. No longer could students be refused an opportunity to receive a quality education simply because the color of their skin.

Two years ago, Congress—in a bipartisan vote—enacted that No Child Left Behind Act as the logical step to improving education for all students. We promised to increase federal education funding while demanding high standards and accountability for all students. As a result of the law, parents are receiving more information than ever before about the quality of their local schools and are realizing new opportunities to improve their children's education.

What was once an unattainable dream for so many parents stuck on the wrong side of the tracks has now become a reality. Parents with children trapped in underperforming schools may now transfer them to better performing schools.

A report released yesterday by the Citizens' Commission on Civil Rights found that the No Child Left Behind Act is already creating new educational opportunities for minority students. According to the Commission's report, at least 70,000 students in 47 states are benefiting for the law's school choice provision.

The Commission understands—just as Congress did—the importance of providing parents new options to improve their children's education. They also understand how added school choice options will help the whole education system get better, not worse.

The Commission's findings are fortified by a recent Chicago Sun-Times analysis showing that of the students who were allowed to transfer to a better performing school under NCLB made greater strides on state-designed reading and math tests than students in their former school. The paper also determined that other students' scores did not drop as a result of the incoming students, as many education reform opponents predicted would happen.

However, these are not the only signs of No Child Left Behind's early success. Students are showing considerable improvement in the nation's largest urban schools. A recent report by the Council of Great City Schools attributed much of this improvement to the No Child Left Behind Act.

Earlier this week, Florida and Michigan reported decreases in the achievement gap between African-American students and their Caucasian peers.

There is still much work to do before America fully realizes the dream of the Brown v. Board of Education decision, but we are on the right track. By holding the line against education reform opponents and allowing states and school districts to implement the full scope of No Child Left Behind's reforms, we will ensure a higher level of student academic performance than we have ever achieved.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today as we celebrate the 50th Anniversary of Brown v. Topeka Board of Education. African Americans and other minorities have been affected tremendously by this landmark decision and have benefited from it over several decades. We would like to think that our country now benefits from the inclusion of having a more enriched and diverse classroom, workplace, and community. We now have more black doctors, lawyers, Members of Congress, CEOs, scientists, astronauts, teachers and the list continues.

There is no doubt Brown represents the power and potential of masses united in struggle for justice and equality. The larger question before us today is, has Brown achieved its goal of equality in education and educational opportunity for African Americans? The sad answer, after so many decades of struggle, remains: No.

When compared to their White counterparts, African American children were three times as likely to be labeled mentally retarded or emotionally disturbed. The number of African

Americans attending graduate, medical or dental school slowly has been declining. There are more black males in our prison than in our institutions of higher education.

Although there are 39 African American Members of Congress in the House of Representatives, there is not one black man or woman serving in the U.S. Senate. Out of our 50 states that make up our great Nation—not one has a black man or woman at the top as Governor.

Mr. Speaker, data from the 2000 census makes it clear that the ridged lines of ethnic and racial segregation persist across the entire country. This year is not only a celebration of the step forward in freeing the minds of African-American children but a reflection that in 50 years we have failed as a Nation to provide equal education and opportunities to minority children in our country. After 50 years of ''separate but equal'' being ruled unconstitutional, it is evident it still exists in our schools and communities today.

Mr. RUSH. Mr. Speaker, today I rise to commemorate the 50th year anniversary of the Supreme Court decision in Brown v. Board of Education of Topeka. The Nation's highest court spoke almost half a century ago, but it seems that we have not received the message.

Mr. Speaker, I believe segregation has taken on a new face. It is now a matter of access to quality education; it is now a matter of accountability to our children for the unfulfilled promises made 50 years ago; and it is now a matter of addressing disparities in school funding formulas.

In my own State of Illinois, a black child is about 50 times more likely than a white child to attend one of Illinois' worst-of-the-worst ''academic watch'' schools. That number for white children is less than one percent.

I stand in strong support of this important resolution, because I believe a stronger America is an educated America. And I believe the only way to continue the legacy of Brown is to engage in an honest discussion about the current state of public schools in America. Then and only then we will be able to address the change promised by the legacy of Brown. Mr. Speaker, segregation was and still is present in our schools today.

Mr. CASTLE. Mr. Speaker, as an original cosponsor of H. Con. Res. 414, it gives me great pleasure to support this important resolution today.

On Monday we celebrate the 50th anniversary of Brown v. Board of Education, which found that, ''in the field of education, the doctrine of 'separate but equal' has no place,'' thus guaranteeing every American student a seat in the classroom. Truly a landmark decision, Brown did not end in the classroom. It helped pave the way for the enactment of the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968.

Enactment of the No Child Left Behind Act, built upon the educational progress made in Brown by ensuring every student will not only have access, but will also receive a quality education. While progress has been made since the Brown decision, a huge gap still remains when it comes to ensuring all children actually learn. Significant academic achievement gaps between disadvantaged students and their more affluent peers still exist in key subjects such as reading and math. In effect, we have allowed a two-tiered educational system—one with low expectations for poor or minority students and high expectations for others.

Nationally, the achievement gap between African-American and Caucasian fourth-graders in reading is 28 percentage points. The achievement gap between Hispanic and Caucasian fourth-graders is 29 percentage points. We have allowed ourselves to believe that some children are simply beyond our reach, and, as a result, this Nation has suffered.

Not unlike Brown, No Child Left Behind is rooted in the belief that all students—regardless of race, background, income, geography, or disability—can learn, and must be given the chance to do so.

No Child Left Behind has its skeptics, and change is never easy. Despite complaints, all parties involved are answering to the requirements of No Child Left Behind. States, school districts, teachers, parents and without doubt the students are meeting the rigors of the law. This response shows that we all are dedicated and believe in the goals of the law.

We are already seeing positive results. According to a 2004 study by the Council of Great City Schools, the achievement gap is narrowing in both reading and math between African-American and Caucasian and Hispanic and Caucasian students in our Nation's inner-city schools—and they attribute the positive change in part to No Child Left Behind.

I am honored to be a cosponsor of this resolution, encourage us all to celebrate the anniversary of Brown, and reflect on how far we have come in ensuring educational access. We must also recognize that the job is not done; we must see to it that all children are learning. No Child Left Behind is a step in this direction and we must stay the course.

Mr. GEORGE MILLER of California. Mr. Speaker, I am pleased today to support this resolution encouraging all Americans to observe the anniversary of Brown v. Board of Education with a commitment to continuing and building on its legacy.

Brown v. Board of Education is one of the most important decisions our Supreme Court has ever made. It's important to celebrate the progress that has been made over the past 50 years in eliminating discrimination and inferior education for low-income and minority children—but it's also important to take a good, hard look at how far we still have to go.

Sadly, we are still light years away from providing the equal education envisioned by Thurgood Marshall and Earl Warren. Today, as in 1954, the quality of a child's education is still all too often linked to the color of his or her skin.

Just as the United States has the best health care in the world for those who can afford it, we have one of the best public education systems in the world if you happen to grow up in a predominantly white or wealthy community. But what if you don't?

If you are one of the millions of children who attend predominantly minority schools, our society continues to fail you. And that shortchanges not only the children, but the future of this nation.

It is shameful that poor and minority children are often assigned to less-challenging classes and less qualified teachers. The best teachers are often across town, a virtual world away from the students who need them desperately.

Black students are assigned disproportionately to special education, and low-income students are less than half as likely to be assigned to ''college prep'' courses. Overcrowded classrooms and dilapidated school buildings also send a powerful message to poor and minority students about what is expected of them.

Just yesterday, a judge with a sense of history in Kansas reminded us of the importance of school equity by ordering schools closed for not adequately serving the needs of poor, minority, disabled and non-English speaking children.

This lack of access to an equal education affects academic achievement. Seventy-four percent of white 4th graders read well, nearly twice the rate of the black classmates; and their Latino and Native American classmates are only slightly better. It is a national shame that half a century after this Nation committed itself to equality in education, fewer than half of minority children can read proficiently.

And that failure plays out in high school graduations. When millions of students get their diplomas a few weeks from now, only about half the minority children who began high school will graduate. That is an unacceptable rate of failure that in most cases, dooms those young people to a life of second class opportunities. That was not the lesson of Brown v. Board of Education.

It was to end that two-class education system once and for all that we passed No Child Left Behind three years ago, to end the racial and economic disparities that divide our schools and divide our country.

The No Child Left Behind law—if fully funded—would put a qualified teacher in every classroom. If all students were assigned highly qualified teachers for 5 years, evidence shows that test-score gaps separating poor and middle-class students would disappear. Not just narrow, but disappear.

But the President has turned his back on this law and underfunded it by nearly $27 billion. And our children are paying the price for yet another dream deferred.

The foundation of the civil rights struggle of 2004—as in 1954—is in the classroom. Civil rights pioneer Dr. Dorothy Height said it well: ''The surest path to success is through education.''

Like Dr. Height, we must keep fighting and keep fighting so that 50 years from now—when our grandchildren celebrate the 100th anniversary of Brown—they will be able to point with pride to an education system that lives up to the ideals of Brown v. Board of Education once and for all.

Mr. VITTER. Mr. Speaker, I rise today to celebrate the 50th anniversary of the Brown v. Board of Education Supreme Court decision. On May 17, 1954, Supreme Court Chief Justice Earl Warren announced the Court's unanimous decision that ended the legal racial segregation in our Nation's public schools.

Without the courage and determination of the families that made up the 5 cases under Brown and the team of attorneys from the National Association for the Advancement of Colored People (NAACP), our Nation's public schools would have continued to operate under the ''separate but equal'' doctrine.

All parents want to ensure their children are safe, happy and healthy. They also want to give them the opportunities that were not afforded to them. Access to safe public schools that have the necessary resources for their children to succeed later on in life is important

to every parent, regardless of race, color or creed. As a proud father of 4 children, I recognize the link between education, good paying jobs, and securing our children's future in the 21st century.

I have long been an advocate for education in my State. I know the importance of providing our public schools with the necessary technology improvements that will help children compete in the 21st century. I continue to believe that if children are given the necessary tools to succeed, they will succeed beyond their wildest dreams.

I congratulate the children, parents, and the NAACP attorneys who pursued this case for their role in ensuring all children have the right to receive a quality education. Thank you for pursuing and believing in your fundamental rights under the Constitution, which guarantees every citizen the right to the pursuit of happiness, liberty, and equal opportunity.

Mr. TOWNS. Mr. Speaker, I rise today to acknowledge the 50th Anniversary of the Supreme Court's courageous decision in Brown vs. the Board of Education.

I want to take this opportunity to pay tribute to the team of lawyers from the NAACP Legal Defense Fund, led by Thurgood Marshall who had the courage to pursue this case. I want to thank the legal scholars and strategists at Howard University School of Law, led by Charles Hamilton Houston, who had the intellect to map out this winning strategy. I want to thank the sociologists and psychologists, led by Kenneth and Mamie Clark who undertook the challenge of gathering evidence of the harm done to African American children when society branded them with a mark of inferiority. And I want to thank the parents and students who risked homes, livelihoods, and underwent physical threats and harassment to be a part of this lawsuit. Fifty years after Brown, this country owes a debt of gratitude to each of these people who played a part in bringing about the end of legal segregation based on race. In the face of violence, intimidation and governmental resistance, they pressed forward to move this country closer to the realization of its stated creed—freedom, equality and justice for all.

Yet 50 years later, we know that the work they started is not finished. We must remember that their goal was not only to end legal segregation of the public schools, but to assure that a quality public education is available for all children. We are still involved in that struggle. On this anniversary of Brown, many will point to the fact that many schools are still segregated and are rapidly re-segregating. I join them in these concerns.

As people talk about the Brown decision, many will talk about the meaning of the decision and others will talk about the promise the decision represented. The theoretical underpinning of Brown was that public schools must be supported adequately. The lawyers in Brown wanted to dismantle segregation for many worthwhile reasons. But they also wanted to emphasize that as practiced, separate was inherently unequal. While we have legally abolished the separateness required before Brown, we have not yet addressed the problem of equality of funding.

We are still operating state-based educational systems in which schools attended by racial minorities receive less money that those located in primarily white areas. This inequality in funding must be abolished to complete the mission of Brown. We must focus on the perpetual under-funding of inner-city schools. We must recognized that the achievement gap is inextricably linked to the economic gap. Low-performing schools are almost always situated in communities that are pockets of poverty. We must realize the importance of teacher and administration accountability but not forget that Congressional accountability requires that we make school funding a priority. Congress must assure that there is adequate money for school construction to reduce class size and purchase educational materials. We must ensure that teachers are paid for the professional and important job that they do. And finally, we must provide funding which allows local communities to build a supportive infrastructure that values the role of education in the community.

To me, the message of the Brown decision was simple—education is a vehicle of upward mobility. If we have heard Brown's message, we must fulfill its promise—that every child can succeed, if given the opportunity of a quality public education. We still have not fulfilled the promise. Therefore, Mr. Speaker, I suggest that we in this House dedicate ourselves to hear the message of Brown and fulfill its promise by working to provide the opportunity for a quality public education for all of America's children.

Mr. SCOTT of Virginia. Mr. Speaker, as the Representative for Virginia's Third Congressional District, and the state's first and only Black Congressional Representative since Reconstruction, I take personal pride in celebrating the 50th Anniversary of the landmark decision in Brown v. Board of Education. Virginia played a prominent role in the case. The Davis v. Prince Edward County Public Schools case, one of the cases decided with Brown, was a Virginia case. Also, two of the nation's premier constitutional lawyers in the Brown case came from Virginia. Attorney Oliver Hill, who continues to fight for equal justice for all, and the late Judge Spottswood Robinson, argued the case on behalf of the student plaintiffs in the Davis case.

In the Brown decision, the United States Supreme Court unanimously struck down the legal and moral footing of racially segregated public education in this country. The decision overturned Plessy v. Ferguson, an 1896 case which held that a state could maintain "separate but equal" public accommodations based on race. When Homer Adolph Plessy, who was one-eighth Black, entered a railroad car reserved by law for whites, he was arrested. He challenged the constitutionality of the law, but the Supreme Court, by a vote of seven to one, found it valid. Although Plessy concerned public accommodations, the policy rationale was applicable to public education, as well. Indeed, the court opined on that point as follows:

> [W]e cannot say that a law which authorizes or even requires the separation of the two races in public conveyances is unreasonable, or more obnoxious to the fourteenth amendment than the acts of congress (sic) requiring separate schools for colored children in the District of Columbia, the constitutionality of which does not seem to have been questioned . . .

Justice John Marshall Harlan was the lone dissenter in the 7 to 1 decision. He wrote an opinion containing the following:

> The destinies of the two races in this country are indissolubly linked together, and the interests of both require that the common government of all shall not permit the seeds of race hate to be planted under the sanction of law. What can more certainly arouse race hate, what more certainly create and perpetuate a feeling of distrust between these races, than state enactments which in fact proceed on the ground that colored citizens are so inferior and degraded that they cannot be allowed to sit in public coaches occupied by white citizens? That, as all will admit, is the real meaning of such legislation as was enacted in Louisiana . . . The thin disguise of "equal" accommodations for passengers in railroad coaches will not mislead anyone, or atone for the wrong this day done.

In overturning Plessy, the Brown Court not only confirmed Justice Harlan's "thin disguise" dissenting opinion in Plessy, but also held that even if the tangible features of a segregated public education system were equal, a constitutional violation would still exist. The reasoning of the Court then is still valid today:

> Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principle instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.
>
> We come then to the question presented: Does segregation of children in public schools solely on the basis of race, even though the physical facilities and other "tangible" factors may be equal, deprive the children of the minority group of equal educational opportunities? We believe that it does.

The Court then discussed the impact segregation has on minority children:

> To separate them from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their heart and minds in a way unlikely ever to be undone. The effect of this separation on their educational opportunities was well stated by a finding in the Kansas case by a court which nevertheless felt compelled to rule against the Negro plaintiffs: "Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of the law; for the policy of separating the races is usually interpreted as denoting the inferiority of the negro (sic) group. A sense of inferiority affects the motivation of a child to learn. Segregation with the sanction of law, therefore, has a tendency to retard the educational and mental development of negro (sic) children and to deprive them of some of the benefits they would receive in a [racially] integrated school system."

Unfortunately, Virginia led the resistance to the Brown decision. Ironically Virginia used language in the Brown decision as legal grounds for its resistance actions:

> Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

Virginia reasoned that it could avoid integrating its schools by not having any schools at all. As a result, Prince Edward County closed its schools for several years, Norfolk, Front Royal and Charlottesville also closed some of their schools.

We overcame "massive resistance" and, today, Prince Edward County has one of the most integrated public school systems anywhere. Yet, five decades after Brown, a recent study by the Harvard Civil Rights Project revealed that many students in this country still attend schools and classes that are virtually segregated. So, while we have desegregated public schools, we have not achieved the integration that Dr. Martin Luther King, Jr., envisioned when he dreamed of the day "little black boys and girls will be able to join hands with little white boys and white girls and walk together as sisters and brothers". In fact, the Harvard study data indicates that 70 percent of African American children attend schools that are predominately African American, about the same level as in 1968 when Dr. King died.

So, the struggle for equal educational opportunity continues. The promise of equal educational opportunity envisioned by the Brown decision remains unfulfilled. For example, equal educational opportunity does not occur when one jurisdiction spends substantially more per student than an adjacent jurisdiction because of the relative differences in wealth between the two. Unequal funding resources also results in unequal educational opportunity when you consider studies that show that one half of low income students who are qualified to attend college do not attend because they can't afford to. Another example of the educational inequality is the current debate over publicly financed school vouchers which will provide educational opportunities to a privileged handful, but deprive public schools of desperately needed resources. Also in this vein is the inappropriate use of "high stakes" tests, many of which are culturally biased and, therefore, diminish opportunities for some students based on their ethnicity.

A final important equal opportunity issue in education is the current attack on civil rights in the Head Start program. A slim majority of the members of the U.S. House of Representatives recently voted to weaken the 40-year ban on discrimination in hiring in the Head Start program.

Obviously, we have work to do to complete the promise of the Brown decision and Dr. King's dream for our nation. The upcoming celebration of the 50th anniversary of the decision offers us an opportunity to rededicate ourselves to achieving these lofty ideals.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to the order of the House of Wednesday, May 12, 2004, the concurrent resolution is considered as having been read for amendment and the previous question is ordered.

The question is on the concurrent resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion are postponed.

PERMANENT EXTENSION OF 10-PERCENT INDIVIDUAL INCOME TAX RATE BRACKET

Mr. RYAN of Wisconsin. Mr. Speaker, pursuant to House Resolution 637, I call up the bill (H.R. 4275) to amend the Internal Revenue Code of 1986 to permanently extend the 10-percent individual income tax rate bracket, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 637, the bill is considered as having been read for amendment.

The text of H.R. 4275 is as follows:

H.R. 4275

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

SECTION 1. EXTENSION OF 10-PERCENT INDIVIDUAL INCOME TAX RATE BRACKET.

(a) IN GENERAL.—Clause (i) of section 1(i)(1)(B) of the Internal Revenue Code of 1986 (relating to the initial bracket amount) is amended to read as follows:

"(i) $14,000 in the case of subsection (a),".

(b) INFLATION ADJUSTMENT BEGINNING IN 2004.—Section 1(i)(1)(C) of such Code (relating to inflation adjustment) is amended to read as follows:

"(C) INFLATION ADJUSTMENT.—In prescribing the tables under subsection (f) which apply with respect to taxable years beginning in calendar years after 2003—

"(i) the cost-of-living adjustment used in making adjustments to the initial bracket amount shall be determined under subsection (f)(3) by substituting '2002' for '1992' in subparagraph (B) thereof, and

"(ii) such adjustment shall not apply to the amount referred to in subparagraph (B)(iii).

If any amount after adjustment under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 2. REPEAL OF SUNSET.

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to—

(1) paragraph (1) of section 1(i) of the Internal Revenue Code of 1986, and

(2) the amendments made by paragraphs (1) and (7) of section 101(c) of such Act.

The SPEAKER pro tempore. After 1 hour of debate on the bill, it shall be in order to consider the amendment printed in House Report 108–483, if offered by the gentleman from New York (Mr. RANGEL), or his designee, which shall be considered read and shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Wisconsin (Mr. RYAN) and the gentleman from New York (Mr. RANGEL) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House can make the 10-percent bracket permanent for working Americans by passing this legislation, H.R. 4275. The 10-percent bracket was created in the Economic Growth and Tax Relief Reconciliation Act of 2001. It has provided substantial tax relief for low-income workers by taxing the first $14,000 of married couples and $7,000 for singles at a 10-percent rate instead of a 15-percent rate. This tax relief was accelerated last year in last year's Jobs and Growth Tax Relief Reconciliation Act. H.R. 4275 would make this tax relief permanent.

If Congress fails to act to pass this legislation, Americans will see their taxes increase starting next year. Without action, the size of the 10-percent bracket will automatically shrink next year, so that more income will be taxed at a higher rate. In fact, the 10-percent bracket will vanish altogether after the year 2010 unless we act today to make it permanent.

□ 1100

If H.R. 4275 is not enacted, 73 million tax filers will see a tax increase starting next year. The effect will be particularly acute after 2010 when 123 million tax filers will see an average annual tax increase of $500.

It is worth noting that more than 20 million of these returns are low-income taxpayers and families who have all of their income taxed at this lower 10 percent rate. The public deserves a solid, dependable Tax Code that provides incentives and lets working people keep their money for their own needs. The 10 percent bracket provides such an incentive, one we can and should make permanent by passing this legislation.

Mr. Speaker, it is important that people know what taxes they are going to face in the future. By having all of these uncertainties in the Tax Code, not knowing whether you are going to be in the 10 percent bracket next year, the 15 tax percent bracket next year, it makes it difficult to budget for the future.

We are talking about the taxpayers who can least afford to have a big tax increase going from 10 percent to 15 percent on their incomes next year, let alone not having the knowledge of knowing whether or not this is going to happen. It is very important, Mr. Speaker, that families know what lies ahead, that businesses know what lies ahead, and let us all remember that two-thirds of businesses in America file their taxes as if they were individuals, not as corporations, but as pass-through entities where they file on the individual rate. Making sure that small businesses, which produce 70 percent of the jobs we have in this country and low-income taxpayers know what lies ahead in the Tax Code is very important to make sure that we sustain the economic recovery we are now engaged in.

Mr. Speaker, largely because of the tax cuts that this bill enacted, largely

because of the full implementation of the tax rate reductions that occurred just this last July, our economy has taken off. Just since last August, this economy, by the most conservative estimate, has produced 1.1 million jobs. In fact, since January 1 of this year, this economy, by this most conservative payroll estimate, has produced 881,000 jobs. This is no longer a jobless recovery; this is a recovery that is producing good jobs.

Even the manufacturing sector, which is so near and dear to my heart because it is such a big issue in Wisconsin, is producing jobs. The reason we are producing jobs in this economy is because people get to keep more of their own money to spend as they see fit. Businesses are reinvesting, rehiring people. The economy is working, and we cannot snuff out this economic recovery by yanking out the tax relief that was so instrumental in getting us onto the path of growth that we are on today. That is why I urge passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BECERRA. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from New York (Mr. RANGEL), the ranking member of the Committee on Ways and Means, for the managing of the time on this side of the aisle.

The SPEAKER pro tempore (Mr. LINDER). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BECERRA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have before us another proposal which in this case I think every single Member of Congress would like to step up to the plate and say we need to do something like this. We have a tax system where oftentimes folks who work very hard, those who are striving and obtaining middle-class status, sometimes find they are paying more taxes than people earning 10, 20, 100 times what they are. That seems very unfair, and it is very unfair.

When we have a tax proposal which actually reduces taxes by starting at the bottom, by taking the lowest tax rate and giving a tax break there, you guarantee giving a tax cut to everyone, not just those who are very wealthy, but those who are middle income and those who are of modest income. If you start at the bottom tax bracket, everyone will fall into that bracket, whether rich or poor.

So when we look at this particular proposal we have before us, H.R. 4275, from the onset we want to say, let us do something like this because it helps all of America. And so we should be able to say let us do this because it helps all of America. The difficulty is while we should do something like this, this bill, H.R. 4275, does not help all of America.

What is worse is if I can tell Members that those who are not helped are those in the middle of America, Members would be most surprised. Members would think perhaps it does not help everyone because we avoid giving the very wealthy, who got tremendous tax relief from previous tax bills that the President proposed, it would be unfair to pile on top of the more than $130,000 in tax cuts they have received in the last couple of years even additional sums; but that is not the case.

The folks who are losing here, and there are millions who would lose, are folks who make between $50,000 and $100,000. In other words, the one-fifth of America that most of us consider middle class is the group of Americans that are going to suffer, millions of them. Within the next 5 or so years, some 33 millions of those households that earn between $55,000 and $100,000 are the households that are not going to get to benefit from this particular tax cut proposal. As unfair as that sounds, that is the reality.

There are ways to cure it, and on this side of the aisle there will be a substitute proposal presented which ensures that every single taxpaying family, including those between $50,000 and $100,000 would qualify for the tax reduction in this particular proposal. It is a simple amendment, it just needs to be paid for; and we have come up with a way to pay for it which is not just fair but fiscally responsible.

Mr. Speaker, we have a proposal here that on its face can be sold to the American public, but in reality and in its implementation, not only is it unfair because it leaves out a good portion of middle America, at the same time it does nothing to cure what is going to haunt the rest of America for many, many years, and that is this growing deficit that we have in our Federal budget.

This year we are being told we will have a budget deficit exceeding perhaps $400 billion. That is more than $1,000 for every man, woman, and child in this country. Think of it as a birth tax. Any child born today automatically is born with that family owing the Federal Government as a result of President Bush's budget for this year over $1,000 to the Federal Government, just on bearing that child.

This proposal, which will cost billions of dollars, and as I said, it has no legitimate purpose behind it to help reduce the taxes for all Americans, if we do the right thing, is not bad because you are reducing taxes on one end, but if you are just raising them somewhere else, you are not getting much of a benefit. We will have an opportunity to get into this later.

I applaud the gentleman from Wisconsin (Mr. RYAN) for his efforts to try to move this forward. I would hope at the end of the day we realize we have not just an opportunity to reduce taxes for all Americans, but we have a way to do it so that the implementation really will reach all Americans, not just some; and we will do it in a fiscally responsible way by paying for the costs of this, rather than add to the costs of the national debt and the growing Federal deficit that we have today.

Mr. Speaker, I reserve the balance of my time.

Mr. RYAN of Wisconsin. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just mention very briefly, the gentleman who just spoke is from California, and the taxpayers just in the State of California who are now only paying that 10 percent bracket, there are 2,605,960 taxpayers in the State of California alone who would experience a huge tax increase relative to their tax burden next year if this legislation is not passed. In fact, there are over 12 million taxpayers in California alone that would experience higher taxes next year if this does not pass.

So each of us represents people who are struggling to make ends meet who are at the bottom rung of the economic ladder who are staying just afloat and paying taxes at that 10 percent bracket who are making $16,000 or less as a couple. Those are the people that we want to help, and we want them to get on the upper trajectory of prosperity. The last thing we want to do is hit them with a big tax increase. If we fail to pass this bill, that is exactly what will happen.

Mr. BECERRA. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I do not disagree with some of what the gentleman just said, but the gentleman has to read the whole book to understand, not just look at certain chapters in the book. What the gentleman from Wisconsin (Mr. RYAN) has excluded from his reading of the book is that we have something approaching 13 million households in America today, today, that by the time they file their taxes for next year will not qualify for the benefits in this proposal. That is 13 million, and that is because of the AMT, the alternative minimum tax.

Remember back in the 1970s, early 1980s when we heard stories of the multibillion dollar corporations, the multimillionaires who at the end of the day when they filed their taxes would pay zero in taxes where the average American was having to give Uncle Sam some money?

Well, there was a law passed to make sure that everyone, not just middle class, but even the super rich and megawealthy corporations paid some taxes. That was the alternative minimum tax legislation. But we have seen incomes creep up some, we have seen inflation creep up some; and as a result, the alternative minimum tax has seen more people creep up into its brackets and now qualify to have to pay taxes under the alternative minimum tax.

There are 13 million households who next year when paying their taxes will not benefit from this proposal because they will fall under the AMT. And by 2010, in 5½ years, we will have 33 million households that will have crept up

into the AMT world. Therefore, while they may get a tax break under this proposal at first, when they have to switch over to do their calculation for their taxes under the AMT, they will get nothing. This bill does nothing to cure that. The Democratic substitute does.

We do not think it is fair to sell this as a tax cut for everyone when, indeed, middle-class America is the one that is losing out the most, and all at the expense of growing the size of the national debt. Let us be fiscally responsible and let us be fair. We have a way to do that. We would hope our colleagues on the other side of the aisle would join in that effort.

Mr. RYAN of Wisconsin. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, on May 5, 2004, the House voted 333–89 to extend the exemption amounts for the AMT, to index them for inflation; and I think the gentleman from California (Mr. BECERRA) voted for the AMT relief bill. We passed the bill, making sure that we can go study the problem and figure out how to comprehensively fix it.

Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. SESSIONS), a member of the Committee on Rules.

Mr. SESSIONS. Mr. Speaker, I thank the gentleman for not only ensuring the success of this bill but also properly arguing the merits of the 10-Percent Tax Bracket Permanent Extension bill, H.R. 4275. Today we are on the floor to talk about part of what is a vision that our President has and the Republican Party has for taxpayers in this country. Before the year 2000, from 1986 to 2000, there was a 15 percent tax bracket, the lowest tax bracket for Americans in this country.

President Bush challenged this Congress to do something better, to do better for the middle class in this country and those wage earners in the bottom tax brackets. I believe we responded in kind with the tax cuts that we provided this President that he asked this Congress to do. I think we did the right thing.

The fact of the matter is that under our own rules and regulations of getting bills done, including working with the other body, we could not make this permanent.

□ 1115

We are here today to say to the American public, to say to taxpayers, we need to make this permanent. This is about making the 10 percent tax bracket permanent so that we do not have a tax increase to the 15 percent. The people who will gain and benefit most from this wonderful action will be those people who are brand new, starting up in their lives, perhaps, men and women who have a big dream. Perhaps they have just come to this country. Perhaps they are young people who are starting their families. We need to make sure that we do not overtax them.

That is why the gentleman from Wisconsin is on the floor today. That is why the gentleman from Wisconsin, representing the Committee on Ways and Means and their great chairman, the gentleman from California, are on the floor today, to say we think this message that our President, George W. Bush began, that this Congress has agreed with, that the American people needs, that the Republican Party is here asking for again, is important. It is important that we have permanent extension, that we say we are not going to fight this battle again, that those taxpayers deserve a low tax rate. They need to pay in their fair share, and we believe that fair share should be 10 percent.

I believe in what we are doing. I would ask for all my colleagues to support H.R. 4275.

Mr. BECERRA. Mr. Speaker, I yield myself 1 minute to respond to something my friend from Wisconsin mentioned, that last week we passed legislation from this House that would take care of the Alternative Minimum Tax problem. Again, that is one chapter in another book. What he does not mention is the other chapters in the book say that that was relief for 1 year. So all those millions of Americans, the 13 million Americans of the 100 million Americans who are Tax filers would for 1 year, if that legislation takes effect, be saved. But in 2006, 2007, 2008, it jumps right back up.

What the gentleman does not say is that the reason we are in this fix to begin with is because the other side of the aisle, as is proposed in these bills, is not willing to put forth a permanent reduction right away because of the cost. So we are coming back every year doing this piecemeal because it seems to cost less, and the American public does not realize what the ultimate cost of this is. But you can only fool the American public so long.

Let us do things right, be fiscally responsible, and do it fairly. We do not mind doing it. Let us just be fiscally responsible and fair about it instead of cloaking this behind some device and some statement.

Mr. Speaker, I yield 5½ minutes to the gentleman from Washington (Mr. MCDERMOTT), a member of the committee.

Mr. MCDERMOTT. Mr. Speaker, let us be honest about what is going on out here today. It is Thursday. We are going home. They have got a fund-raiser tonight. The Republicans wanted to hang around for that. We have got to have something to put in the Saturday news that will kind of blot out what is happening in Iraq. So let us get this tax bill out here. We load up the cannon and we will get the rubber-stamp Congress in here and they will go bam-bam, and whatever the President says. You know, I think if the President said, I want the Republicans to come and stand on their head in the aisles, they would be down here in droves. This Congress is not thinking.

Mr. Speaker, I submit for printing in the CONGRESSIONAL RECORD an article entitled ''All Quiet on the House Side'' from the Washington Post of May 11. That article goes on to lay out what this Congress has not done. Thirty-five of our people were killed in Iraq last week. Many more were injured. People have seen these pictures of abuse. They have been looking at it all. And what did the House do? Well, we named some post offices. That seemed pretty important. Last week, the Nation learned that the Federal debt reached an all-time high of $7.13 trillion. What did we do? Well, we said they could use the Capitol grounds to have the soapbox derby. That was a very important way we responded to that. Yesterday the Bush Department of Commerce announced that our trade deficit and the amount of money that this Nation borrows from foreigners to pay for our imports, from the Chinese to the Saudis, hit an all-time high. We are in the debt of the Chinese and the Saudis. Just do not ever forget that, because that is what we are doing. You are paying your taxes so we can pay interest on debt that we borrowed from the Saudis and the Chinese.

If you read some of the books around town, the President is probably going to call the Prince of Saudi Arabia and ask him to produce some more oil so we can lower the price. That is, if you believe Bob Woodward's book. Secondly, the majority leader has dismissed the idea of any kind of investigation. And, third, despite the record-high budget and trade deficit, they come out here asking for more tax cuts that will disproportionately help the wealthy.

When this passes today, there will be 225 Republicans or 300 Republicans, or whatever, I do not know how many, they will all be out here going home with their press release under their arm saying, I helped you. What they do not tell people is what this means in terms of long-term debt. They are going to say, well, but this is for the middle class. The amount of money that goes to the middle class is less than goes to the people on the top of the pyramid. This is not a tax cut for the middle class. It is really a tax cut for the people on the top, and there was no way to exclude the middle class so they had to get a few of the drippings off the edge of the table.

My colleagues remember that story about Lazarus the beggar who was sitting on the floor, waiting for some crumbs to fall off the table. That is the middle class of this country according to this President. He ought to read that story about Lazarus. There is a real message there that I think gets lost in this whole process.

In today's clips, you will also find a quote from our chairman, excuse me, our ranking member for the moment, who said, ''We don't want our grandkids to pay higher taxes tomorrow to pay for our tax cuts today. So all we are saying is don't take credit for extending the tax cuts on the one

hand while you're breaking your promise to balance the budget for your children.''

Nobody looking at what is going on in the world today could possibly say you know where you are going. You made these tax cuts in the first place when you were going downhill 100 miles an hour and you said, oh, if we cut the taxes, it will be all better. The proof is going to be in the pudding on election day. The fact is that on election day, you are going to find out whether all your hot air that you have blown into the economy really turns out to be real or not.

In February, you created 21,000 jobs. We have got to remember that it takes 250,000 jobs every month to keep up with the increase in population in this country. If you do not create 250,000 jobs, you are not even keeping up with the problem. They created 21,000 jobs. All government jobs, by the way. Not a single private sector. Then they came to March. This was their big winner, 308,000 jobs. Well, that is about keeping up. Then the next month they came up with 280-something thousand and, my goodness, they kept up one more month. But they have done nothing about the 2.25 million jobs that they lost over the last 3 years. They have also produced the highest long-term unemployment rate since the Second World War and they want to make another tax cut today.

There is an old country saying that some of the people probably know about: When you find yourself in a hole, the first thing is, stop digging. The Republicans believe that the faster you dig, the better you are going to get out of the hole. We had to dig you out in 1993 under Mr. Clinton. We dug you out and you just went back to get your shovel and start digging a hole again. Please stop digging.

Mr. Speaker, I include the following article from the Washington Post:

[From the Washington Post, May 11, 2004]

ALL QUIET ON THE HOUSE SIDE

DEMOCRATS SAY GOP IS EVADING DEBATE

(By Charles Babington)

The week of April 26 was eventful and troubling for the nation, yet curiously brief and serene for the House of Representatives. Thirty-five U.S. servicemen were killed in Iraq. CBS aired shocking photos of Americans abusing prisoners near Baghdad. The federal debt reached an all-time high, more than $7.13 trillion.

In the House, meanwhile, members returned to Washington on Tuesday of that week for three quick, unanimous votes at nightfall. They renamed a post office in Rhode Island, honored the founder of the Lions Clubs, and supported ''the goals and ideals of Financial Literacy Month.''

The next day, Wednesday, was a bit busier. After naming a Miami courthouse for a dead judge, House members debated how to extend the popular repeal of the tax code's ''marriage penalty.'' The only real issue was whether to pass the Democratic or Republican version. The GOP plan prevailed, 323 to 95.

After two days and one night of desultory activity—roughly their average workweek this year—House members packed up and rushed home to their districts. Despite the burgeoning scandal over U.S. treatment of Iraqi prisoners and persistent concerns about the economy and the deficit, the House has been keeping bankers' hours.

The House's lean schedule is no accident. GOP leaders who set the agenda and floor schedule say they achieved most of their top priorities last year—including enactment of a Medicare prescription drug bill and the third round of President Bush's tax cuts—and are content to rest on their laurels through the election. While other House priorities are stuck in the Senate, House Republicans believe they have the best of all worlds: They can take credit for the enacted legislation and blame Senate Democrats for bottling up the rest of their agenda.

''Last year we sent a lot of legislation to the Senate, and we don't want to overload them,'' House Majority Leader Tom DeLay (R–Tex) told reporters last week. ''They're already overloaded. . . . We need to be here passing good legislation, doing the people's work and not doing a bunch of make-work.''

House Democrats see a more cynical motive. The GOP majority, they say, wants a complacent Congress that will raise few questions about the Bush administration, despite the international uproar over the prison abuse scandal in Iraq and recent damaging revelations about Bush's decision to go to war.

''Given all the issues and problems the country faces, it's scandalous that we're only coming in to work three days a week, and even then most of the time we're renaming post offices,'' said Rep. Chris Van Hollen (D-Md.). ''This is a deliberate effort to keep Congress out of town, keep us from asking questions.''

House Minority Leader Nancy Pelosi (D-Calif.) noted that senators held three committee hearings on the prison abuses before House leaders summoned Defense Secretary Donald H. Rumsfeld to the Armed Services Committee last Friday—a day that the Senate was meeting but the House was not. DeLay dismissed the idea of a full-fledged congressional investigation, which he likened to ''saying we need an investigation every time there's police brutality on the street.''

Pelosi complained: ''Americans are out of work. Our troops are in danger in Iraq. Our reputation is in shreds throughout the world. And we're leaving early afternoon on Thursday.''

She also said, ''The House of Representatives has demonstrated that it is nothing more than a rubber stamp for the administration.''

Stephen Hess, a senior fellow at the Brookings Institution, contends that the House's anemic work schedule is symptomatic of the larger problem of political gridlock. He said lawmakers are ''probably realistic in saying, 'We're not spending much time here because we know that nothing would get done.' '' He added, however, that ''if they stuck around and talked to each other, maybe they could figure something out.''

Last week's House action was typical in many ways. It featured bitterly partisan arguments over the Iraq war, in the House chamber and in dueling news conferences. But the main bills approved were a resolution condemning the prison abuses and a long-expected one-year extension of a provision to protect millions of Americans from the alternative minimum tax—a temporary measure that postpones difficult decisions about a major looming problem.

The week of April 19 was similar. The House held three votes Tuesday night, all unanimous and all renaming post offices. On Wednesday, members quickly passed five bills without debate, under ''suspension'' rules. The one drawing the most opposition—14 nay votes—endorsed research and development into ''green chemistry.''

Thursday was that week's busiest day, as Republicans and Democrats vigorously debated a ''continuity of government'' bill, meant to ensure that Congress could function if many lawmakers perished in a terrorist attack. The measure, which passed 306 to 97, would require states to hold special elections within 45 days if at least 100 House members were killed. As usual, members had Monday, Friday and most of Tuesday free of Washington-based duties.

Meanwhile, the U.S. military campaign in Iraq had one of its bloodiest weeks ever. Shells killed 22 Iraqi prisoners near Baghdad one day, and suicide bomb blasts killed 68 people in Basra—many of them children—the next. Violence in the besieged city of Fallujah continued, and 14 U.S. servicemen were killed during the week.

The week before that, the House was in recess, as it plans to be the week of May 24, the week of June 28, the six weeks starting July 26, and all of October, November and December.

John Feehery, spokesman for Speaker J. Dennis Hastert (R-Ill.), defended the House's accomplishments and pace. ''Last year we sent a lot of things over to the Senate, and they're sitting in Tom Daschle's back pocket,'' he said, referring to the Senate minority leader, from South Dakota. Those bills include tort reform to curb medical malpractice suits, energy legislation, and welfare reauthorization.

This year, Feehery said, ''we've passed a lean budget'' for fiscal 2005. ''We're working very hard to keep the president's tax cuts in place. We're monitoring the situation in Iraq'' and will appropriate extra funds as needed. House committees, he said, ''have done a lot of oversight on the Iraq war,'' primarily aimed at seeing that money is well spent.

The House does not need showy inquiries in front of cameras to fulfill its watchdog obligations, Feehery said. ''Our oversight is not politically motivated, which probably frustrates the Democrats,'' he said. ''It's motivated by better governance.''

Rep. Rahm Emanuel (D–Ill.), a top adviser in the Clinton White House, is unconvinced.

''We can name post offices,'' Emanuel said, ''or we can ask the hard questions about the direction of our nation.''

Mr. RYAN of Wisconsin. Mr. Speaker, I yield myself 2 minutes to respond. There is a lot to respond to there, though. I do not know if I have enough time to respond to all of what my friend from Washington just said. I think that it would be good to have a little economic refresher course here for some of the Members of Congress.

I just want to point out a couple of things. Number one, the soapbox derby resolution was brought by the minority whip from the other side. But, number two, I think the Member from Washington ignored a lot of good things we just did in the last week here in Congress. Today we have the association health plans bill on the floor, helping small businesses, individuals, pool together to buy their health insurance in collective nationwide buying pools to get down the cost of health insurance. Yesterday we passed the FSA rollover to help bring down the cost of health insurance and we passed medical liability reform to help bring down the cost of health insurance.

So this Congress is obviously performing. I think he may have glossed over a lot of the accomplishments. In fact, we have 87 very important, substantive bills sitting over on the doorstep of the other body waiting for action because we have outproduced and outperformed the other body on legislation.

One final point is the unemployment rate that we are experiencing in America today is lower than the average unemployment rate of the nineties, the eighties, and the seventies; 1.1 million jobs have been created, good jobs, not all good jobs but many good jobs since August. This economy is pulling out of the recession it had experienced a year ago. This economy is producing jobs. We still, yes, have a way to go; but the point of the story is when you take a look at the fact that just this year, in the last 10 months since last July, we have had lower tax rates in America. Because of that, we actually have more revenues coming into the Federal Government.

But to make the point clear, last year where we had higher tax rates on the American taxpayer, we brought in less money to the Federal Government. This year with lower tax rates, where we have more economic activity, more people keeping what they earn and a lower tax rate, we are actually bringing in more revenue to the Federal Government. We believe the way to fixing our problems is jobs and by giving people a chance to upgrade their lifestyles and get jobs in the economy, we will have more tax revenue, rather than increasing taxes and increasing spending. That is not our philosophy.

Mr. Speaker, I yield 2½ minutes to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding me this time. I took particular interest in listening to the gentleman from Washington when he said how the Democrats in 1993 dug us out of a hole. I would have to remind the gentleman that his party was running the Congress for decades before that. There is not one dollar that this government spends that is not directly appropriated or approved by this House, right here, where revenue and spending bills must start and end. So I would suggest that he take a lesson in constitutional law and check his history when he starts doing this.

Then he says how they claim to have dug us out, with the largest tax increase in history. That is the way we balanced the budget. That is a fact of history. I think we should certainly take notice of that. As the gentleman from Wisconsin correctly pointed out, these tax decreases that we have on the books right now, one of which we are talking about sunsetting now, that we want to erase the sunset on, has been the economic stimulus that has been the engine that has led to this great recovery. We were headed towards perhaps what would have been a very deep recession and if it were not for the Bush tax cuts, we would have bottomed out and still be struggling at the bottom of the hole that he is referring to.

What have the tax decreases done? These tax cuts have given economic stimulus that has increased employment in this country. The unemployment rate has dropped tremendously, far beyond the expectations, I think, of either political party. What has done this? Economic growth has done this. To raise taxes or allow them to go up is trying to say that a store that is charging too much for goods is going to get more revenue by increasing the cost of its products. That does not happen. You slow down sales. When we increase taxes, or allow them to increase, economic growth is stifled. Unemployment goes up, economic growth is slowed, and this is a fact of life. What we need to do is to be sure that we do not go back to the lower rate at the 15 percent level, that we get rid of the sunset provision and provide that this 10 percent bracket is going to remain in effect.

This is tremendously important. It affects so many millions of taxpayers in my own State of Florida and it has a great economic effect in all the congressional districts. I urge the passage of this resolution.

□ 1130

Mr. BECERRA. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. NEAL), a member of the Committee on Ways and Means.

Mr. NEAL of Massachusetts. Mr. Speaker, I want to thank the gentleman from California (Mr. BECERRA) for yielding me this time.

Mr. Speaker, before I speak specifically to the issue here, let me offer an opinion just briefly based upon what the gentleman from Florida just said. We have got to pay for this war in Iraq. There ought to be some truth to what we do here. After this election, regardless of who is selected as the next President, it is going to cost another $100 billion at least. That will be pushed off until after the election. So last year it was $60 billion. Earlier this year it was $87 billion. Now as part of the rollout, it is $25 billion. We all know that number is too low. $1 billion a week for Iraq and now more than $1 billion a month for Afghanistan. 135,000 troops in Iraq. They need equipment. We are going to have to increase that base at some point.

The answer here is this: we are going to fight two wars with three tax cuts, and the markets are reflecting it. I appreciate the analogy that was drawn by the gentleman about raising prices, but we are engaged in two wars across the ocean. The Republican Party in American history used to take fiscal prudence as the cornerstone of their existence. Today they take the position that we can cut taxes time and again because at some point we are not going to have to pay.

We are going to have to pay for these two wars, and rather than taking the response that we have in this institution week after week of just simply saying we are going to have another tax cut, there ought to be some truth to what it is that we attempt to do here.

In addition, it is an honor to be on the Committee on Ways and Means in this institution. It is really an honor. Why can these bills not come to the committee to be vetted the way they are supposed to be? Why are these bills brought to the floor around one of the prestigious committees in the Congress? I ask the appropriators who are watching in their offices now what they would do if legislation was brought to the floor that had not been vetted in their subcommittees or that had not been brought to the floor and discussed in the full committee before being brought to the floor in this institution for a vote. They would reject it. They would be up in arms.

In addition, the other phenomenon that we have witnessed here, Mr. Speaker, which is equally troubling, is that Members who do not even belong to the committee are now brought to the floor for this instantaneous solution to help them through the election cycle. That is not the way that committee is supposed to be run. The people on both sides are well regarded by other Members of this institution, and yet we move right around the process.

The substitute bills that have been offered by the Democratic minority in this House have been fiscally responsible. We would ask that these opportunities be put in place for us to discuss these bills in the committee where they are supposed to be discussed. That is what the Committee on Ways and Means does. And yet they are brought to the floor so that we can get ourselves through the next election cycle. It is an ill considered way to bring legislation to this floor, but most importantly, given the financial realities of Iraq and Afghanistan, it is irresponsible to do what we are doing now week after week.

I would remind people even with this legislation that is on the floor today, very simply, one third of the people through the clawback provisions of the Alternative Minimum Tax will not see any tax relief despite what they are saying today. We have got to deal with that alternative minimum tax issue; and the tax cuts they put in place week after week now, without a lot of thought incidentally, do not speak to the heart of the issue of Alternative Minimum Tax. It costs $600 billion to fix. Let us fix that and give middle-income taxpayers the relief that they need.

Mr. RYAN of Wisconsin. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. BARRETT).

Mr. BARRETT of South Carolina. Mr. Speaker, I thank the gentleman from Wisconsin for yielding me this time.

We are going to do something good today. One of the speakers earlier said

the House had not been doing anything. We are going to do something today.

Mr. Speaker, I rise today in full support of H.R. 4275, which preserves the 10 percent tax bracket. The tax cuts proposed by President Bush and passed in the Congress in 2001 created a new tax bracket at a low 10 percent rate to help lower the burden on working Americans. Because of this tax relief, the first $14,000 of taxable income is now taxed at 10 percent instead of 15 percent, a significant savings to the American worker.

If Congress fails to act, the 10 percent bracket will shrink by $2,000 next year and will completely disappear by 2011, resulting in 22 million low-income workers being pushed to a higher tax bracket, and 73 million working people paying higher taxes as early as next year.

The Joint Committee on Taxation estimates that H.R. 4275 will provide $218 billion in tax relief over 10 years and will save the average taxpayer more than $2,400 during the next decade.

Mr. Speaker, the bottom line is very simple. If Congress fails to pass this legislation today, we are raising taxes on low-income, hard-working people. That just does not make common sense. I know in South Carolina they know that they can spend their money better than we can. Let us give them back their money. Let us allow them to spend it. And I urge my colleagues to vote in favor of H.R. 4275.

Mr. RYAN of Wisconsin. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. I thank the gentleman for yielding me this time.

Mr. Speaker, this legislation is about one thing, allowing hard-working Americans to keep more of what they earn. It is not complicated. As the previous speaker noted, this bill provides a lower rate on the first $7,000 on taxable income for single filers and the first $14,000 earned by joint filers. That affects nearly every American. It is an enormous benefit to low- and middle-income taxpayers. In my State alone, the 10 percent bracket has helped over one million people.

In this institution, Mr. Speaker, we hear time and time again about how we need to provide tax relief for all Americans, not just the wealthiest; for all working families, not just corporate CEOs. This is it. This is our chance. By passing this bill, we will help keep lower taxes for millions of working families, families who are saving for school, families who are looking to buy a home, families who are planning for their retirement, families who are looking just to make ends meet. Today we give them a chance. We work to lift their lives. We work to allow them to keep more of what they earn. We allow them a greater chance at the American dream. That is what it is all about. So when we hear the other side say time and time again that the Republican Party is only concerned about the wealthiest, today is the test. Today is the chance that we have to help all working Americans, all working families. We allow them to keep more of what they earn. Let us see who stands up for hard-working families, and let us see who does not.

Mr. RYAN of Wisconsin. Mr. Speaker, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, I thank my colleague for yielding me this time, who is truly a leader in this House on the issue of tax relief for hard-working Americans.

We are talking taxes today and this week. And because the Republicans are the majority here, we are talking tax relief, not tax increases; and the taxpayers need to be thinking about that. If the Democrats were running the show, we would be talking tax and spend and higher taxes. Republicans believe that the taxpayers ought to be keeping more of those hard-earned dollars. And we face a lot of opposition to that here in Washington. Too many times we have got liberals who would rather spend their money for them, and then they want to take the credit for it. It was President Bush and the Republican Congress who enacted historic tax relief that is fueling tremendous job growth in this country. We have created over 1 million jobs since last August; and there were a lot of naysayers that said it will never happen, it will never happen. One million jobs since August.

H.R. 4275 is a critical piece of legislation for 24 million lower-income Americans. If we do not pass this, their taxes are going to increase by 50 percent. We do not believe government is why America is strong. We think it is because of the people. It is Americans that make this country great, Americans that are making economic choices for themselves and their families, not having a government program taking away their checkbook. That is the Republican philosophy. We have led on this issue, and we are continuing to work to lower personal income tax brackets.

Time and again the American people are choosing to send Republicans to Washington because they want tax relief. I have said it in the past. Democrats only talk about tax relief in election years. Republicans talk about tax relief every year.

Mr. RYAN of Wisconsin. Mr. Speaker, I yield 2¾ minutes to the esteemed gentleman from Illinois (Mr. CRANE), a high-ranking member of the Committee on Ways and Means.

Mr. CRANE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, in 2001 we passed the first Bush tax cut, which I am proud to say created the new 10 percent tax bracket. Before this legislation was passed, the lowest tax rate was 15 percent; and without immediate legislative action, 73 million hard-working American taxpayers, including 22 million low-income taxpayers, will see their taxes increase next year. In 2004 the 10 percent rate applies to the first $7,000 of tax-paying citizens' taxable income for single taxpayers and $14,000 for joint filers. However, beginning in 2005 through 2007, the 10 percent tax rate will shrink and apply only to the first $6,000 in taxable income for single filers and $12,000 for joint filers. In 2011 the 10 percent bracket will disappear all together. We cannot allow any of this to happen.

The legislation before us today maintains the size of the 10 percent bracket at $7,000 for singles and $14,000 for married couples. H.R. 4275 also makes permanent the 10 percent tax bracket and indexes the income limits for inflation. Once enacted, it will save the average American taxpayer more than $2,400 over the next 10 years. Who will benefit from this? 73 million American taxpayers, including 22 million low-income taxpayers, small business owners and their employees, hard-working Americans who through no fault of their own are about to be hit with a tax increase.

Mr. Speaker, a vote against this legislation is a vote to increase taxes on those who can least afford it.

I commend the gentleman from Texas (Mr. SESSIONS) for his leadership role in ensuring that this does not occur, and I urge my colleagues on both sides of the aisle to support this legislation, the passage of which will be of great benefit to our citizens.

Mr. RYAN of Wisconsin. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. BROWN).

Mr. BROWN of South Carolina. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in strong support of H.R. 4275 because I know how important this bill is to our recovering economy to nearly 73 million of America's hard-working families. This Congress must act now to extend and to make permanent the 10 percent tax bracket.

Last year, the President signed the Jobs and Growth Tax Act into law. Our ailing economy needed bold and decisive action; and this plan was precisely that, the right recipe at the right time. Since the law went into effect last June, the economy has expanded at an average quarterly rate of 5.5 percent.

This bill accelerated the reduction of individual tax rates and allowed for the expansion of the 10 percent bracket, which grows the paychecks of all Americans. An increase in disposable income, or simply put, more money in the pockets of all Americans, has contributed to a growth in consumer spending. This is critical to my district in South Carolina because it helps tourists from all over America visit our coastal areas and spend money to enjoy our attractions and Southern hospitality. And this is happening all over America.

Benefits of the Jobs and Growth Tax Act are long term as well. In addition

to the short-term boost from the passage of this bill, making all of the tax cuts permanent will lead to a significant increase in investments, job creation, and wages paid to workers. In fact, more than 1.1 million jobs have been created nationwide since last August. For all of these reasons, I cannot overestimate how important it is for Congress to permanently provide the tax relief that the 10 percent bracket affords.

I thank the gentleman from Texas (Mr. SESSIONS) for taking the lead on this critical piece of legislature and the House leadership for continuing to make permanent tax relief a priority for this Congress. With the economy finally starting to rebound, now is not the time to raise taxes on the American people. I am proud that we have made great progress in this area, but I realize we have much work left to do.

I urge all of my colleagues to support H.R. 4275 and to continue to fight for hard-working American taxpayers.

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Mr. BECERRA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I said before, there is the kernel of a very good idea in this legislation, and I believe that both sides have tried to extract the good idea from the proposal before us today. The difficulty is, as you ask any farmer, it takes time and it takes money and it takes a lot of sweat to have anything grow.

No one in America should believe that we can pass legislation that will cost more than $200 billion and not have it take some sweat and some cost for America. Money does not grow on trees. There is a cost involved. It is a worthwhile idea, because this is a tax cut that everyone can agree to, because it starts from the bottom and everyone would get it, if you corrected the AMT, which, unfortunately, this legislation does not do.

So while there is the kernel of a good idea, it is destroyed by the reluctance or the unwillingness to do what is right, and that is to take care of the 33 million Americans by 2010, in 5½ years, who will fall into the Alternative Minimum Tax and will see any savings from this particular tax cut washed out when they have to file their taxes using the Alternative Minimum Tax.

Secondly, when you are facing mounting deficits, the largest this country has ever seen, and you are starting to now see the consequences of it, you have to reflect back on the term used in the late 90s, early 2000, when we talked about this ''irrational exuberance'' of the stock market, where you kept seeing the stock market just rise and rise and rise, and people could not make sense of it. But everyone kept buying and buying and buying, because that is where we were headed.

All of a sudden the floor dropped out from under us, and people paid the price. Talk to the employees from Enron, who saw their company go bankrupt and saw their entire pension savings washed away not only because of Enron's corruption, but because of the drop in the stock market.

That irrational exuberance is now driving much of what we have seen on the floor this year. A quick example: this year alone in this House we have passed out, and I will say to all of America, I did not vote for these measures, not because I did not want to, but because I did not think it would be fiscally responsible, we passed marriage penalty tax relief, a kernel of a good idea, unpaid for, over $100 billion; the extension that my colleague from Wisconsin mentioned of AMT relief for 1 year only that will cost close to $18 billion to make sure those Americans don't fall into the AMT. Good, but only 1 year.

Three, a flexible spending plan that was on the floor yesterday for debate, which is, again, a good idea, to allow Americans who have health care costs to be able to have a pot of money that they can extend over to the next year if they did not use it up. A great idea. Cost, close to $10 billion, unpaid for.

Extension of the 10 percent tax bracket that we are debating today, about $220 billion, unpaid for.

The child tax credit extension done a few weeks back, again a good idea for families that have children. $161 billion, unpaid for.

Total, more than $500 billion this year alone in unpaid-for tax cuts, most of which have a good idea behind them. To add to the $400 billion-plus deficit for this year alone, which adds to, as you heard my colleague from Massachusetts mention earlier, the more than $3 trillion debt that the Nation owes as a whole.

Irrational exuberance? Take a look at today's paper, business section: ''U.S. trade deficit grows unchecked. $47 billion gap in the month of March.''

We are on track to have a more than $500 billion trade deficit with other countries. We are going to owe, at the end of this year, just for this year, to foreign interests, more than $500 billion. What they are going to do with those securities they get, that promissory note from us in its place, we do not know. If they dump it all of a sudden, we are in real trouble.

What else should we know? Gasoline prices. Gasoline prices a year ago were 50 cents less per gallon. If you are the average American, that means it has added about $50 a month in your gasoline bill. That is about $600 a year more in gasoline this year you will be paying.

On top of everything I have said before, the $400 billion-plus deficit for this year, that adds more than $1,000 for every man, woman and child. I will call it the birth tax. The $50 a month that you pay, call it a $600 birth tax, because if you have a child, let us put the debt on that child for the gasoline; and on top of that, there is $500 billion more that this House just passed, and, by the way, the Senate has not done it, because they know better, that would be added.

Before you know it, you have got to conclude that this is irrational exuberance. Let us get real. Great ideas. Every single time these proposals have come up, the Democratic alternative has said okay, good ideas; but let us pay for them where we can. Where we cannot, let us pare them down, because we cannot continue to sell the American public a bill of goods.

Someone will pay for this. Good ideas. We would all love to be there. If we had real discussions in committee, we could have hashed this out and come up with a bipartisan bill. But we bypass the committee process. Again, America does not know that. We are coming to the floor without having discussed this in committee. That is okay. That is the way it is going to work. We will live with that. But do not let the American public believe you can do this stuff and pluck it off trees and pay for it.

Let us do it the right way. Let us be fiscally responsible. Let us be fair. Make sure that those from the President's previous tax cuts of a couple of years ago, who received $130,000 in benefits if you were a millionaire in tax cuts, pay their fair share. If a guy in Iraq, one of our soldiers, a man or woman, can sacrifice a little bit, and probably not take advantage of any of these benefits, then certainly those folks who are the millionaires, who are taking home the lion's share of all of these tax cuts, can sacrifice a bit to help us pay.

That is what we do. We have a proposal that would say take the one-fifth of 1 percent wealthiest to help pay for this, for all Americans. We think you can do it. Sure, it hits millionaires; but it helps middle-class Americans. It is fiscally responsible, fair, and something that would get a bipartisan vote that could get signed by the President.

Mr. Speaker, we are going, I guess, to continue to do this in the House and not watch the Senate do any of this whatsoever; and we are going to end again this year without having given people what they keep thinking we are going to give them, and that is what I think damages this institution overall as a whole.

Let us move forward in a bipartisan fashion. We can do it, because there is a kernel of a good idea in these proposals. But we can be fiscally responsible and fair at the same time.

Mr. Speaker, I yield back the balance of my time.

Mr. RYAN of Wisconsin. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, since we are going into the debate on the substitute, I will not take too long to close, although I think some of what the gentleman from California just said bears some responding to.

I think this debate has done a pretty good job of showing those who are viewing it the differences, the differences between the two parties here

on the floor, the differences between the two approaches to fiscal responsibility, between two philosophies.

What you just heard the gentleman from California say is we have recklessly cut taxes by $500 billion over the next decade. It is important to put that in context.

Mr. Speaker, this Federal Government will spend about $2.7 trillion this year. Off the top of my head, we will be spending, with taxes coming in, about $29 trillion over that 10-year period. So we are proposing to allow the American taxpayer to keep about $500 billion out of that $29 trillion of their money we are about to spend.

It kind of comes down to this, Mr. Speaker, two points. Number one, we believe the best way to get ahold of our fiscal problems, to reduce our deficit, is to hold the line on spending and cut spending and grow the economy. The budget resolution we brought to the floor just a month or so ago was a resolution that froze spending and actually reduced spending in critical areas so we can get a handle on our Nation's finances. The other side did not vote for that budget agreement.

We also need to recognize the fact that when you cut taxes, economic growth occurs from that. One of the great stories being told right now, the success that we see in the data from this new economic recovery that is producing all these jobs, is the fact that this year, with the lower tax rates we are paying, we are getting more revenues coming in to the Federal Government.

What we see is that when you cut taxes on entrepreneurs, when you cut taxes on families, when you cut taxes on investors, they engage in more economic activity, they create jobs, and people go from being unemployed and collecting unemployment to going and working and paying taxes. That is what is happening today. That is a recipe for success.

We do not want to squelch this economic recovery. We do not want to raise taxes on people. We want to keep taxes low, watch our spending and reduce spending, and help people get work, so when they go to work they can provide for their families, and, yes, pay taxes, so that we can get the revenues we need to reduce and eliminate our deficit. That is the approach we are advocating.

What is the other side's approach? What is the substitute they are about to bring to the table? More tax increases. Okay, you can cut taxes to these people over here on the right hand, but we have to raise taxes to these people on the left. Net tax increases.

It is a fundamental difference in philosophy. Whereas they believe we have to keep taxes high and higher, that the emphasis should not be on spending, but we should raise more taxes, we believe the emphasis should always be on recognizing the fact that the taxes that this country collects is not our money, but the money of the American person, the man and woman in the marketplace, who is working hard to provide for their family, who is creating jobs, who is sweating and working every single day. It is their money, not ours.

So we do not believe philosophically, that is the root of what we believe in, that we should just cavalierly take more and more and more money out of a person's paycheck, out of their wallet. We believe they should keep more of what they earn.

What is so great about that philosophy is it is also good economic policy, and we are seeing that. We are actually getting more revenues because of lower taxes. How about that? And the good news is, this can be bipartisan. When John Kennedy did this, it worked. When Ronald Reagan did this, it worked. This has been done by Republicans and Democrats coming together in the past. When Reagan did it, it was because of good Democrats working with Jack Kemp and Bill Roth in the Congress to reduce tax rates on the American families. What happened? Economic growth was encouraged, tax rates went down and revenues went up.

This does work. It is working right now. What we are seeing in this debate is a difference in philosophies.

Mr. Speaker, I want to conclude by saying one thing. If a Member of Congress comes to the floor today and votes against this bill, they are voting to increase taxes on 23 million low-income workers. They are voting to increase taxes on 23 million low-income workers by one-third, to raise their taxes by one-third. They are also voting to increase taxes on 80 million taxpayers across the country.

It is a very clear vote. If you vote for this bill, you preserve these tax cuts. If you vote against this bill, you are going to raise taxes on 23 million low-income earners, the least of whom among us should be facing this kind of a tax increase.

Mr. BLUMENAUER. Mr. Speaker, last week, Federal Reserve Chairman Alan Greenspan delivered a warning that "the free lunch has still to be invented." He was referring to the soaring Federal budget deficits that are adding hundreds of billions of dollars to our $7 trillion debt. These budget deficits are threatening economic growth and increasing interest rates in the short-run, and risk the solvency of Social Security and Medicare in the long-run. This bill is not a free lunch. In fact, it will cost $218 billion over the next 10 years.

Instead of passing legislation with any degree of fiscal responsibility, the Republican leadership is passing the buck, trillions of them, onto our children and grandchildren. Middle-class tax cuts are important in addressing tax fairness, of which our current system is increasingly in dire need of help. The Democratic substitute, which I support, provides middle-class tax relief and protects against the egregious impact of the Alternative Minimum Tax, without adding to the Federal budget deficit and burdening future generations.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I stand against H.R. 4275, which would permanently extend the 10-percent individual income tax rate bracket. I stand against this measure not because it reduces taxes, but because it continues the use of irresponsible fiscal policies. A tax that is made permanent today with no clear and effective offsets will leave this Nation in trouble for the future.

Our Nation faces a staggering deficit with record low revenues coming in to the Federal Government. These conditions have left significant needs for education, health care, fire and police protection, and many other services. The deficit this year is expected to exceed last year's record deficit by at least $60 billion and to total at least $2 trillion over the coming decade. America simply cannot afford more unpaid-for tax cuts.

Given this situation, we must act now to protect our Nation's public investments and long-term economic future. By failing to offset its $218 billion cost, H.R. 4275 would further drain Federal coffers of revenue needed to meet our Nation's shared priorities. Moreover, increasing already large deficits will undermine long-term economic growth and diminish the quality of life for future generations of Americans who will face higher interest rates and who will have to bear the burden of the debt incurred today.

At this uncertain time of continuing unknown costs of war in Iraq and its aftermath, and with an aging population about to strain Social Security and Medicare resources, it is reckless to enact permanent unpaid-for tax cuts. Our Nation faces a long-term gap between revenues and obligations, and soon Congress and the American people will have to make hard decisions about how to meet our competing priorities. Given this reality, we should not make permanent changes to the tax code that will further reduce revenues for decades to come.

I want to reiterate that the most disturbing aspect of irresponsible fiscal policies are the soaring deficits that will result from these policies. This administration has tried to say that deficits don't matter; we know that is simply not true. History has proven that chronic deficits threaten our economic strength by crowding out private investment, driving up interest rates, and slowing economic growth. Indeed foreign investment in the United States has dried up because foreign investors have no confidence in the Bush economic agenda. This Administration's irresponsible budget policies have turned a surplus into a large deficit that is choking off growth in the American economy.

President Bush likes to say his policies are geared towards tax cuts for all Americans. In fact the average American won't receive a substantial tax cut, but will instead be hit with a tax hike in the form of an evergrowing deficit. A large deficit means taxpayers have to shoulder the costs of paying the interest on this new national debt. The end result will be a debt tax on the great majority of Americans. This will be a tax on lower- and middle-class Americans; it will be a tax on our heroic war veterans; it will be a tax on the elderly and, most unfortunately, it will be a tax on our children. The truly sad part of these policies is that, while they are bad for America today, they are even worse for future generations of American taxpayers.

Mr. STARK. Mr. Speaker, I rise today to oppose H.R. 4275, the reckless Republican bill permanently extending the 10 percent individual income tax bracket, and in support of

the Democratic substitute that provides real, fiscally sound relief for middle-class families who deserve it most.

Expanding and extending the 10 percent tax bracket is a great benefit to many low-income Americans. But, let's not forget that this bill also benefits the wealthy who get more of their income taxed at a lower rate as well.

Low- and middle-income Americans deserve this tax break. But, the Republicans are unwilling to pay for it, leaving a $200 billion hole in lost revenue. Even worse, when this proposal is added to the other tax bills that have recently passed or are being proposed, the price tag is over $500 billion in new debt thrown on the backs of our children and grandchildren.

The Republican plan is also flatly unfair to a lot of taxpayers because it refuses to spread benefits out equally. Just last week, the Republicans passed a one-year patch for the Alternative Minimum Tax (AMT) that helps the wealthy but fails to protect lower-income families while driving the country further into debt. Unfortunately, the Republicans' bill today does not apply to anyone who pays the AMT, which means a full one-third of all taxpayers cannot benefit from this tax cut at all. Some deal if you ask me.

In contrast, the Democratic substitute is fair, fiscally responsible and a whole lot better for most American families. Our bill extends the 10 percent bracket expansion, but it does so while requiring that Congress find a responsible way to pay for this change to the tax code in order to make it permanent. To finance the immediate costs of this change, the substitute requires the wealthiest Americans—those earning over $1,000,000 annually—to give back a small portion of the huge Bush tax cuts. Finally, the substitute applies this tax cut equally to all taxpayers by ensuring even those paying the AMT get the benefits of the expanded 10 percent bracket.

I urge my colleagues to vote against the unfair, fiscally irresponsible Republican proposal and support the Democratic substitute, which provides equal relief for all taxpayers without burdening our children and grandchildren with billions of dollars in new debt.

Mr. KIND. Mr. Speaker, I strongly support providing tax relief to middle-income Americans by extending the 10 percent tax bracket expansion that is scheduled to expire next year.

Without action, the current amount of income subject to the 10 percent tax bracket will decrease by $1,000 for individual filers and $2,000 for couples as required under the 2003 tax cut package. While the majority of the 2003 tax proposal that passed the House was fiscally irresponsible and designed to benefit only the wealthiest of Americans, its provision expanding the 10 percent tax bracket to benefit more middle-income taxpayers had bipartisan agreement. The legislation before us today and the substitute offered by Congressman Tanner will permanently extend the current income levels failing under the 10 percent tax bracket.

As we extend the 10 percent tax bracket expansion, we need to act in a fiscally responsible manner. It is unfair to Americans today, and especially the next generation, to delude ourselves by thinking the record budget deficits facing our Nation, estimated by the White House at over $500 billion this year alone, will simply go away.

As a member of the House Budget Committee, I supported a budget resolution that would have extended the 10 percent tax bracket expansion while still reducing the deficit. This approach requires tough choices, prioritization, and a bipartisan commitment to helping working families. With the House-Senate conference committee still negotiating the budget resolution for fiscal year 2005, I remain hopeful that we will be able to provide Americans continued tax relief today without raising the debt burden on our children's generation.

The substitute offered today by Representative TANNER is a more responsible bill that will provide relief to millions of families while not increasing the budget deficit. By adding a rate adjustment of 1.9 percentage points of the tax cuts for households making over $1 million, the Tanner substitute provides a reasonable offset to benefit more American families without burdening our children with added debt that they will have to pay off. Further the Tanner substitute also completely protects against these tax cuts being taken back by the Alternative Minimum Tax, and provides incentive to address mounting Federal deficits by making permanency of this tax provision contingent on a balanced budget in 2014. This is a superior approach, helps more Americans, and ensures most middle income taxpayers will not have to worry about a tax increase related to the 10 percent bracket in the near future.

Mr. Speaker, it is important that we act today to ensure average-income Americans will not unfairly jump into a higher tax bracket in 2005. However, I believe we can and must provide this relief in a fiscally responsible manner that will not burden future generations of Americans. Just as it was true last week when we passed legislation permanently repealing the marriage penalty tax, our work is far from over in helping working families face the challenge of today's economy. We must come together in a bipartisan manner to craft a fiscally responsible budget resolution.

Mr. RUPPERSBERGER. Mr. Speaker, I rise in opposition of this amendment today. I agree extending the 10 percent tax bracket is necessary and lawmakers should pass legislation to make it permanent. Substantively, I agree with this.

I disagree, however, with the impact this bill will have on our already dire fiscal reality. We need to have responsible fiscal management in this country—beginning with a sound and comprehensive budget. All bills that follow should incorporate the same fiscal responsibility, whether that bill cuts taxes or authorizes spending.

This bill has a $218 billion price tag, which will have to be borrowed on top of the $280 billion we have already borrowed this year. I am extremely concerned about our levels of borrowing, most of which comes from foreign governments.

The Treasury Department states that major foreign holdings of U.S. Treasury securities equal $1.6 trillion. Mainland China and Hong Kong alone hold $206 billion of U.S. debt. Japan has $607 billion in holdings. With China's purchases of U.S. government securities exploding by more than 105 percent since January 2001, it is clear that foreign investments in the U.S. are financing our budget deficits. That means foreign investors, not U.S. residents, will be the beneficiaries of the interest paid by us, our children and our grandchildren.

The Washington Post recently quoted a former official of the People's Bank of China as saying, "The U.S. dollar is now at the mercy of Asian governments." This is simply wrong and we need to stop it now. If we do not, future generations will be burdened with higher taxes and greater debt. They will have to pay off the structural deficits and interest costs we are accumulating today.

The only way to stop this now is to stop deficit spending. That is why I supported the substitute bill that would have provided tax relief that was paid for and did not add to our historical $7.1 trillion Federal debt.

Mr. FRELINGHUYSEN. Mr. Speaker, today I rise in support of H.R. 4275, which will permanently create a low 10-percent rate to reduce the tax burden on 73 million working Americans.

The fact of the matter is if Congress does not act this year, taxpayers will feel the burden of a significant tax increase.

The creation of the 10-percent tax bracket in 2001 has boosted the take-home pay for more than 733,000 working New Jerseyans. This legislation puts a halt to expiration of the 10-percent tax bracket and more importantly prevents 24 million low-income workers from being pushed into a higher tax bracket, and ultimately being forced to pay more in taxes.

In 2001, tax relief legislation passed by Congress and signed into law by President Bush created a new tax bracket at a low 10-percent rate. Because of this significant tax relief, the $14,000 of taxable income for couples and $7,000 for singles tax filers is taxed as 10 percent instead of 15 percent.

Without enactment of this legislation, in 2005, the 10-percent bracket will shrink by $2,000 for couples and $1,000 for singles and will ultimately disappear in 2011.

That is why I urge my colleagues to join me in supporting H.R. 4275 and to continue building on our ongoing efforts to provide tax relief for all hard working Americans.

Mr. RYAN of Wisconsin. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LINDER). All time for debate on the bill has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. TANNER

Mr. TANNER. Mr. Speaker, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. TANNER:

Strike all after the enacting clause and insert the following:

SECTION 1. EXTENSION OF 10-PERCENT INDIVIDUAL INCOME TAX RATE BRACKET.

(a) IN GENERAL.—Clause (i) of section 1(i)(1)(B) of the Internal Revenue Code of 1986 (relating to the initial bracket amount) is amended to read as follows:

"(i) $14,000 in the case of subsection (a),".

(b) INFLATION ADJUSTMENT BEGINNING IN 2004.—Section 1(i)(1)(C) of such Code (relating to inflation adjustment) is amended to read as follows:

"(C) INFLATION ADJUSTMENT.—In prescribing the tables under subsection (f) which apply with respect to taxable years beginning in calendar years after 2003—

"(i) the cost-of-living adjustment used in making adjustments to the initial bracket

amount shall be determined under subsection (f)(3) by substituting '2002' for '1992' in subparagraph (B) thereof, and

''(ii) such adjustment shall not apply to the amount referred to in subparagraph (B)(iii).

If any amount after adjustment under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

(d) REPEAL OF SUNSET.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to—

(1) paragraph (1) of section 1(i) of the Internal Revenue Code of 1986, and

(2) the amendments made by paragraphs (1) and (7) of section 101(c) of such Act.

SEC. 2. BENEFITS OF ACT NOT DENIED BY REASON OF ALTERNATIVE MINIMUM TAX.

(a) MINIMUM TAX.—The amount of the minimum tax imposed by section 55 of the Internal Revenue Code of 1986 shall be determined as if section 1 of this Act had not been enacted.

(b) CREDITS.—In applying section 26(a)(1) of such Code, the amount referred to in subparagraph (B) thereof shall be reduced (but not below zero) by the amount of the reduction in the taxpayer's regular tax liability by reason of section 1 of this Act.

SEC. 3. BENEFITS EXTENSION NOT TO INCREASE FEDERAL BUDGET DEFICIT.

(a) IN GENERAL.—Section 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(j) ADDITIONAL TAX ON HIGH INCOME TAXPAYERS.—In the case of taxable years beginning in calendar year 2005, 2006, 2007, 2008, 2009, or 2010, the amount determined under subsection (a), (b), (c), or (d), as the case may be, shall be increased by 1.9 percent of so much of adjusted gross income as exceeds $1,000,000 in the case of individuals to whom subsection (a) applies ($500,000 in any other case).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 4. REQUIREMENT THAT CONGRESS BALANCE BUDGET.

(a) IN GENERAL.—Notwithstanding the provisions of section 1 of this Act and any other provision of law, title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall take effect in the form as originally enacted unless Congress meets the requirements of subsection (b).

(b) REQUIREMENTS.—Congress meets the requirements of this subsection if—

(1) before September 1, 2010, Congress has enacted comprehensive Federal budget legislation, and

(2) the Director of the Office of Management and Budget certifies in September of 2010 that such legislation—

(A) will result in a balanced Federal budget by fiscal year 2014, determined by taking into account the costs of the foregoing provisions of this Act and without taking into account the receipts and disbursements of the Social Security and Medicare Trust Funds, and

(B) will permit the general fund of the Treasury to repay amounts previously borrowed from the Social Security and Medicare Trust Funds without requiring large foreign central bank purchases.

The SPEAKER pro tempore. Pursuant to House Resolution 637, the gentleman from Tennessee (Mr. TANNER) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Democratic substitute recognizes the good public policy behind extending the 10 percent bracket. We believe that. But we also believe, unlike the majority, that it is irresponsible to do so by borrowing another $218 billion.

Let me talk a minute about why we say that. I do not believe that people in this country know exactly how fast the balance sheet of our Nation is deteriorating. I do not believe people in this country have focused on or realize what has happened over the last 36 months or so. I am going to try to lay that out today in this debate.

Mr. Speaker, we now owe collectively, all 290 million of us, over $7 trillion. We have borrowed an additional $280 billion so far this year. The majority approach is to borrow another $218 billion today with the passage of this bill.

The gentleman just said if you do not vote for this bill, you are going to raise taxes on 23 million people. If you do vote for the bill, you are going to raise taxes on 290 million people, because every American in this land is responsible for the mortgages that have been placed on our country over the last 36 months.

□ 1200

Mr. Speaker, it is heartbreaking to see the financial integrity of our country compromised like it has been. I would just like to know how far we are willing to go to sign the names of these young people that are sitting around here on this board today with a green light as a mortgage, a further mortgage on our country. I want the people of this country to realize that right now we owe collectively, in hard money, about $4 trillion. Foreign interests now own 37 percent of that debt. Mainland China alone holds over $200 billion. It is now the second largest buyer of our debt, exceeded only by the Japanese, who hold over $600 billion.

Secretary Snow was before the Committee on Ways and Means some time ago and I asked him the question, how do you characterize interest? He said, it is an obligation of this country. It must be paid. It must be paid off the top.

Mr. Speaker, when we are borrowing this kind of money and it is being financed by foreign interests, right now, we have awakened to suddenly realize that the biggest foreign aid package in this Congress is interest checks that we are sending to foreign countries. Not only are we doing that, but we are leveraging our country to people who may not see eye to eye with us on how the world ought to be.

Anyway, getting back to Mr. Snow, I asked him, what about interest? He said, it has to be paid. It has to be paid off the top. I said, it has to be paid first. He said, let me just say this: As a percentage of GDP, gross domestic product, this is not out of line historically.

The problem that he did not tell us is, when it was this far out of line before, it was Americans that were buying the bills, notes, and bonds. It was not the Saudis, the Japanese, the Chinese. We can go down the line. I have the list here.

How much we owe right now: Japan, $607 billion; China, $145 billion; plus Hong Kong, another 60 billion; so over $200 billion. The U.K., $137 billion; Taiwan, $50 billion; Germany, $45 billion; OPEC, OPEC, $43 billion; Switzerland, $41 billion; Korea, $37 billion; Mexico, $32 billion; Luxembourg, $26 billion; Canada, $25 billion; Singapore, and the list goes on and on.

This Congress and this administration is hocking our country to foreign investors.

Let me say that again, because I do not think people realize and understand what is happening here. Since 2002, the debt ceiling has had to be raised $450 billion. In July of 2002, a $980 billion increase the last Fourth of July, that is $1.4 trillion so far. Do my colleagues know what that means? That means every day since George Bush took office, when we have had a one-party government, White House, Senate and House, the Republicans have borrowed $1.1 billion a day, every day.

Now, we, all of us, have to pay interest on that, and anybody who is within the sound of my voice under 50 years of age ought to be so concerned about this that they would write or call or do something. Because we are literally squandering the wealth of this country by not paying for tax cuts and increasing spending on the war, and mentioning the war, the only people being asked to sacrifice anything right now are the men and women in uniform and their families. None of the rest of us are being asked to sacrifice anything to defeat the war on terrorism. In fact, we are told to take a tax cut if you are my age, and if things get bad enough, go shopping. This is the Alice in Wonderland that is going on here.

This bill is a good idea, but it is just a symptom of a far greater problem, and that is the breathtaking, breathtaking fiscal irresponsibility that is going on here in this town.

Mr. Speaker, I reserve the balance of my time.

Mr. RYAN of Wisconsin. Mr. Speaker, I rise in opposition to the substitute

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Wisconsin (Mr. RYAN) is recognized for 30 minutes.

Mr. RYAN of Wisconsin. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to point out something in the substitute which I am not sure has really been brought to the attention or brought to rise here in this particular

debate, and that is on the fourth page of the substitute. I will read starting at line 3: ''Congress meets the requirements of this subsection,'' and that it is talking about the deduction, ''if before September 1, 2010, Congress has enacted comprehensive Federal budget legislation; and, 2, the Director of the Office of Management and Budget certifies in September of 2010 that such legislation will result in a balanced Federal budget by fiscal year 2014, determined by taking into account the cost of the foregoing provisions of this Act and without taking into account the receipts and disbursements of the Social Security and Medicare Trust Funds.''

And then B, ''will permit the general fund of the Treasury to repay amounts previously borrowed from Social Security and Medicare Trust Funds without requiring large Federal foreign Central Bank purchases.''

Now, I am not sure exactly what they are getting to on this, but if they think that the Congress is going to have to pay back all of the money that it has borrowed from Social Security and put cash into that particular fund, in other words, by putting cash in the Social Security fund in place of the Treasury bills, I do not know where in the world they think they are going to get that much money. And they also are going to have to change the law regarding Social Security, because Social Security is required to pay that cash into the general fund and to replace it with Treasury bills, and this particular legislation does not change that provision.

But most of all, and I think the most damaging thing here which this Congress should be very jealously protecting, and that is the legislative authority under the Constitution given to this particular body. If this bill were passed, and if Members vote for this bill, they are saying the Office of Management and Budget is going to be the crossing guard that is going to prevent legislation going forward unless they say it is fine and they can certify that the budget is going to be balanced.

A balanced budget is a good thing, but delegating legislative authority to unelected officials, bureaucrats within the Federal Government, is a huge mistake, and it is something that we should do in a bipartisan way, and that is jealously guard what our responsibility is under the Constitution. I do not know of any other place that we have delegated such authority.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I think the gentleman certainly makes a point that we do not want to delegate to the executive branch. I think the gentleman makes a good point: We ought not to delegate.

Mr. SHAW. Mr. Speaker, I thank the gentleman. I should probably reclaim my time at this particular point.

Mr. HOYER. Of course, the gentleman knows something else is coming.

Mr. SHAW. I know the gentleman is setting me up.

Mr. HOYER. My good friend knows me well.

The fact of the matter is we have been debating for some time the way we can internally, Congress can control this spending, and reaching what the gentleman says is a good thing, a balanced budget. And that, of course, is doing what we did all through the 1990s: applying the pay-as-you-go provision to both revenues and taxes, which is the discipline that this body placed on itself so we did not have to rely on the executive branch.

Mr. SHAW. Mr. Speaker, reclaiming my time, I do not believe that the pay-go is looking towards the Office of Management and Budget as having to certify things before we do it.

Mr. HOYER. Absolutely, that is my point. And if the gentleman would support pay-as-you-go, perhaps we would not have to look to other ways to try to get to balance.

Mr. SHAW. Mr. Speaker, I can see both sides of pay-go, but I cannot see both sides of delegating legislative authority to the executive branch no matter who controls the executive branch.

Mr. TANNER. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me 1 minute.

The gentleman from Tennessee called it Alice in Wonderland. I, a few minutes ago, called it irrational exuberance. And when we look at the bottom-line facts, not what projections are, because, by the way, 3 years ago it was projected that we would have a $5.6 trillion surplus, not deficits. When we look at the bottom-line facts, we are in some real trouble. Interest rates, which is really the determiner of whether or not Americans have more money in their pocket or not, have gone up in the last 2 months alone about a point, 1 percentage rate.

What does that mean? Well, if you have a mortgage of about $200,000, 30-year rate, fixed, not flexible and not one that goes up and down, you are probably going to pay about, on that $200,000 mortgage, you are going to pay about $120 more per month now. That means at the end of the year, you are some $1,500 more out of pocket, and over the life of that 30-year loan, about $43,000. That is the cost of seeing an economy that is not fiscally righting.

Finally, one last point. That same business section page that said, ''U.S. trade deficit grows unchecked'' has an interesting story at the bottom part: ''MCI awards $8.1 million severance.'' A gentleman who worked for 7 months for MCI WorldCom, which was in bankruptcy, was paid $8.1 million plus $400,000 more for vacation and so forth, severance, paid for 7 months work at the same time they are planning to announce that they are planning to trim their workforce by 12,000 people. Irrational exuberance.

Mr. RYAN of Wisconsin. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just bring three points up in respect to this substitute. Number one, my colleague from Florida sort of outlined the convoluted pay-for in this bill which will render this tax cut temporary, not permanent, by giving the decision whether or not to keep this tax cut permanent to some accountants at the Office of Management and Budget, to in 2010 speculate what is going to happen in 2014 to make sure that the tax cut becomes permanent. This is another way of saying this is a temporary tax cut, meaning they are going to increase this 10 percent bracket again.

The second point I think is important to make, they try to pay for their substitute with a tax increase. Now, what they will tell us is it is a tax increase on rich people, individuals making over 500 grand, couples making over $1 million. What they will not tell us, Mr. Speaker, is that half of those filers are small businesses. Half of those people are subchapter S corporations, partnerships, small businesses.

Mr. Speaker, small businesses create 70 percent of our jobs. Before the tax cuts that just passed last July, in this country we were taxing small businesses at a higher tax rate than we taxed the largest corporations of America. We finally now are in a fair, level playing field where we tax small businesses at the same tax rate that we tax large corporations. But they want to undo that.

They want small businesses, small mom-and-pop businesses who bring in revenues of $1 million or more, who maybe have 2 employees, 10 employees, 50 employees, to pay a higher tax rate than IBM, than Exxon, than Global Crossing, or WorldCom. That is wrong. I think that is unjust and unfair, yet they want to return to the days of taxing small businesses at higher tax rates than large corporations.

The third point is the way that they structure their Alternative Minimum Tax relief. Now, this is an issue where I think and hope we can get good bipartisanship support to fix this problem. We hear from both sides of the aisle that AMT is a problem and we have to fix it. Just last week we passed a bill to make sure that no new people fell into the trap of the AMT while we figure out at the Treasury Department and here in Congress how to really fix this mess, and I hope that we really do have bipartisan support to fix this mess.

But the way they structure it in this bill means that taxpayers are going to have to calculate their taxes three times in order to navigate their way out of the Alternative Minimum Tax. The Alternative Minimum Tax brings a lot of complexity to the Tax Code for taxpayers. This substitute makes it

more complex, more difficult to comply with. That is not the right direction, so I urge a no vote on this substitute.

Mr. Speaker, I reserve the balance of my time.

Mr. TANNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield to the gentleman from Maryland (Mr. HOYER), I would like to say as far as the delegation to OMB, that was done under pay-go, it is a way of scoring, and if we do not have any other, I guess, arguments against the merits of the bill, they bring up procedural matters. I understand that.

I would also like to say, with the rate adjustment that we have in our bill, only 165,000 returns out of 32.8 million small business returns would be affected. That is less than one-half of 1 percent.

Mr. Speaker, I yield 7 minutes to the gentleman from Maryland (Mr. HOYER), the minority whip.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding me this time. I really could take 30 minutes to try to correct what the gentleman from Wisconsin has been saying.

First of all, he is a very bright young man. I like him. And it is your money, he says. Now, that is the mantra, and that mantra I have heard for 20-plus years. And, of course, it is your money. And by the way, it is my money, too. I pay more taxes effectively than the Vice President of the United States, who made almost 10 times as much as I make, but I am not poor-mouthing that. And, by the way, the gentleman talks about these large corporations. They do not really care what the rate is because, as we notice, I say to the gentleman, 60 percent of them do not pay any taxes because of their preference items.

□ 1215

An aside that the Republican majority has made the Tax Code extraordinarily more complicated over the last 3½ years, extraordinarily more complicated over the last 3½ years, let me call to my friend, the gentleman from Wisconsin (Mr. RYAN), some facts.

A, Mr. Armey said you own this town. You have the President, you have the Senate, you have the House. Now, I have been here a lot longer than the gentleman from Wisconsin (Mr. RYAN).

He talks about debt. Under Ronald Reagan, we raised the debt level 17 times. Under George Bush, the first, in 4 years we raised the debt limit 10 times. Under this President, we have raised the debt limit by $1.5 trillion over 3 years. Over 8 years, under President Clinton we raised the debt limit five times for $1.58 trillion. The difference, however, is that under Ronald Reagan and George Bush, the first, we added about $2 trillion to the debt. Under this President, we have added about $1.5 trillion to the debt, and under Bill Clinton, over 8 years, less debt and net $79 billion worth of debt, not trillions, net. Why? Because for 4 years of the last 4 years of the Clinton administration we created surpluses.

Secondly, the gentleman and all the Republicans talk about it is spending that is the problem. The gentleman from Wisconsin (Mr. RYAN) says that spending is the problem. I would like to have the gentleman's attention because I know he is going to find these figures very edifying and interesting because he talked about spending, that is a legitimate issue to raise; and I want to call the gentleman's attention to the administration's budget numbers.

We have it from 1962 to today. Under Ronald Reagan's Presidency, a, we spent 22.5 percent of GDP on average, some years higher, some years a little lower, under Ronald Reagan, never below 21 percent. Let me remind my colleagues that not a penny was spent in America during Ronald Reagan's term of office without his signature, not one. We never overrode a veto. The Democrats never imposed spending that the President did not sign off, not once. So we understand nondefense discretionary spending was 3.4 percent under Ronald Reagan.

Under George Bush, the first, it was 21.9 percent of GDP. Again, he never had a bill veto overridden stopping spending. He signed every nickel of that expenditure, 3.3 percent on nondefense discretionary spending.

Under George Bush, the second, we have done 19.85, almost 20 percent, and 3.5 percent, Dick Armey, they control this town, 3.5 percent of that was on nondefense discretionary spending. I will tell my friend from Wisconsin this fact is going to amaze him. We spent less GDP under Clinton for 8 years and we spent less on discretionary spending, less on discretionary spending, and I heard the gentlewoman from Tennessee about an hour ago saying we have created 1 million jobs since last August. We created 23 million jobs in 8 years or about 4 million a year on average under Bill Clinton.

So, when we are talking about the facts, we ought to know the facts because the facts belie what the gentleman from Wisconsin is proposing. That is why we are here, because we believe my colleagues' policy is not only fiscally wrong but it is also immoral. My friends on the Republican side want to create the impression that they are the only ones who support this 10 percent bracket. They are not. We want to make it permanent, but we do not want to impose a tax.

He talked about various people who are going to get tax increases. Under their bill, 290 million Americans are going to get a tax increase, but guess what. They will not get it immediately. We are going to delay it a little bit, not only past the next election but maybe past a couple of elections after that. Why? Because interest rates are going to go up, taxes are going to go up to pay the interest on this debt that my colleagues are creating, over $200 billion of additional debt in this bill alone.

That is all we are saying. We are for this policy. We are for keeping this 10 percent bracket. We want to assist those at the bottom rungs in our society, build themselves up, grow their families, have a better opportunity to pay for the education of their children and their mortgage payments and buy their cars and have a better quality of life. We want that, but we do not want to give them a bill for it 10 years from now that says guess what, you have got a big interest that you have got to pay.

I would urge my colleagues to look at the facts. Look at what we did under a piece of legislation passed in 1993, one passed in 1990 and, yes, one passed in a bipartisan way in 1997, which led to the creation of surpluses.

Let me close by this, and I do not have as much time as I would like, but Chairman Greenspan said just the other day, who is not a Democrat, ''Our fiscal prospects are, in my judgment, a significant obstacle to long-term stability because the budget deficit is not readily subject to correction by market forces that stabilize other imbalances. The free lunch has still to be invented.''

Vote for this substitute. My colleagues will vote for the policy and responsible fiscal policy at the same time.

Mr. RYAN of Wisconsin. Mr. Speaker, I yield myself 30 seconds.

I will not go through tit for tat on all of that. Only to say that now that our Chairman Greenspan was invoked, he also said in that same speech that the first thing we should do is make these tax cuts permanent because they really help achieve the economic recovery we have underway right now.

Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. BLUNT), the majority whip.

Mr. BLUNT. Mr. Speaker, I thank the gentleman for yielding me the time, and I am pleased to follow my good friend, the gentleman from Maryland (Mr. HOYER), to the floor to debate this issue. I am predicting that when we get to the vote on the bill that the gentleman from Wisconsin (Mr. RYAN) has been talking about on the floor today that the vote will be overwhelming.

I heard the word ''immoral'' used as it related to this proposal. I did not quite understand that; but however my colleagues want to characterize this proposal, in the final vote today, I think that the vote will be overwhelming, and we will make this 10 percent bracket a permanent part of the Tax Code.

It is an important addition to the Tax Code. I personally am of the view that we make a mistake when we eliminate people totally from tax responsibility, and we should look for ways not to eliminate people from the tax rolls, but to make that tax burden

for all Americans as small as we possibly can. It is better you value what you pay for. We have all been part of that talking about how we are going to eliminate people totally from the tax rolls. This really allows more people to pay taxes, but to pay at a lower level.

When we reach the point in this country when we have more people who do not pay taxes than people who do pay taxes, and we are pretty close to that number right now, we really begin to change the debate on taxing and spending policies because not even a majority are paying taxes. I think it is a good idea to have this smaller bracket, to have it a permanent part of the introduction of the Tax Code. I would not even mind to see if we had a bracket just a little bit smaller than this one eventually, and so I do hope we make it permanent there.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. BLUNT. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, because I understand what the gentleman is saying, I think it is important to note that every working person in America pays taxes. We call it FICA tax, and 50 percent of Americans pay more FICA tax than they do, but we are using, as the gentleman knows, part of their taxes because there is a surplus in the Social Security account for general expenditures. So in that sense, the overwhelming majority of employees are paying.

Mr. BLUNT. Mr. Speaker, people who are working pay into those funds, that is a good point; and I am pleased that my friend made it.

At the same time, it does not minimize my point that those people who only pay into the Social Security fund do not have the same stake in the income tax system and how it works than people who do not. I am glad to see us making it more possible for people to have a smaller tax burden at the lower levels of people who pay taxes in the country. I think that is a good thing.

I think the 10 percent bracket and making this 10 percent bracket a permanent part of the tax structure is not only what we should do but what the House will vote to do today. I would like to see that happen on the other side of the building as well, and we will encourage that by sending this legislation over.

The 10 percent bracket in the substitute does have conditions still in it and because of those conditions is not as permanent as the proposal that we have before us in the main bill. Because of this 10 percent bracket, if we did away with the 10 percent bracket, 73 million working Americans would pay higher taxes next year than they paid this year because we would not have the 10 percent bracket available then next year. Seventy-three million Americans would pay higher taxes because of that.

Unless the House acts, 22 million lower-income workers would be pushed from the 10 percent bracket into the 15 percent bracket. We do not want to see that happen.

This is an important step in the right direction. I urge my colleagues not only to defeat the substitute, which does not accept the permanency of this important addition to our tax policies, but to vote for the bill.

Mr. TANNER. Mr. Speaker, before I yield to the gentleman from Texas, I would just like to say it does make it permanent, but there are conditions.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. STENHOLM), my friend.

Mr. STENHOLM. Mr. Speaker, I thank my friend for yielding me the time, and this debate is not about whether we should provide tax relief to middle-class families. Every Member of this body supports that general principle.

The debate, though, is whether we should do so with borrowed money on top of the $7.1 trillion that we already owe. I personally do not believe we should pay for tax cuts by borrowing money against our children's future. That is why I support the Tanner substitute, which will extend the 10 percent tax bracket without increasing the deficit.

This debate today is really about PAYGO, and I appreciate the fact the majority side does not want to go back to pay-as-you-go. They have made that very, very clear; and I am sorry that the majority whip left the floor because I was a little disappointed in some of what he was saying last week when we had a little change of vote by a few folks on the pay-as-you-go, and it was inferred to the majority side, those who have been voting with us on pay-as-you-go, that this bill and the same one we will vote on in a few minutes or later today on pay-as-you-go was different than that that was paid in 1997.

It is not different, and in fact, today once again the majority will make it very clear that they do not wish to go to pay-as-you-go government, that they are perfectly willing to borrow any amount of money, any amount of money in order to continue to implement their economic game plan, which I will submit is not working, and it will only take a year or two before it will be proven, when we will see the largest tax increases in the history of our country being implemented, called the debt tax because we cannot borrow $8 trillion and not have somebody pay for it; and 4 percent interest on $8 trillion is $320 billion, and a 1 percent increase in any 1 year will increase the debt tax by $80 billion.

My colleagues can keep wishing that away and they can keep coming up with red herrings like the three reasons why my colleagues should oppose this, and my good friend who has been here for the same 25 years I have been from Florida brings up OMB. He knows that that is standard language that we use, they use, constantly use. It has always been used that way.

Let us assume for just a moment he is right and you will come back and say, no, that is not right. I would share with the gentleman talking about AMT relief, I believe we can find a way to have bipartisan cooperation to fix that. We can have bipartisan agreement on how to fix the OMB and delegating our authority from this body.

What it seems we cannot fix, though, is pay-as-you-go. There seems to be some reluctance in this body. It used to be my colleagues voted with me on this issue. In fact, it took Democrats to pass it because there were not enough Republicans when all of them were voting for pay-as-you-go to pass anything, and some of us were voting with my colleagues or they with us, and we got it done. What was the result? A balanced budget for our country, and all of the sudden that balanced budget is gone out the window.

The Tanner substitute says we are not opposed to cutting taxes.

□ 1230

We are not increasing taxes with this amendment. That is a red herring, and folks on this side know better than to stand on this floor and say that it is.

What the underlying bill that everybody is going to vote for theoretically, I wish they were not, I wish they would vote for the substitute because it is a better bill. It does exactly what we want done. The only thing it does not do is borrow another $50 billion. Now, I think we have an obligation to ensure that future generations will be able to meet our commitments to Social Security and Medicare before we lock in reductions on revenue. My friends on the other side do not believe that anymore, and that is fine. That is a legitimate political position, and you are taking it over and over and over again. Fine. Just assume the responsibility for that.

The Tanner substitute tells the President and the Congress we have to start making some tough choices. You bring up a tax cut a week. You make these statements, send out these press releases, et cetera. That is wonderful. But the baby boomers are out there. They are about to begin retiring, reaching age 62 in 2008. And to lock in the lack of revenue to cover the obligations for them is not a good decision in my book.

Let me remind everyone, we are fighting a war, a war that has already cost us $150 billion and is costing another $4 billion a month, and we come to this body and we argue about how much we are going to reduce the amount of money that we have available to see that the troops gets the material, the protection, the armaments that they need to fight the war. We argue about how we are going to reduce that amount of money and shortchange them.

This is an amazing place, Mr. Speaker. Amazing how individuals can vote one way 4 or 5 years ago and vote another way today and explain it both

ways. But that is exactly what the majority, all of the majority that were here in 1997, are doing. And by opposing the Tanner substitute, you are really opposing pay as you go.

I urge a vote for the Tanner substitute, and I will be one of those opposing borrowing another $50 billion without applying pay as you go.

Mr. TANNER. Mr. Speaker, I yield myself such time as I may consume.

What this debate is all about is the financial balance sheet of our country. As I said in my opening statement, this bill is just a symptom of a far greater problem.

I really, honestly do not believe the people of this country realize when bills like this are passed, unpaid for, all of those green lights that go up there are in effect putting a $218 billion, in this case, mortgage, another mortgage on our country in all of their names; because these Members who are going to vote for it are not going to pay it, and I think that is wrong.

But it goes beyond that. It is now a national security matter, as I discussed earlier. When one realizes that 70 percent of the deficit, $370 billion deficit last year, was financed by foreign interests, they are gaining leverage every day on this country.

My grandfather told me one time, he said, John, it is easier to foreclose a man's house than it is to shoot your way in the front door. Now, you think about that. China is not always going to see the world the same as we do. Neither are the Japanese. Neither are any of these other countries around the world, because they have their own interests that they must see to. And when we are depending on foreign interests to finance record deficits, we are acting irresponsibly when it comes to the national security of this country. I firmly believe that. That is number one.

Number two, again, I do not think people understand that since President Bush took office, and we have had virtually a one-party government in this country, they have borrowed $1.1 billion every day. Now, if one were running a private enterprise like that, the stockholders would fire them, or they would be in Chapter 11 bankruptcy. The only difference is, with government, we can continue to borrow on the good faith and credit of the American economy.

But let me get back to this foreign thing, because I think that really is something that people can understand. Did you realize that a former official of the People's Bank of China, the country's central bank in Beijing, and now an economist in Hong Kong was recently quoted in the Washington Post as saying the U.S. dollar is now at the mercy of Asian governments? In the London Financial Times I read where Europe is incredibly worried about the fiscal irresponsibility of our country.

I just did some figuring. Just so far this year we have already written interest checks of over $100 billion, just in the first 7 months. That is $14 billion in interest a month this year. Said another way, we are spending $475 million a day on interest, every day. Since we started this debate a while ago, we have since spent $20 million in the last hour on interest. That is $330,000 a minute or $5,550 a second that we are spending on interest for which this country gets no health care, no education, no military, no anything that will enable private enterprise to grow, flourish and create jobs.

They say, well, you know, if we can just keep cutting taxes, the economy is going to grow. Under that theory, if you abolished all taxes, the country would be filthy rich. Somebody has to pay at some point a minimum level of taxes to buy aircraft carriers, to buy tanks, to buy body armor. I think the gentleman from Texas (Mr. STENHOLM) said the free lunch is still being invented, and one cannot continue to reduce revenue, increase spending, borrow it all, and not expect to see a financial Armageddon down the line. How far down the line, I do not know. I know this: It is much closer today than it was when I got here 16 years ago.

And I know this: that the Chinese particularly will not continue to buy our paper at a relatively low rate of return to hold their yen, their currency, artificially low so they can kill us on the trade deficit. I know that that will not continue forever. And I know that sometime in the future, whether it is OPEC, Asia, or whomever, they are not going to view the world the same way we do. And by our actions here today, and again this is just a symptom of a far greater problem, by our utter refusal to ask Americans to either cut back or to pay for what we are getting, we are putting this country in real, clear and present danger with this foreign holding business.

I do not know how else to put it. I must tell you, this is not going to go away, and it is going to get worse with every passing day because we are now paying interest on interest. There is not a reputable economist that I know that does not say that our country is now in a structural deficit. This is not cyclical, where we have a recession. We are now in a structural deficit. The budget they presented, is $500 billion in the red this year, and they say, well, we are going to cut that in half in 5 years. But they borrow another trillion dollars under their game plan, which is the best they can do. At 5 percent, another trillion dollars is a tax increase on 290 million people of $50 billion a year every year.

Now, that is just on 1 trillion. They have already run through that, and now almost at $1.5 trillion at $1.1 billion a day. This is financial madness. And so when my friends complain about spending, the Republicans have controlled the House for the last 9½ years. The Democrats have not spent one thin dime. We do not have the votes to spend any money. We cannot spend any money, we do not control anything, the Committee on Appropriations, nothing. So when my colleagues talk about spending, I suggest they look in the mirror. You guys are the ones spending all the money. We do not have the votes.

So I just tell you, Mr. Speaker, our country is engaged in a death spiral financially. If we were in an airplane, unless we did something different, we are going to hit the ground. We cannot continue to do this. This bill may be good intentioned, but this substitute says, look, we have to pay for it. We have asked the top .02 percent of the people in this country to help us do that. I do not think that is too much to ask.

I had a friend who had an eighth-grade education. He was an old World War II guy who went out on his own and he made it big. I asked him one time, I said, John, what do you want to do in your life? He said I have two goals, two financial goals. I said, what are they? He said, the first one is I want to owe the bank $5 million. I said, that is crazy, man. He said, no, it is not, because if they will let me have $5 million, that means they think I have got 10. And he said, the other thing I want to do is I want to pay $1 million a year in income tax, because that means I made 3. And if this country allowed me, with an eighth-grade education to make $3 million a year, you bet I will be glad to pay a million for that privilege of living in this great land that I have known and I want to leave to my children.

What we are doing now is doing violence to what that man was willing to do coming out of World War II with an eighth-grade education. I just beg and implore people to think about this and let us see if we cannot work somehow together. I know you are going to mortgage the country for another $218 billion in a minute, but surely we can do better than this. This is an outrage to the future of this country and it is an outrage to those who came before us.

Mr. Speaker, I yield back the balance of my time.

Mr. RYAN of Wisconsin. Mr. Speaker, I yield myself such time as I may consume to close.

Well, where to begin? Well, we have seen a lot of revisionist history practiced on the floor today during this debate. I think it is important to look at what this country has faced in the last few years.

What happened to this country? Well, in 2001 the President was sworn into office and we were going into a recession. What we found on September 11 of 2001 was that we were on the precipice of going into a recession. It looked inevitable that we were going to have a recession, but maybe we were going to pull out of it. But 9/11 put us into that recession.

We went into a recession where our revenues to this country dive-bombed. But what happened after that? Then we

found some people were crooked in the boardrooms of America, and we had corporate scandal after corporate scandal after corporate scandal. And what happened? We went deeper into recession and our revenues plummeted. Because we saw that Americans' faith in the corporations of America, because of the Enron scandal, the Global Crossing scandal, and the WorldCom scandal, shook the foundation of our enterprise system.

What happened also at that time? Well, Mr. Speaker, we were engaged in war in response to 9/11. We had to spend more money because we had a war in Afghanistan, we had a Department of Homeland Security to try to make ourselves harder targets to hit, to play better defense in the war on terrorism. That costs money. The fundamental and first responsibility of the Federal Government is to protect the safety and security of the American people. In post 9/11 government, that means we had to spend more money on security.

So, yes, spending went up. Spending went up, I would argue, for a very important reason. And, you know what? Revenues went down. They went down because we went into a recession, we got deeper into a recession with 9/11, and we got still lower revenues and a worse recession because of these corporate scandals.

But the great story in all of this, Mr. Speaker, is the incredible resiliency of the American worker, of the American citizen, of the American economy. The American economy is rebounding from all of that. Most times in America you get hit with one of these calamities, a war, an act of terrorism, or a recession, but they happened all at the same time in this country. And what is so wonderful about this is how well we have responded to it.

Now, yes, spending went up, the debt obviously went up, and revenues went down. But the good story in all of this, Mr. Speaker, is that in large part because of the tax cuts that passed, that helped ignite this economic recovery, and we are working and growing ourselves out of this. Now, we have many problems that clearly need solving. We are still involved in a war and we see that on other TV sets every day. We still have a lot of people who need work. But it is a wonderful thing that more than a million people found work since last August. It is even better that about 300,000 people found work last month.

□ 1245

Mr. Speaker, we still have challenges, and that is why we are seeing what is coming to the floor this week, all of these pieces of legislation to try and get this economy back on its feet, to get people their jobs back.

One of the things we are focusing on just this week and the next 7 weeks in the House of Representatives is to do things to make it so we are more competitive in the global economy. We look at what it takes to get jobs in this economy. How do we bring the lagging manufacturing sector back on its feet? When we look at the problems facing the competitiveness of the American company, we look at the problems facing the competitiveness of the American worker, taxes, number one; health care costs, number two; regulatory costs; litigation costs with lawsuits; and energy costs.

What is this Congress doing? Well, we had a comprehensive energy policy brought through the House of Representatives to bring down the cost of energy and make us less dependent on foreign sources of energy; filibustered in the other body. Regulatory reform, we are bringing a whole week's worth of legislation down to the floor in a matter of days to work on reducing the cost of regulations. Tort reform, we have passed tort reform bill after tort reform bill after tort reform bill. Class action reform, medical liability reform, all being filibustered in the other body.

What are we doing about taxes? This is an area where this Congress has produced because we have been able to get these bills passed through the other body and signed into law by the President. So we see this recovery under way.

One of the areas where this recovery has really rebound is in small businesses. As I mentioned earlier, small businesses create 70 percent of the jobs we have in America. Small manufacturers in America today pay higher taxes than our competitors overseas, especially China and India. We have to make our small manufacturers more competitive.

What this substitute does is it takes away the very policy that is igniting this economic recovery. It puts taxes on small businesses. More importantly, if we fail to pass this underlying legislation, it will put higher taxes on low-income workers. I mentioned earlier that over half of all taxpayers hit by the surtax in the Tanner substitute are small businesses. I misspoke. Seventy-five percent of all taxpayers hit by this surtax report small business income, sole proprietorships, partnerships, men and women in America who are putting their own capital at risk to start a small business, to hire people and bring them back to work. That is the engine of economic growth that is fueling this recovery.

Why on Earth we want to hit these people, the creators of jobs in America, with a new high tax to try to pay for a temporary tax cut which we are making permanent in the base bill is beyond me.

Now, it is important that Members note the differences in philosophy here. By raising taxes, as a vote against this bill will do, takes the pressure off the need to reduce spending. If we always go for the old answer of let us just raise taxes, let us allow taxes to go back up, raise taxes on small businesses, that will bring in more revenue to the government, possibly. Possibly.

But what it for sure will do is take pressure off the Congress and our Federal Government to cut spending. We want to cut spending. I think the gentleman from Tennessee (Mr. TANNER) was right when he said we could have done a better job over the last 8 to 9 years in cutting spending. I very much agree with that. I think we can do a better job; but what is also important to say, which was left out, over these 8 or 9 years, in passing the spending bills we have passed in this Congress, they have always done so by defeating higher spending increases that have been proposed time after time from the other side of the aisle.

So, Mr. Speaker, what this is about is ensuring the recovery continues, making sure that 23 million low-income Americans and 73 million taxpayers do not see a big tax increase next year. What this is about is making sure that the pressure is put on Congress in the right way, not raising taxes, but keeping taxes low and cutting spending. That is the emphasis that is placed in this bill. That is what we are voting for here.

I urge my colleagues to vote ''no'' against the Tanner tax increase substitute and vote ''yes'' for the base bill so that 23 million low-income Americans can see this tax relief in reality for the rest of their lives and so that the rest can make sure they are not going to wake up next year with a big tax increase.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am deeply disturbed by the fact that once again this body is forced to engage in a debate on the merits of a truly irresponsible fiscal policy. No doubt that this debate will go back and forth between those who will demand tax cuts and those who will be against them, but one fact is undisputable, if we adopt H.R. 4275 in its original form then our national deficit will grown even larger. Maybe the Members on the other side of the aisle can live with an enormous national deficit that grows larger by the day, but I surely cannot.

This is why I am in full support of the Rangel Substitute which offers a responsible way to extend the 10-percent individual income tax rate bracket. Under the Rangel Substitute, these middle-class tax cuts actually benefit the middle class. I know it might shock my colleagues on the other side of the aisle that there could be tax cuts that might actually help Americans who are not in the top 1 percent of income earners. I'm sure we will hear the argument that the richest of Americans need tax cuts because they are the ones who will invest back in America, but I have yet to see the logic come to fruition. What I see is a deficit that is expected to exceed last year's record deficit by at least $60 billion—and to total at least $2 trillion over the coming decade—and yet here we are again on the floor of this legislative body on the verge of passing even more tax cuts that have no offset. H.R. 4275 in its original form will add another $218 billion that will have to be paid for by future generations. I'm sure the millionaires of today will enjoy their additional tax cuts, I'm sure they'll spend their savings wisely, but meanwhile their good fortune is coming at the expense of a future generation of Americans, many of

whom are not even born yet. The good fortune that American millionaires enjoy today will be a burden on those yet unborn Americans in the form of exponentially higher taxes and higher interest rates. This phantom menace that will burden future Americans can truly be called a "birth tax." My colleagues from the other side of the aisle can talk for days about the unfairness of higher taxes for today's millionaires, but all the talking in the world can not change the fact that this irresponsible tax policy is most unfair to those Americans who don't yet even have a voice to make their opposition known.

There is no doubt that the proponents of H.R. 4275 will make the argument that this legislation will put more money back in the pockets of hard working Americans, but the truth is far from their tired rhetoric. The truth of H.R. 4275 in its original form is that it excludes far more average Americans than it actually helps. This proposed legislation denies the tax cut to any household on the Alternative Minimum Tax (AMT). There will be 33 million households by 2010 that will be on the AMT, those 33 million households make up one-third of all taxpayers and they would receive absolutely no benefit from this proposal. By 2010, almost half of AMT taxpayers would be households in the $50,000 to $100,000 gross income range. Now I ask, does this sound like legislation that truly benefits America's middle class? Too many average Americans are not seeing a benefit; instead they are being fed a steady diet of misinformation and irresponsible policies. The Rangel substitute addresses all these loopholes that allows so many Americans to fall through the cracks and not receive real tax relief.

The Rangel Substitute is the only legislation currently on the floor that offers the full and true version of the 10-percent bracket and it does so while still being fiscally responsible. Plain and simple, the Rangel Substitute is the only legislation that will actually help middle-class Americans as the sponsors of H.R. 4275 purport to do. I am certain my colleagues from the other side of the aisle will vote against the Rangel Substitute because God forbid that Americans who are millionaires might get a few thousand dollars less in tax cuts in order to help other Americans who actually need a tax cut. That's where the crux of this debate on taxes is, Republicans will talk endlessly on the need for tax cuts that benefit the richest Americans and the richest businesses, but I can not argue against that more strenuously. Lower and middle-class Americans need a tax cut, America's small businesses need and deserve a tax cut. The truly sad fact is that we can provide this relief to Americans who need it and we can do it without handcuffing future generations with a large national deficit, but the majority party in this body refuses to accept that solution. The Rangel Substitute puts money back in the pockets of middle-class Americans by making a minute adjustment to the tax rate for households that earn over $1 million a year. This rate adjustment leaves these millionaire households with annual tax cuts which will still well exceed $100,000 per year. How much more money do millionaires need? Meanwhile, lower and middle class Americans are struggling to both make a living and have savings for the future, maybe to buy a home or to send their children to college. This gross inequity in our current tax structure between millionaires and average Americans is just appalling. I urge all my colleagues to vote for the Rangel Substitute and I appeal to the Members on the other side of the aisle, that if you really care for average Americans as you say you do, then the only sensible option you have is to vote the Rangel Substitute. Extending tax relief for middle-class Americans is an admirable goal, but creating irresponsible legislation like H.R. 4275 is not.

Mr. RYAN of Wisconsin. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). All time for debate on the amendment has expired.

Pursuant to House Resolution 637, the previous question is ordered on the bill and on the amendment offered by the gentleman from Tennessee (Mr. TANNER).

The question is on the amendment in the nature of a substitute offered by the gentleman from Tennessee (Mr. TANNER).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. TANNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 190, nays 227, not voting 16, as follows:

[Roll No. 169]

YEAS—190

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hefley
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—227

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Carson (OK)
Carter
Castle
Chabot
Chandler
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Hooley (OR)
Hostettler
Houghton
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—16

Blunt
Capito
Deal (GA)
DeMint
Filner
Goss
Hulshof
Israel
Lewis (GA)
Majette
Quinn
Reyes
Scott (GA)
Shadegg
Tauzin
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1312

Mr. FARR and Mr. PAYNE changed their vote from ''nay'' to ''yea.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall No. 169, I was attending to official business in my congressional district, and I missed the vote. Had I been present, I would have voted ''aye.''

Stated against:

Mr. GOSS. Mr. Speaker, on rollcall No. 169, Tanner amendment in nature of substitute, had I been present, I would have voted ''no.''

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. RYAN of Wisconsin. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on passage will be followed by a 5-minute vote on the motion to instruct conferees on Senate Concurrent Resolution 95.

The vote was taken by electronic device, and there were—ayes 344, noes 76, not voting 13, as follows:

[Roll No. 170]

AYES—344

Ackerman
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Honda
Hooley (OR)
Hostettler
Hunter
Hyde
Isakson
Issa
Istook
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanders
Sandlin
Saxton
Schiff
Schrock
Sensenbrenner
Sessions
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Vitter
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—76

Abercrombie
Andrews
Ballance
Becerra
Berry
Blumenauer
Brady (PA)
Capps
Carson (IN)
Conyers
Cooper
Cummings
Davis (FL)
Davis (IL)
DeGette
Dicks
Dingell
Doggett
Doyle
Emanuel
Fattah
Frank (MA)
Grijalva
Hastings (FL)
Hill
Hinchey
Holt
Houghton
Hoyer
Inslee
Jackson (IL)
Jefferson
Kanjorski
Kucinich
Larsen (WA)
Lee
McCarthy (MO)
McDermott
McGovern
Menendez
Mollohan
Murtha
Napolitano
Neal (MA)
Pallone
Pascrell
Pastor
Payne
Pelosi
Rangel
Roybal-Allard
Ruppersberger
Sánchez, Linda T.
Sanchez, Loretta
Schakowsky
Scott (VA)
Serrano
Sherman
Smith (WA)
Solis
Stark
Stenholm
Tanner
Taylor (MS)
Thompson (CA)
Tierney
Towns
Turner (TX)
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Wexler
Woolsey

NOT VOTING—13

Deal (GA)
DeMint
Filner
Goss
Hulshof
Israel
Lewis (GA)
Majette
Quinn
Reyes
Scott (GA)
Shadegg
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1330

Ms. WATERS, Ms. LINDA T. SÁNCHEZ of California, Ms. McCARTHY of Missouri, and Mr. CUMMINGS changed their vote from ''aye'' to ''no.''

Mr. RUSH and Mr. WELLER changed their vote from ''no'' to ''aye.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GOSS. Mr. Speaker, on rollcall No. 170, final passage of H.R. 4275, had I been present, I would have voted ''aye.''

Mr. FILNER. Mr. Speaker, on rollcall No. 170, I was attending to official business in my congressional district, and I missed the vote. Had I been present, I would have voted ''aye.''

GENERAL LEAVE

Mr. RYAN of Wisconsin. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 4275.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MOTION TO INSTRUCT CONFEREES ON S. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

The SPEAKER pro tempore. The unfinished business is the question on the motion to instruct conferees on Senate Concurrent Resolution 95.

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct conferees offered by the gentleman from North Dakota (Mr. POMEROY) on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 207, nays 211, not voting 15, as follows:

[Roll No. 171]

YEAS—207

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Bass
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Greenwood
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kolbe
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—211

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goodlatte
Goss
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (NY)
Kingston
Kirk
Kline
Knollenberg
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—15

Deal (GA)
DeMint
Filner
Goode
Hulshof
Israel
King (IA)
Lewis (GA)
Majette
Murtha
Quinn
Reyes
Scott (GA)
Shadegg
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1341

Mr. GILCHREST changed his vote from ''yea'' to ''nay.''

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. FILNER. Mr. Speaker, on rollcall No. 171, I was attending to official business in my Congressional District, and I missed the vote. Had I been present, I would have voted ''aye.''

ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING AMENDMENTS TO H.R. 2432, PAPERWORK AND REGULATORY IMPROVEMENTS ACT OF 2003; H.R. 2728, OCCUPATIONAL SAFETY AND HEALTH SMALL BUSINESS DAY IN COURT ACT OF 2004; H.R. 2729, OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION EFFICIENCY ACT OF 2004; H.R. 2730, OCCUPATIONAL SAFETY AND HEALTH INDEPENDENT REVIEW OF OSHA CITATIONS ACT OF 2004; AND H.R. 2731, OCCUPATIONAL SAFETY AND HEALTH SMALL EMPLOYER ACCESS TO JUSTICE ACT OF 2004

Mr. DREIER. Mr. Speaker, the Committee on Rules may meet the week of May 17 to grant a rule which could limit the amendment process for floor consideration of one or more of the following: H.R. 2432, Paperwork and Regulatory Improvements Act of 2003; H.R. 2728, Occupational Safety and Health Small Business Day in Court Act of 2004; H.R. 2729, Occupational Safety and Health Review Commission Efficiency Act of 2004; H.R. 2730, Occupational Safety and Health Independent Review of OSHA Citations Act of 2004; and H.R. 2731, Occupational Safety and Health Small Employer Access to Justice Act of 2004.

Mr. Speaker, any Member wishing to offer an amendment to any of these bills should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Committee on Rules in room H–312 of the Capitol by 11 a.m. on Monday, May 17, 2004.

Members should draft their amendments to the text of H.R. 2432 as reported by the Committee on Government Reform on May 12, which is expected to be filed on Friday, May 14. Members are also advised that the text of H.R. 2432 should be available for their review on the Web site of the Committee on Government Reform and the Committee on Rules today, Thursday, May 13, 2004.

Members should draft their amendments to the texts of H.R. 2728, H.R. 2729, H.R. 2730, and H.R. 2731 as reported by the Committee on Education and the Workforce on May 5, 2004, which will be filed momentarily. Members are also advised that the text of these bills should be available for their review on the Web sites of the Committee on Education and the Workforce and the Committee on Rules today, Thursday, May 13, 2004.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format and should check with the Office of the Parliamentarian to be certain that their amendments comply with the rules of the House.

SMALL BUSINESS HEALTH FAIRNESS ACT OF 2004

Mr. BOEHNER. Mr. Speaker, pursuant to House Resolution 638, I call up the bill (H.R. 4281) to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to H. Res. 638, the bill is considered read for amendment.

The text of H.R. 4281 is as follows:

H.R. 4281

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Small Business Health Fairness Act of 2004''.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Rules governing association health plans.
Sec. 3. Clarification of treatment of single employer arrangements.
Sec. 4. Enforcement provisions relating to association health plans.
Sec. 5. Cooperation between Federal and State authorities.
Sec. 6. Effective date and transitional and other rules.

SEC. 2. RULES GOVERNING ASSOCIATION HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

''SEC. 801. ASSOCIATION HEALTH PLANS.

''(a) IN GENERAL.—For purposes of this part, the term 'association health plan' means a group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

''(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

''(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining or providing medical care;

''(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership in the sponsor; and

''(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), and (3) shall be deemed to be a sponsor described in this subsection.

''SEC. 802. CERTIFICATION OF ASSOCIATION HEALTH PLANS.

''(a) IN GENERAL.—The applicable authority shall prescribe by regulation a procedure under which, subject to subsection (b), the applicable authority shall certify association health plans which apply for certification as meeting the requirements of this part.

''(b) STANDARDS.—Under the procedure prescribed pursuant to subsection (a), in the case of an association health plan that provides at least one benefit option which does not consist of health insurance coverage, the applicable authority shall certify such plan as meeting the requirements of this part only if the applicable authority is satisfied that the applicable requirements of this part are met (or, upon the date on which the plan is to commence operations, will be met) with respect to the plan.

''(c) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—An association health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

''(d) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation for continued certification of association health plans under this part.

''(e) CLASS CERTIFICATION FOR FULLY INSURED PLANS.—The applicable authority shall establish a class certification procedure for association health plans under which all benefits consist of health insurance coverage. Under such procedure, the applicable authority shall provide for the granting of certification under this part to the plans in each class of such association health plans upon appropriate filing under such procedure in connection with plans in such class and payment of the prescribed fee under section 807(a).

''(f) CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—An association health plan which offers one or more benefit options which do not consist of health insurance coverage may be certified under this part only if such plan consists of any of the following:

''(1) a plan which offered such coverage on the date of the enactment of the Small Business Health Fairness Act of 2004,

''(2) a plan under which the sponsor does not restrict membership to one or more trades and businesses or industries and whose eligible participating employers represent a broad cross-section of trades and businesses or industries, or

''(3) a plan whose eligible participating employers represent one or more trades or businesses, or one or more industries, consisting of any of the following: agriculture; equipment and automobile dealerships; barbering and cosmetology; certified public accounting practices; child care; construction; dance, theatrical and orchestra productions; disinfecting and pest control; financial services; fishing; foodservice establishments; hospitals; labor organizations; logging; manufacturing (metals); mining; medical and dental practices; medical laboratories; professional consulting services; sanitary services; transportation (local and freight); warehousing; wholesaling/distributing; or any other trade or business or industry which has been indicated as having average or above-average risk or health claims experience by reason of State rate filings, denials of coverage, proposed premium rate levels, or other means demonstrated by such plan in accordance with regulations.

''SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

''(a) SPONSOR.—The requirements of this subsection are met with respect to an association health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

''(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to an association health plan if the following requirements are met:

''(1) FISCAL CONTROL.—The plan is operated, pursuant to a trust agreement, by a board of trustees which has complete fiscal control over the plan and which is responsible for all operations of the plan.

''(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

''(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

''(A) BOARD MEMBERSHIP.—

''(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

''(ii) LIMITATION.—

''(I) GENERAL RULE.—Except as provided in subclauses (II) and (III), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

''(II) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

''(III) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, subclause (I) shall not apply in the case of any service provider described in subclause (I) who is a provider of medical care under the plan.

''(iii) CERTAIN PLANS EXCLUDED.—Clause (i) shall not apply to an association health plan which is in existence on the date of the enactment of the Small Business Health Fairness Act of 2004.

''(B) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with a service provider to administer the day-to-day affairs of the plan.

''(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

''(1) the requirements of subsection (a) and section 801(a) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed

to be a member (of the association and the sponsor) referred to in section 801(b); and

''(2) the requirements of section 804(a)(1) shall be deemed met.

The Secretary may by regulation define for purposes of this subsection the terms 'franchiser', 'franchise network', and 'franchisee'.

''SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

''(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan—

''(1) each participating employer must be—

''(A) a member of the sponsor,

''(B) the sponsor, or

''(C) an affiliated member of the sponsor with respect to which the requirements of subsection (b) are met,

except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

''(2) all individuals commencing coverage under the plan after certification under this part must be—

''(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

''(B) the beneficiaries of individuals described in subparagraph (A).

''(b) COVERAGE OF PREVIOUSLY UNINSURED EMPLOYEES.—In the case of an association health plan in existence on the date of the enactment of the Small Business Health Fairness Act of 2004, an affiliated member of the sponsor of the plan may be offered coverage under the plan as a participating employer only if—

''(1) the affiliated member was an affiliated member on the date of certification under this part; or

''(2) during the 12-month period preceding the date of the offering of such coverage, the affiliated member has not maintained or contributed to a group health plan with respect to any of its employees who would otherwise be eligible to participate in such association health plan.

''(c) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to an association health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

''(d) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to an association health plan if—

''(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

''(2) upon request, any employer eligible to participate is furnished information regarding all coverage options available under the plan; and

''(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

''SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

''(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if the following requirements are met:

''(1) CONTENTS OF GOVERNING INSTRUMENTS.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

''(A) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A));

''(B) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)); and

''(C) incorporates the requirements of section 806.

''(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

''(A) The contribution rates for any participating small employer do not vary on the basis of any health status-related factor in relation to employees of such employer or their beneficiaries and do not vary on the basis of the type of business or industry in which such employer is engaged.

''(B) Nothing in this title or any other provision of law shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from—

''(i) setting contribution rates based on the claims experience of the plan; or

''(ii) varying contribution rates for small employers in a State to the extent that such rates could vary using the same methodology employed in such State for regulating premium rates in the small group market with respect to health insurance coverage offered in connection with bona fide associations (within the meaning of section 2791(d)(3) of the Public Health Service Act),

subject to the requirements of section 702(b) relating to contribution rates.

''(3) FLOOR FOR NUMBER OF COVERED INDIVIDUALS WITH RESPECT TO CERTAIN PLANS.—If any benefit option under the plan does not consist of health insurance coverage, the plan has as of the beginning of the plan year not fewer than 1,000 participants and beneficiaries.

''(4) MARKETING REQUIREMENTS.—

''(A) IN GENERAL.—If a benefit option which consists of health insurance coverage is offered under the plan, State-licensed insurance agents shall be used to distribute to small employers coverage which does not consist of health insurance coverage in a manner comparable to the manner in which such agents are used to distribute health insurance coverage.

''(B) STATE-LICENSED INSURANCE AGENTS.—For purposes of subparagraph (A), the term 'State-licensed insurance agents' means one or more agents who are licensed in a State and are subject to the laws of such State relating to licensure, qualification, testing, examination, and continuing education of persons authorized to offer, sell, or solicit health insurance coverage in such State.

''(5) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation.

''(b) ABILITY OF ASSOCIATION HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Subject to section 514(d), nothing in this part or any provision of State law (as defined in section 514(c)(1)) shall be construed to preclude an association health plan, or a health insurance issuer offering health insurance coverage in connection with an association health plan, from exercising its sole discretion in selecting the specific items and services consisting of medical care to be included as benefits under such plan or coverage, except (subject to section 514) in the case of (1) any law to the extent that it is not preempted under section 731(a)(1) with respect to matters governed by section 711, 712, or 713, or (2) any law of the State with which filing and approval of a policy type offered by the plan was initially obtained to the extent that such law prohibits an exclusion of a specific disease from such coverage.

''SEC. 806. MAINTENANCE OF RESERVES AND PROVISIONS FOR SOLVENCY FOR PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

''(a) IN GENERAL.—The requirements of this section are met with respect to an association health plan if—

''(1) the benefits under the plan consist solely of health insurance coverage; or

''(2) if the plan provides any additional benefit options which do not consist of health insurance coverage, the plan—

''(A) establishes and maintains reserves with respect to such additional benefit options, in amounts recommended by the qualified actuary, consisting of—

''(i) a reserve sufficient for unearned contributions;

''(ii) a reserve sufficient for benefit liabilities which have been incurred, which have not been satisfied, and for which risk of loss has not yet been transferred, and for expected administrative costs with respect to such benefit liabilities;

''(iii) a reserve sufficient for any other obligations of the plan; and

''(iv) a reserve sufficient for a margin of error and other fluctuations, taking into account the specific circumstances of the plan; and

''(B) establishes and maintains aggregate and specific excess /stop loss insurance and solvency indemnification, with respect to such additional benefit options for which risk of loss has not yet been transferred, as follows:

''(i) The plan shall secure aggregate excess /stop loss insurance for the plan with an attachment point which is not greater than 125 percent of expected gross annual claims. The applicable authority may by regulation provide for upward adjustments in the amount of such percentage in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

''(ii) The plan shall secure specific excess /stop loss insurance for the plan with an attachment point which is at least equal to an amount recommended by the plan's qualified actuary. The applicable authority may by regulation provide for adjustments in the amount of such insurance in specified circumstances in which the plan specifically provides for and maintains reserves in excess of the amounts required under subparagraph (A).

''(iii) The plan shall secure indemnification insurance for any claims which the plan is unable to satisfy by reason of a plan termination.

Any person issuing to a plan insurance described in clause (i), (ii), or (iii) of subparagraph (B) shall notify the Secretary of any

failure of premium payment meriting cancellation of the policy prior to undertaking such a cancellation. Any regulations prescribed by the applicable authority pursuant to clause (i) or (ii) of subparagraph (B) may allow for such adjustments in the required levels of excess /stop loss insurance as the qualified actuary may recommend, taking into account the specific circumstances of the plan.

''(b) MINIMUM SURPLUS IN ADDITION TO CLAIMS RESERVES.—In the case of any association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan establishes and maintains surplus in an amount at least equal to—

''(1) $500,000, or

''(2) such greater amount (but not greater than $2,000,000) as may be set forth in regulations prescribed by the applicable authority, considering the level of aggregate and specific excess /stop loss insurance provided with respect to such plan and other factors related to solvency risk, such as the plan's projected levels of participation or claims, the nature of the plan's liabilities, and the types of assets available to assure that such liabilities are met.

''(c) ADDITIONAL REQUIREMENTS.—In the case of any association health plan described in subsection (a)(2), the applicable authority may provide such additional requirements relating to reserves, excess /stop loss insurance, and indemnification insurance as the applicable authority considers appropriate. Such requirements may be provided by regulation with respect to any such plan or any class of such plans.

''(d) ADJUSTMENTS FOR EXCESS /STOP LOSS INSURANCE.—The applicable authority may provide for adjustments to the levels of reserves otherwise required under subsections (a) and (b) with respect to any plan or class of plans to take into account excess /stop loss insurance provided with respect to such plan or plans.

''(e) ALTERNATIVE MEANS OF COMPLIANCE.—The applicable authority may permit an association health plan described in subsection (a)(2) to substitute, for all or part of the requirements of this section (except subsection (a)(2)(B)(iii)), such security, guarantee, hold-harmless arrangement, or other financial arrangement as the applicable authority determines to be adequate to enable the plan to fully meet all its financial obligations on a timely basis and is otherwise no less protective of the interests of participants and beneficiaries than the requirements for which it is substituted. The applicable authority may take into account, for purposes of this subsection, evidence provided by the plan or sponsor which demonstrates an assumption of liability with respect to the plan. Such evidence may be in the form of a contract of indemnification, lien, bonding, insurance, letter of credit, recourse under applicable terms of the plan in the form of assessments of participating employers, security, or other financial arrangement.

''(f) MEASURES TO ENSURE CONTINUED PAYMENT OF BENEFITS BY CERTAIN PLANS IN DISTRESS.—

''(1) PAYMENTS BY CERTAIN PLANS TO ASSOCIATION HEALTH PLAN FUND.—

''(A) IN GENERAL.—In the case of an association health plan described in subsection (a)(2), the requirements of this subsection are met if the plan makes payments into the Association Health Plan Fund under this subparagraph when they are due. Such payments shall consist of annual payments in the amount of $5,000, and, in addition to such annual payments, such supplemental payments as the Secretary may determine to be necessary under paragraph (2). Payments under this paragraph are payable to the Fund at the time determined by the Secretary. Initial payments are due in advance of certification under this part. Payments shall continue to accrue until a plan's assets are distributed pursuant to a termination procedure.

''(B) PENALTIES FOR FAILURE TO MAKE PAYMENTS.—If any payment is not made by a plan when it is due, a late payment charge of not more than 100 percent of the payment which was not timely paid shall be payable by the plan to the Fund.

''(C) CONTINUED DUTY OF THE SECRETARY.—The Secretary shall not cease to carry out the provisions of paragraph (2) on account of the failure of a plan to pay any payment when due.

''(2) PAYMENTS BY SECRETARY TO CONTINUE EXCESS /STOP LOSS INSURANCE COVERAGE AND INDEMNIFICATION INSURANCE COVERAGE FOR CERTAIN PLANS.—In any case in which the applicable authority determines that there is, or that there is reason to believe that there will be: (A) a failure to take necessary corrective actions under section 809(a) with respect to an association health plan described in subsection (a)(2); or (B) a termination of such a plan under section 809(b) or 810(b)(8) (and, if the applicable authority is not the Secretary, certifies such determination to the Secretary), the Secretary shall determine the amounts necessary to make payments to an insurer (designated by the Secretary) to maintain in force excess /stop loss insurance coverage or indemnification insurance coverage for such plan, if the Secretary determines that there is a reasonable expectation that, without such payments, claims would not be satisfied by reason of termination of such coverage. The Secretary shall, to the extent provided in advance in appropriation Acts, pay such amounts so determined to the insurer designated by the Secretary.

''(3) ASSOCIATION HEALTH PLAN FUND.—

''(A) IN GENERAL.—There is established on the books of the Treasury a fund to be known as the 'Association Health Plan Fund'. The Fund shall be available for making payments pursuant to paragraph (2). The Fund shall be credited with payments received pursuant to paragraph (1)(A), penalties received pursuant to paragraph (1)(B); and earnings on investments of amounts of the Fund under subparagraph (B).

''(B) INVESTMENT.—Whenever the Secretary determines that the moneys of the fund are in excess of current needs, the Secretary may request the investment of such amounts as the Secretary determines advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

''(g) EXCESS /STOP LOSS INSURANCE.—For purposes of this section—

''(1) AGGREGATE EXCESS /STOP LOSS INSURANCE.—The term 'aggregate excess /stop loss insurance' means, in connection with an association health plan, a contract—

''(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation) provides for payment to the plan with respect to aggregate claims under the plan in excess of an amount or amounts specified in such contract;

''(B) which is guaranteed renewable; and

''(C) which allows for payment of premiums by any third party on behalf of the insured plan.

''(2) SPECIFIC EXCESS /STOP LOSS INSURANCE.—The term 'specific excess /stop loss insurance' means, in connection with an association health plan, a contract—

''(A) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation) provides for payment to the plan with respect to claims under the plan in connection with a covered individual in excess of an amount or amounts specified in such contract in connection with such covered individual;

''(B) which is guaranteed renewable; and

''(C) which allows for payment of premiums by any third party on behalf of the insured plan.

''(h) INDEMNIFICATION INSURANCE.—For purposes of this section, the term 'indemnification insurance' means, in connection with an association health plan, a contract—

''(1) under which an insurer (meeting such minimum standards as the applicable authority may prescribe by regulation) provides for payment to the plan with respect to claims under the plan which the plan is unable to satisfy by reason of a termination pursuant to section 809(b) (relating to mandatory termination);

''(2) which is guaranteed renewable and noncancellable for any reason (except as the applicable authority may prescribe by regulation); and

''(3) which allows for payment of premiums by any third party on behalf of the insured plan.

''(i) RESERVES.—For purposes of this section, the term 'reserves' means, in connection with an association health plan, plan assets which meet the fiduciary standards under part 4 and such additional requirements regarding liquidity as the applicable authority may prescribe by regulation.

''(j) SOLVENCY STANDARDS WORKING GROUP.—

''(1) IN GENERAL.—Within 90 days after the date of the enactment of the Small Business Health Fairness Act of 2004, the applicable authority shall establish a Solvency Standards Working Group. In prescribing the initial regulations under this section, the applicable authority shall take into account the recommendations of such Working Group.

''(2) MEMBERSHIP.—The Working Group shall consist of not more than 15 members appointed by the applicable authority. The applicable authority shall include among persons invited to membership on the Working Group at least one of each of the following:

''(A) a representative of the National Association of Insurance Commissioners;

''(B) a representative of the American Academy of Actuaries;

''(C) a representative of the State governments, or their interests;

''(D) a representative of existing self-insured arrangements, or their interests;

''(E) a representative of associations of the type referred to in section 801(b)(1), or their interests; and

''(F) a representative of multiemployer plans that are group health plans, or their interests.

"SEC. 807. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

''(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), an association health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to association health plans.

''(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority by regulation, at least the following information:

''(1) IDENTIFYING INFORMATION.—The names and addresses of—

''(A) the sponsor; and

''(B) the members of the board of trustees of the plan.

''(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

''(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

''(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

''(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan and contract administrators and other service providers.

''(6) FUNDING REPORT.—In the case of association health plans providing benefits options in addition to health insurance coverage, a report setting forth information with respect to such additional benefit options determined as of a date within the 120-day period ending with the date of the application, including the following:

''(A) RESERVES.—A statement, certified by the board of trustees of the plan, and a statement of actuarial opinion, signed by a qualified actuary, that all applicable requirements of section 806 are or will be met in accordance with regulations which the applicable authority shall prescribe.

''(B) ADEQUACY OF CONTRIBUTION RATES.—A statement of actuarial opinion, signed by a qualified actuary, which sets forth a description of the extent to which contribution rates are adequate to provide for the payment of all obligations and the maintenance of required reserves under the plan for the 12-month period beginning with such date within such 120-day period, taking into account the expected coverage and experience of the plan. If the contribution rates are not fully adequate, the statement of actuarial opinion shall indicate the extent to which the rates are inadequate and the changes needed to ensure adequacy.

''(C) CURRENT AND PROJECTED VALUE OF ASSETS AND LIABILITIES.—A statement of actuarial opinion signed by a qualified actuary, which sets forth the current value of the assets and liabilities accumulated under the plan and a projection of the assets, liabilities, income, and expenses of the plan for the 12-month period referred to in subparagraph (B). The income statement shall identify separately the plan's administrative expenses and claims.

''(D) COSTS OF COVERAGE TO BE CHARGED AND OTHER EXPENSES.—A statement of the costs of coverage to be charged, including an itemization of amounts for administration, reserves, and other expenses associated with the operation of the plan.

''(E) OTHER INFORMATION.—Any other information as may be determined by the applicable authority, by regulation, as necessary to carry out the purposes of this part.

''(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to an association health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which at least 25 percent of the participants and beneficiaries under the plan are located. For purposes of this subsection, an individual shall be considered to be located in the State in which a known address of such individual is located or in which such individual is employed.

''(d) NOTICE OF MATERIAL CHANGES.—In the case of any association health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation. The applicable authority may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

''(e) REPORTING REQUIREMENTS FOR CERTAIN ASSOCIATION HEALTH PLANS.—An association health plan certified under this part which provides benefit options in addition to health insurance coverage for such plan year shall meet the requirements of section 103 by filing an annual report under such section which shall include information described in subsection (b)(6) with respect to the plan year and, notwithstanding section 104(a)(1)(A), shall be filed with the applicable authority not later than 90 days after the close of the plan year (or on such later date as may be prescribed by the applicable authority). The applicable authority may require by regulation such interim reports as it considers appropriate.

''(f) ENGAGEMENT OF QUALIFIED ACTUARY.—The board of trustees of each association health plan which provides benefits options in addition to health insurance coverage and which is applying for certification under this part or is certified under this part shall engage, on behalf of all participants and beneficiaries, a qualified actuary who shall be responsible for the preparation of the materials comprising information necessary to be submitted by a qualified actuary under this part. The qualified actuary shall utilize such assumptions and techniques as are necessary to enable such actuary to form an opinion as to whether the contents of the matters reported under this part—

''(1) are in the aggregate reasonably related to the experience of the plan and to reasonable expectations; and

''(2) represent such actuary's best estimate of anticipated experience under the plan.

The opinion by the qualified actuary shall be made with respect to, and shall be made a part of, the annual report.

''SEC. 808. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

''Except as provided in section 809(b), an association health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees, not less than 60 days before the proposed termination date—

''(1) provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

''(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

''(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation.

''SEC. 809. CORRECTIVE ACTIONS AND MANDATORY TERMINATION.

''(a) ACTIONS TO AVOID DEPLETION OF RESERVES.—An association health plan which is certified under this part and which provides benefits other than health insurance coverage shall continue to meet the requirements of section 806, irrespective of whether such certification continues in effect. The board of trustees of such plan shall determine quarterly whether the requirements of section 806 are met. In any case in which the board determines that there is reason to believe that there is or will be a failure to meet such requirements, or the applicable authority makes such a determination and so notifies the board, the board shall immediately notify the qualified actuary engaged by the plan, and such actuary shall, not later than the end of the next following month, make such recommendations to the board for corrective action as the actuary determines necessary to ensure compliance with section 806. Not later than 30 days after receiving from the actuary recommendations for corrective actions, the board shall notify the applicable authority (in such form and manner as the applicable authority may prescribe by regulation) of such recommendations of the actuary for corrective action, together with a description of the actions (if any) that the board has taken or plans to take in response to such recommendations. The board shall thereafter report to the applicable authority, in such form and frequency as the applicable authority may specify to the board, regarding corrective action taken by the board until the requirements of section 806 are met.

''(b) MANDATORY TERMINATION.—In any case in which—

''(1) the applicable authority has been notified under subsection (a) (or by an issuer of excess /stop loss insurance or indemnity insurance pursuant to section 806(a)) of a failure of an association health plan which is or has been certified under this part and is described in section 806(a)(2) to meet the requirements of section 806 and has not been notified by the board of trustees of the plan that corrective action has restored compliance with such requirements; and

''(2) the applicable authority determines that there is a reasonable expectation that the plan will continue to fail to meet the requirements of section 806,

the board of trustees of the plan shall, at the direction of the applicable authority, terminate the plan and, in the course of the termination, take such actions as the applicable authority may require, including satisfying any claims referred to in section 806(a)(2)(B)(iii) and recovering for the plan any liability under subsection (a)(2)(B)(iii) or (e) of section 806, as necessary to ensure that the affairs of the plan will be, to the maximum extent possible, wound up in a manner which will result in timely provision of all benefits for which the plan is obligated.

''SEC. 810. TRUSTEESHIP BY THE SECRETARY OF INSOLVENT ASSOCIATION HEALTH PLANS PROVIDING HEALTH BENEFITS IN ADDITION TO HEALTH INSURANCE COVERAGE.

''(a) APPOINTMENT OF SECRETARY AS TRUSTEE FOR INSOLVENT PLANS.—Whenever the Secretary determines that an association health plan which is or has been certified under this part and which is described in section 806(a)(2) will be unable to provide benefits when due or is otherwise in a financially hazardous condition, as shall be defined by the Secretary by regulation, the Secretary shall, upon notice to the plan, apply to the appropriate United States district court for appointment of the Secretary as trustee to administer the plan for the duration of the insolvency. The plan may appear as a party and other interested persons may intervene in the proceedings at the discretion of the court. The court shall appoint such Secretary trustee if the court determines that the trusteeship is necessary to protect the interests of the participants and beneficiaries or providers of medical care or to avoid any unreasonable deterioration of the financial condition of the plan. The trusteeship of such Secretary shall continue until the conditions described in the first sentence of this subsection are remedied or the plan is terminated.

''(b) POWERS AS TRUSTEE.—The Secretary, upon appointment as trustee under subsection (a), shall have the power—

''(1) to do any act authorized by the plan, this title, or other applicable provisions of law to be done by the plan administrator or any trustee of the plan;

''(2) to require the transfer of all (or any part) of the assets and records of the plan to the Secretary as trustee;

''(3) to invest any assets of the plan which the Secretary holds in accordance with the provisions of the plan, regulations prescribed by the Secretary, and applicable provisions of law;

''(4) to require the sponsor, the plan administrator, any participating employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the Secretary as trustee may reasonably need in order to administer the plan;

''(5) to collect for the plan any amounts due the plan and to recover reasonable expenses of the trusteeship;

''(6) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan;

''(7) to issue, publish, or file such notices, statements, and reports as may be required by the Secretary by regulation or required by any order of the court;

''(8) to terminate the plan (or provide for its termination in accordance with section 809(b)) and liquidate the plan assets, to restore the plan to the responsibility of the sponsor, or to continue the trusteeship;

''(9) to provide for the enrollment of plan participants and beneficiaries under appropriate coverage options; and

''(10) to do such other acts as may be necessary to comply with this title or any order of the court and to protect the interests of plan participants and beneficiaries and providers of medical care.

''(c) NOTICE OF APPOINTMENT.—As soon as practicable after the Secretary's appointment as trustee, the Secretary shall give notice of such appointment to—

''(1) the sponsor and plan administrator;

''(2) each participant;

''(3) each participating employer; and

''(4) if applicable, each employee organization which, for purposes of collective bargaining, represents plan participants.

''(d) ADDITIONAL DUTIES.—Except to the extent inconsistent with the provisions of this title, or as may be otherwise ordered by the court, the Secretary, upon appointment as trustee under this section, shall be subject to the same duties as those of a trustee under section 704 of title 11, United States Code, and shall have the duties of a fiduciary for purposes of this title.

''(e) OTHER PROCEEDINGS.—An application by the Secretary under this subsection may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan.

''(f) JURISDICTION OF COURT.—

''(1) IN GENERAL.—Upon the filing of an application for the appointment as trustee or the issuance of a decree under this section, the court to which the application is made shall have exclusive jurisdiction of the plan involved and its property wherever located with the powers, to the extent consistent with the purposes of this section, of a court of the United States having jurisdiction over cases under chapter 11 of title 11, United States Code. Pending an adjudication under this section such court shall stay, and upon appointment by it of the Secretary as trustee, such court shall continue the stay of, any pending mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan, the sponsor, or property of such plan or sponsor, and any other suit against any receiver, conservator, or trustee of the plan, the sponsor, or property of the plan or sponsor. Pending such adjudication and upon the appointment by it of the Secretary as trustee, the court may stay any proceeding to enforce a lien against property of the plan or the sponsor or any other suit against the plan or the sponsor.

''(2) VENUE.—An action under this section may be brought in the judicial district where the sponsor or the plan administrator resides or does business or where any asset of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

''(g) PERSONNEL.—In accordance with regulations which shall be prescribed by the Secretary, the Secretary shall appoint, retain, and compensate accountants, actuaries, and other professional service personnel as may be necessary in connection with the Secretary's service as trustee under this section.

''SEC. 811. STATE ASSESSMENT AUTHORITY.

''(a) IN GENERAL.—Notwithstanding section 514, a State may impose by law a contribution tax on an association health plan described in section 806(a)(2), if the plan commenced operations in such State after the date of the enactment of the Small Business Health Fairness Act of 2004.

''(b) CONTRIBUTION TAX.—For purposes of this section, the term 'contribution tax' imposed by a State on an association health plan means any tax imposed by such State if—

''(1) such tax is computed by applying a rate to the amount of premiums or contributions, with respect to individuals covered under the plan who are residents of such State, which are received by the plan from participating employers located in such State or from such individuals;

''(2) the rate of such tax does not exceed the rate of any tax imposed by such State on premiums or contributions received by insurers or health maintenance organizations for health insurance coverage offered in such State in connection with a group health plan;

''(3) such tax is otherwise nondiscriminatory; and

''(4) the amount of any such tax assessed on the plan is reduced by the amount of any tax or assessment otherwise imposed by the State on premiums, contributions, or both received by insurers or health maintenance organizations for health insurance coverage, aggregate excess /stop loss insurance (as defined in section 806(g)(1)), specific excess /stop loss insurance (as defined in section 806(g)(2)), other insurance related to the provision of medical care under the plan, or any combination thereof provided by such insurers or health maintenance organizations in such State in connection with such plan.

''SEC. 812. DEFINITIONS AND RULES OF CONSTRUCTION.

''(a) DEFINITIONS.—For purposes of this part—

''(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

''(2) MEDICAL CARE.—The term 'medical care' has the meaning provided in section 733(a)(2).

''(3) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1).

''(4) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

''(5) APPLICABLE AUTHORITY.—The term 'applicable authority' means the Secretary, except that, in connection with any exercise of the Secretary's authority regarding which the Secretary is required under section 506(d) to consult with a State, such term means the Secretary, in consultation with such State.

''(6) HEALTH STATUS-RELATED FACTOR.—The term 'health status-related factor' has the meaning provided in section 733(d)(2).

''(7) INDIVIDUAL MARKET.—

''(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

''(B) TREATMENT OF VERY SMALL GROUPS.—

''(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

''(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

''(8) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with an association health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

''(9) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

''(10) QUALIFIED ACTUARY.—The term 'qualified actuary' means an individual who is a member of the American Academy of Actuaries.

''(11) AFFILIATED MEMBER.—The term 'affiliated member' means, in connection with a sponsor—

''(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor,

''(B) in the case of a sponsor with members which consist of associations, a person who is a member of any such association and elects an affiliated status with the sponsor, or

''(C) in the case of an association health plan in existence on the date of the enactment of the Small Business Health Fairness Act of 2004, a person eligible to be a member of the sponsor or one of its member associations.

''(12) LARGE EMPLOYER.—The term 'large employer' means, in connection with a group health plan with respect to a plan year, an employer who employed an average of at least 51 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year.

''(13) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, an employer who is not a large employer.

''(b) RULES OF CONSTRUCTION.—

''(1) EMPLOYERS AND EMPLOYEES.—For purposes of determining whether a plan, fund, or

program is an employee welfare benefit plan which is an association health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

''(A) in the case of a partnership, the term 'employer' (as defined in section 3(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section 3(6)) includes any partner in relation to the partnership; and

''(B) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

''(2) PLANS, FUNDS, AND PROGRAMS TREATED AS EMPLOYEE WELFARE BENEFIT PLANS.—In the case of any plan, fund, or program which was established or is maintained for the purpose of providing medical care (through the purchase of insurance or otherwise) for employees (or their dependents) covered thereunder and which demonstrates to the Secretary that all requirements for certification under this part would be met with respect to such plan, fund, or program if such plan, fund, or program were a group health plan, such plan, fund, or program shall be treated for purposes of this title as an employee welfare benefit plan on and after the date of such demonstration.''.

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of such Act (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

''(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of an association health plan which is certified under part 8.''.

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking ''Subsection (a)'' and inserting ''Subsections (a) and (d)'';

(B) in subsection (b)(5), by striking ''subsection (a)'' in subparagraph (A) and inserting ''subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805'', and by striking ''subsection (a)'' in subparagraph (B) and inserting ''subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805'';

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

''(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude, or have the effect of precluding, a health insurance issuer from offering health insurance coverage in connection with an association health plan which is certified under part 8.

''(2) Except as provided in paragraphs (4) and (5) of subsection (b) of this section—

''(A) In any case in which health insurance coverage of any policy type is offered under an association health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may preclude a health insurance issuer from offering health insurance coverage of the same policy type to other employers operating in the State which are eligible for coverage under such association health plan, whether or not such other employers are participating employers in such plan.

''(B) In any case in which health insurance coverage of any policy type is offered in a State under an association health plan certified under part 8 and the filing, with the applicable State authority (as defined in section 812(a)(9)), of the policy form in connection with such policy type is approved by such State authority, the provisions of this title shall supersede any and all laws of any other State in which health insurance coverage of such type is offered, insofar as they may preclude, upon the filing in the same form and manner of such policy form with the applicable State authority in such other State, the approval of the filing in such other State.

''(3) Nothing in subsection (b)(6)(E) or the preceding provisions of this subsection shall be construed, with respect to health insurance issuers or health insurance coverage, to supersede or impair the law of any State—

''(A) providing solvency standards or similar standards regarding the adequacy of insurer capital, surplus, reserves, or contributions, or

''(B) relating to prompt payment of claims.

''(4) For additional provisions relating to association health plans, see subsections (a)(2)(B) and (b) of section 805.

''(5) For purposes of this subsection, the term 'association health plan' has the meaning provided in section 801(a), and the terms 'health insurance coverage', 'participating employer', and 'health insurance issuer' have the meanings provided such terms in section 812, respectively.''.

(3) Section 514(b)(6)(A) of such Act (29 U.S.C. 1144(b)(6)(A)) is amended—

(A) in clause (i)(II), by striking ''and'' at the end;

(B) in clause (ii), by inserting ''and which does not provide medical care (within the meaning of section 733(a)(2)),'' after ''arrangement,'', and by striking ''title.'' and inserting ''title, and''; and

(C) by adding at the end the following new clause:

''(iii) subject to subparagraph (E), in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement and which provides medical care (within the meaning of section 733(a)(2)), any law of any State which regulates insurance may apply.''.

(4) Section 514(e) of such Act (as redesignated by paragraph (2)(C)) is amended—

(A) by striking ''Nothing'' and inserting ''(1) Except as provided in paragraph (2), nothing''; and

(B) by adding at the end the following new paragraph:

''(2) Nothing in any other provision of law enacted on or after the date of the enactment of the Small Business Health Fairness Act of 2004 shall be construed to alter, amend, modify, invalidate, impair, or supersede any provision of this title, except by specific cross-reference to the affected section.''.

(c) PLAN SPONSOR.—Section 3(16)(B) of such Act (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: ''Such term also includes a person serving as the sponsor of an association health plan under part 8.''.

(d) DISCLOSURE OF SOLVENCY PROTECTIONS RELATED TO SELF-INSURED AND FULLY INSURED OPTIONS UNDER ASSOCIATION HEALTH PLANS.—Section 102(b) of such Act (29 U.S.C. 102(b)) is amended by adding at the end the following: ''An association health plan shall include in its summary plan description, in connection with each benefit option, a description of the form of solvency or guarantee fund protection secured pursuant to this Act or applicable State law, if any.''.

(e) SAVINGS CLAUSE.—Section 731(c) of such Act is amended by inserting ''or part 8'' after ''this part''.

(f) REPORT TO THE CONGRESS REGARDING CERTIFICATION OF SELF-INSURED ASSOCIATION HEALTH PLANS.—Not later than January 1, 2009, the Secretary of Labor shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate the effect association health plans have had, if any, on reducing the number of uninsured individuals.

(g) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

''PART 8—RULES GOVERNING ASSOCIATION HEALTH PLANS

''801. Association health plans.
''802. Certification of association health plans.
''803. Requirements relating to sponsors and boards of trustees.
''804. Participation and coverage requirements.
''805. Other requirements relating to plan documents, contribution rates, and benefit options.
''806. Maintenance of reserves and provisions for solvency for plans providing health benefits in addition to health insurance coverage.
''807. Requirements for application and related requirements.
''808. Notice requirements for voluntary termination.
''809. Corrective actions and mandatory termination.
''810. Trusteeship by the Secretary of insolvent association health plans providing health benefits in addition to health insurance coverage.
''811. State assessment authority.
''812. Definitions and rules of construction.''.

SEC. 3. CLARIFICATION OF TREATMENT OF SINGLE EMPLOYER ARRANGEMENTS.

Section 3(40)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(40)(B)) is amended—

(1) in clause (i), by inserting after ''control group,'' the following: ''except that, in any case in which the benefit referred to in subparagraph (A) consists of medical care (as defined in section 812(a)(2)), two or more trades or businesses, whether or not incorporated, shall be deemed a single employer for any plan year of such plan, or any fiscal year of such other arrangement, if such trades or businesses are within the same control group during such year or at any time during the preceding 1-year period,'';

(2) in clause (iii), by striking ''(iii) the determination'' and inserting the following:

''(iii)(I) in any case in which the benefit referred to in subparagraph (A) consists of medical care (as defined in section 812(a)(2)), the determination of whether a trade or business is under 'common control' with another trade or business shall be determined under regulations of the Secretary applying principles consistent and coextensive with the principles applied in determining whether employees of two or more trades or businesses are treated as employed by a single employer under section 4001(b), except that, for purposes of this paragraph, an interest of greater than 25 percent may not be required as the minimum interest necessary for common control, or

''(II) in any other case, the determination'';

(3) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(4) by inserting after clause (iii) the following new clause:

''(iv) in any case in which the benefit referred to in subparagraph (A) consists of medical care (as defined in section 812(a)(2)), in determining, after the application of clause (i), whether benefits are provided to employees of two or more employers, the arrangement shall be treated as having only

one participating employer if, after the application of clause (i), the number of individuals who are employees and former employees of any one participating employer and who are covered under the arrangement is greater than 75 percent of the aggregate number of all individuals who are employees or former employees of participating employers and who are covered under the arrangement,''.

SEC. 4. ENFORCEMENT PROVISIONS RELATING TO ASSOCIATION HEALTH PLANS.

(a) CRIMINAL PENALTIES FOR CERTAIN WILLFUL MISREPRESENTATIONS.—Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

(1) by inserting ''(a)'' after ''Sec. 501.''; and

(2) by adding at the end the following new subsection:

''(b) Any person who willfully falsely represents, to any employee, any employee's beneficiary, any employer, the Secretary, or any State, a plan or other arrangement established or maintained for the purpose of offering or providing any benefit described in section 3(1) to employees or their beneficiaries as—

''(1) being an association health plan which has been certified under part 8;

''(2) having been established or maintained under or pursuant to one or more collective bargaining agreements which are reached pursuant to collective bargaining described in section 8(d) of the National Labor Relations Act (29 U.S.C. 158(d)) or paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152, paragraph Fourth) or which are reached pursuant to labor-management negotiations under similar provisions of State public employee relations laws; or

''(3) being a plan or arrangement described in section 3(40)(A)(i),

shall, upon conviction, be imprisoned not more than 5 years, be fined under title 18, United States Code, or both.''.

(b) CEASE ACTIVITIES ORDERS.—Section 502 of such Act (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

''(n) ASSOCIATION HEALTH PLAN CEASE AND DESIST ORDERS.—

''(1) IN GENERAL.—Subject to paragraph (2), upon application by the Secretary showing the operation, promotion, or marketing of an association health plan (or similar arrangement providing benefits consisting of medical care (as defined in section 733(a)(2))) that—

''(A) is not certified under part 8, is subject under section 514(b)(6) to the insurance laws of any State in which the plan or arrangement offers or provides benefits, and is not licensed, registered, or otherwise approved under the insurance laws of such State; or

''(B) is an association health plan certified under part 8 and is not operating in accordance with the requirements under part 8 for such certification,

a district court of the United States shall enter an order requiring that the plan or arrangement cease activities.

''(2) EXCEPTION.—Paragraph (1) shall not apply in the case of an association health plan or other arrangement if the plan or arrangement shows that—

''(A) all benefits under it referred to in paragraph (1) consist of health insurance coverage; and

''(B) with respect to each State in which the plan or arrangement offers or provides benefits, the plan or arrangement is operating in accordance with applicable State laws that are not superseded under section 514.

''(3) ADDITIONAL EQUITABLE RELIEF.—The court may grant such additional equitable relief, including any relief available under this title, as it deems necessary to protect the interests of the public and of persons having claims for benefits against the plan.''.

(c) RESPONSIBILITY FOR CLAIMS PROCEDURE.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting ''(a) IN GENERAL.—'' before ''In accordance'', and by adding at the end the following new subsection:

''(b) ASSOCIATION HEALTH PLANS.—The terms of each association health plan which is or has been certified under part 8 shall require the board of trustees or the named fiduciary (as applicable) to ensure that the requirements of this section are met in connection with claims filed under the plan.''.

SEC. 5. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

''(d) CONSULTATION WITH STATES WITH RESPECT TO ASSOCIATION HEALTH PLANS.—

''(1) AGREEMENTS WITH STATES.—The Secretary shall consult with the State recognized under paragraph (2) with respect to an association health plan regarding the exercise of—

''(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

''(B) the Secretary's authority to certify association health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

''(2) RECOGNITION OF PRIMARY DOMICILE STATE.—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular association health plan, as the State with which consultation is required. In carrying out this paragraph—

''(A) in the case of a plan which provides health insurance coverage (as defined in section 812(a)(3)), such State shall be the State with which filing and approval of a policy type offered by the plan was initially obtained, and

''(B) in any other case, the Secretary shall take into account the places of residence of the participants and beneficiaries under the plan and the State in which the trust is maintained.''.

SEC. 6. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by this Act shall take effect one year after the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this Act within one year after the date of the enactment of this Act.

(b) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 812(a)(5) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a) and 803(a) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of directors which—

(i) is elected by the participating employers, with each employer having one vote; and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement.

(2) DEFINITIONS.—For purposes of this subsection, the terms ''group health plan'', ''medical care'', and ''participating employer'' shall have the meanings provided in section 812 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an ''association health plan'' shall be deemed a reference to an arrangement referred to in this subsection.

The SPEAKER pro tempore. After 1 hour of debate on the bill, it shall be in order to consider the amendment printed in part B of House Report 108–484, if offered by the gentleman from Wisconsin (Mr. KIND), or his designee, which shall be considered read, and shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Ohio (Mr. BOEHNER) and the gentleman from New Jersey (Mr. ANDREWS) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4281.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the most pressing crisis we face in health care today is the number of Americans who lack basic health insurance benefits. It is a problem that can be illustrated by just a few numbers, so let us look at the facts.

The number of uninsured Americans today stands at 43.6 million. This problem is not going to go away, and I think we have a responsibility to confront it.

With health care costs continuing to rise sharply across the country, more and more employers and workers are sharing the burden of increased health care premiums. Employer-based health

insurance premiums jumped by 15 percent on average in 2003, the largest increase in a decade; and, for many small employers, those increases were far larger.

The second number is 60, which represents the percentage of these uninsured working Americans who either work for a small business or are dependent upon someone who does. Many of these Americans work for small employers who cannot afford to purchase quality health insurance benefits for their workers.

Notably, the Census Bureau statistics show that employer-sponsored health coverage has declined because small businesses with less than 25 workers have been forced to drop coverage because of the rising cost of health insurance.

□ 1345

The next number is $130 billion. Yes, that is right, $130 billion which represents the annual cost to the citizens of our country of the poor health and premature deaths of individuals without health insurance, according to a study released last year by the Institute of Medicine.

The implications of these numbers I think are tragic. Clearly, we need to focus on providing affordable health care to the uninsured, as well as to ensure employers who provide health benefits to their employees are not forced to drop their coverage because of rising premiums and high administrative costs.

The Small Business Health Fairness Act which we bring to the floor today responds to this problem and can help reduce the high cost of health insurance for small businesses and uninsured workers. By creating association health plans, which would strictly be regulated by the Labor Department, small businesses could pool their resources and increase their bargaining power with benefit providers, which would allow them to negotiate better rates and purchase quality health care for their employees at a lower cost.

President Bush addressed this point directly last year during a speech at the Women's Entrepreneurship Summit, and he said, ''Small businesses will be able to pool together and spread their risk across a large employee base. It makes no sense in America to isolate small businesses as little health care islands unto themselves. We must have association health plans.''

Well, the President is right, and we should help level this playing field so that small businesses can offer high-quality coverage to their employees.

Americans overwhelmingly agree with President Bush that AHPs are the right approach to helping the uninsured. A recent poll conducted in March reveals that 93 percent of Americans support association health plans as a way of providing access to affordable care for American workers who lack coverage. Media reports from the last few days reveal how large corporations are now starting to band together to provide health care insurance to their part-time workers. Do not small businesses and their workers deserve this same opportunity?

Importantly, the bill gives AHPs freedom from costly State mandates because small businesses deserve to be treated in the same fashion as large corporations and unions who receive the same type of an exemption. Clearly, these mandates are useless to families who have no health coverage in the first place. And if you do not have health coverage, State mandates requiring health mandates and specific benefits do you and your family no good at all. This measure includes, I believe, strong safeguards to protect workers.

Despite the bipartisan nature of this bill, some misinformation has been spread and I would like to correct it. This measure protects against cherry-picking because we make clear that AHPs must comply with the 1996 Health Insurance Portability and Accountability Act which prohibits group health plans from excluding or charging a higher rate to high-risk individuals with high claims experience. Under our bill, sick or high-risk groups or individuals cannot be denied coverage. In addition, AHPs cannot charge higher rates for employers with sicker individuals within the plan except to the extent already allowed by State law, based on where the employer is located.

The bill also contains strict requirements under which only bona fide professional and trade organizations can sponsor an association health plan and, therefore, does not allow ''sham association plans'' set up by health insurance companies. These organizations must be established for purposes other than providing health insurance and they have to be in business for at least 3 years.

Now, some may ask why we need to pass this bill again, especially after it passed with significant bipartisan support last year. We are here today because we want to remind the American people and uninsured working families that we are here working on their behalf. We have a bipartisan solution to help address the problem of the uninsured, and passing this bill again demonstrates our commitment to helping Americans without health insurance. The next step is for the other body across the Capitol to begin to deal with this bill in a serious way. On Tuesday of this week, the Senate Task Force on the Uninsured included association health plans amongst its proposals to address the needs of uninsured working Americans, so we remain hopeful.

We in Congress, I think, have a responsibility to deal with the problems of small businesses who cannot afford to provide health insurance because of skyrocketing health care costs and being stuck in small State insurance pools.

The United States economy is improving, and more and more employers are hiring workers each month. Last Friday, the Labor Department reported that 1.1 million new jobs have been created over the last 8 months, including 625,000 new net jobs over the last 2 months alone. We want to make sure that those new workers have opportunity to receive quality health insurance through their employer, and we believe that this bill can help make that happen.

Mr. Speaker, I reserve the balance of my time.

Mr. ANDREWS. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from California (Mr. GEORGE MILLER), the Democratic leader of our committee.

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding me this time and I thank him for all of his leadership on this legislation.

I was wondering why we were here today, but I guess we are here today to demonstrate that we are working on behalf of the American people. It is an interesting definition of work, that we are going to repeat something that we have already done earlier in the year that has already been completed, but we are going to go through it again, so you think we are working for you. I thought they called that featherbedding or something in the old days, when you looked like you were working but you were not working.

But anyway, what is interesting here is that once again we see the Republicans offering another piece of legislation that just continues an assault on middle-income Americans. They did it with overtime pay: cut it, will not let us consider it; comp time, ended; unemployment insurance assistance, terminated; job training, slashed; negotiations for cheaper prescription drugs, prohibited. When is it the middle class is going to get to win one with this Republican leadership in the Congress?

Now we come to this health care plan which is to basically give an offer to people of health care that is unregulated, that is opposed by all of the State Attorneys General and the National Governors Association and so many others who have experience with these plans in trying to make sure that people are not cheated out of the money that they pay and the benefits that are offered.

But they are not going to allow us to have the amendments that would substantially change this bill, because they do not want to vote on those amendments. They do not want to vote on amendments that would improve this legislation. That is unfortunate, because as they do continue their assault on the middle class, at least those of us 206 Members on the Democratic side ought to be able to reflect the voices of the people that we represent. We ought to be able to offer the amendments to provide for their protection and for their expanded health care, but that is not the way they run the House nowadays. Nowadays you either have to take their idea or no idea.

And that is just unacceptable when we are considering a problem as complicated and with the absolute sense of urgency that the Nation has about health care.

So this is very unfortunate, that we would take these 4 hours that we will probably consume on this legislation and simply go through a charade that was already acted out in the House of Representatives last year in this Congress. The Senate can consider it anytime they want. But we are going to go through this charade rather than allowing amendments that could be offered to substantially improve this legislation, amendments much like the effort we made yesterday on overtime, to offer a chance to vote on overtime, we would prevail on a bipartisan basis, but the Republicans are so concerned that they would rather choke off the debate and not allow those amendments to take place.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Texas (Mr. SAM JOHNSON), the chairman of the Subcommittee on Employer-Employee Relations.

Mr. SAM JOHNSON of Texas. Mr. Speaker, as the House moves forward with its competitiveness agenda to make America's businesses more attractive and efficient, it is imperative that we help the backbone of our economy: small business.

Health care costs are rising at a rate of 15 percent annually, and double that for many small businesses. What is astounding is that according to the Congressional Budget Office, for each percentage point rise in health insurance costs, the number of uninsured increases by 300,000. That is a terrible ratio.

Since this trend shows no sign of slowing, it means we need to act now. By allowing small businesses to band together in trade associations, this bill will give small businesses access to more affordable health care, give them freedom from costly State-mandated benefit requirements, and lower their administrative costs by as much as 30 percent.

Some critics of the bill say there will be a loss in consumer protection because AHPs exempt small business from burdensome State mandates such as covering in vitro fertilization. Obviously, these mandates just cost the States more money. Large employers and unions have been exempt from State mandates since 1974, and they continue to offer fantastic coverage to working families. We ought to act now to help small businesses enjoy that same privilege or they will not be able to offer any health coverage to employees and their family members.

In my home State of Texas, a shocking 27 percent of all employed or self-employed adults are uninsured, according to a recent study. The facts are clear and the facts demand action.

An overwhelming majority of small businesses agree that AHPs are the right solution. This bill has the support of NFIB, the Associated Builders and Contractors, the U.S. Chamber of Commerce, and many others. I would like to be sure and thank my good friend, the gentleman from Ohio (Mr. BOEHNER), and other cosponsors of this legislation: the gentleman from Georgia (Mr. BURNS), the gentlewoman from New York (Ms. VELÁZQUEZ), and the gentleman from California (Mr. DOOLEY). They have shown their commitment to small business employees and their families by supporting this legislation, and I commend them for it.

This bill gets to the heart of health care reform. Let us just do it.

Mr. ANDREWS. Mr. Speaker, I yield myself such time as I may consume.

(Mr. ANDREWS asked and was given permission to revise and extend his remarks.)

Mr. ANDREWS. Mr. Speaker, I rise in strong opposition to this bill. My friend, the chairman, went through a series of numbers about this bill a few minutes ago, and I would respectfully suggest that he got some numbers wrong.

I think the most important numbers about this bill are 1 million, zero, and 50. There will be an addition of 1 million people to the roll of the uninsured should this bill become law, and here is why. The chairman argues that the provisions of this bill would limit the ability of association health plans to choose only the youngest and the most healthy would be affected. I think the evidence is strongly to the contrary. I think there are loopholes in this law that are wide enough to drive an ambulance through that would allow association health plans to refuse to insure, or raise the premiums to insure people who are older or more infirm.

Mercer & Associates, a respected, nonpartisan study group on health care is the source of this number. They believe that when we add up the number of people who will gain health insurance as a result of AHPs and we subtract from that that number of people who will lose health insurance because of rising premiums in plans that are more traditional, that we will add 1 million people to the ranks of the uninsured.

The second number is zero. That is the number of consumer protections that the law will guarantee if this bill became law. Legislators across this country, Republican and Democrat, have fought for the right of women to have guaranteed mammograms and OB–GYN care, the right of people dealing with the difficulties of substance abuse or mental health problems to have guaranteed coverage, the right of couples who wish to have children to have infertility coverage, the rights for diabetic care, for mental health care. These are rights that people have fought for and won in State legislatures across the country. Every single one of those protections is repealed should this bill become law. There will be zero consumer protections guaranteed to our constituents should this happen.

□ 1400

The final number that we should take into consideration is 50 because that is the number of State Attorneys General who oppose this bill. That is the number of insurance commissioners, Republican and Democrat, who oppose this bill. The National Governors Association, Republicans, Democrats and Independents across the country oppose this bill.

Mr. Speaker, it is customary on the floor of the House for us to have our partisan differences, that happens; but do not listen to the partisan differences here. Listen to the experts of both parties who spent their careers out in the several States regulating health care. Republican Governors and Democratic Governors, Republican Attorneys General and Democratic Attorneys General, Republican insurance commissioners and Democratic insurance commissioners oppose this bill because it opens the door for the possibility of fraud and loss in these plans.

There is a better way; and later this afternoon my friend, the gentleman from Wisconsin (Mr. KIND), and I will be offering a plan which truly will reduce premiums for small businesses, which truly will expand health care opportunities for the uninsured and will do so without risking or jeopardizing the important protections that people presently enjoy under the law.

I would urge my colleagues to oppose this bill, to support our substitute.

Mr. Speaker, I reserve the balance of my time.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Hickory, North Carolina (Mr. BALLENGER), a senior member of our committee.

Mr. BALLENGER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I am a small business owner, and I know the burden that rising health care costs are having on small companies across America. My health insurance costs in my company have skyrocketed over the past few years, and I know that other small U.S. firms are experiencing the same burden. In my particular case, over the last 10 years my sales have doubled, but my health care costs have gone up by 450 percent.

When I first started my business, we could cover the full cost of an employee's medical insurance; but even with growing sales, we have not been able to keep pace with the ever-increasing cost of medical premiums, and I hear this same story over and over again from other small business owners in my district.

Like me, most employers care deeply about their employees and want to give them access to quality health care. Unfortunately, soaring costs have forced many small businesses to shift their health insurance costs to the employees, to drop health care coverage or to close up shop altogether.

Considering that more than half of the uninsured are small business employees and their dependents, this is nothing short of a tragedy. We must act to help small businesses which are at the mercy of the insurance companies. They simply do not have the bargaining power or resources needed to get the best deal.

That is why I am a strong supporter of the Small Business Health Fairness Act. This bill allows small businesses to pool their resources into association health plans, giving them purchasing clout and power to do what they do not have today. AHPs will allow small businesses to negotiate better rates and purchase better plans at a lower cost. It is good for small employers. It is good for employees.

Now, we know the problem of the uninsured will not got away with this bill, but it will help small employers and millions of their employees and their dependents to gain access to quality care; and it may help prevent some companies from dropping their health care plans altogether.

I strongly urge my colleagues to support this employer- and employee-friendly bill, and I thank the gentleman for yielding me the time.

Mr. ANDREWS. Mr. Speaker, I yield 2½ minutes to the gentleman from Maryland (Mr. VAN HOLLEN), one of our Members who has extensive experience as a State legislator in achievement in this area.

Mr. VAN HOLLEN. Mr. Speaker, I thank my colleague for yielding me the time, and I want to thank him for all his work on this issue.

As the chairman of the committee said at the beginning of his remarks, we have 43.6 million Americans who have no health insurance today. Now, the Congressional Budget Office tells us that the associated health plan approach might cover 550,000 of them, less than 1 percent of the insured. If that were the end of the story, we might say, okay, does not do much, but it is better than nothing.

The problem is it is not better than nothing because it violates the first principle in medicine, which is first do no harm, because the Congressional Budget Office also tells us that 7.9 million Americans who currently are covered will get worse coverage or pay more as a result of the actions taken in this bill.

Mercer Consultants has said that 1 million Americans will lose their coverage. Do the math. Clearly, it is a lousy bargain. Much more harm, very, very little benefit, and that is because associated health plans, by design, eliminate many of the protections that are currently provided through State legislatures around the country for our consumers: basic commonsense rules of the road, like the right to external review if a person's insurance claim is denied; direct access for women to OB/GYNs; access to emergency room treatment; a prohibition against gag orders on doctors. In fact, these basic patient protections are so fundamental, they have been adopted in a bipartisan manner by this House before. When this House passed a Patients' Bill of Rights, it was going to apply those rights to ERISA plans and the other plans. Why not do the same thing today?

Well, my colleague, the gentleman from Massachusetts (Mr. TIERNEY), and I just the other day went to the Committee on Rules and said let us have an amendment here on the floor of the House that guarantees those patients the same protections this House, in a bipartisan manner, guaranteed them a number of years ago. We were not even allowed a vote on that very simple amendment. Why is the other side afraid of a vote on providing patients the very same rights that this House has already provided those patients?

Let me just say that if my colleagues ask State legislators and Governors from around this country whether they are for or against this, we have heard the National Governors Association is against this. In fact, my Governor, the Governor of the State of Maryland, a Republican Governor, one of our former colleagues, Governor Ehrlich, has written to the Maryland congressional delegation and said please do not pass this bill because it will interfere with a primary piece of legislation that was passed in the State of Maryland to provide for small group insurance benefits, and small employers throughout the State of Maryland are taking advantage of it. This would undercut it.

There is a better alternative. We are going to be debating that later. We are not saying we do not have any proposal out here. We have a much better proposal.

I urge my colleagues to reject this idea and later adopt the substitute.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 1 minute to my colleague, the gentleman from Ohio (Mr. GILLMOR).

(Mr. GILLMOR asked and was given permission to revise and extend his remarks.)

Mr. GILLMOR. Mr. Speaker, I thank the chairman for yielding me the time.

Mr. Speaker, I rise in support of H.R. 4281. This bill will open the door to nearly 41 million Americans that are currently without health care coverage. Providing small businesses with an opportunity to offer their employees affordable health care access is essential in promoting not only the physical health of the American workforce but also the overall economic health of the United States.

The American economy has always been driven by the entrepreneurial nature of its citizens, and blocking access to affordable health care will only suffocate growth within the small business sector of our economy. Recently, I had the honor of addressing a group of small business owners from my northwest Ohio district at an NFIB regional luncheon, and the most common concern I heard from them was their inability to secure affordable health care for themselves and their employees.

This piece of legislation provides a real solution to one of the major problems plaguing our business and health care industries, and I urge its support.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). Would Members please remove their electronic devices from the floor or turn them off.

Mr. ANDREWS. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Michigan (Mr. DINGELL), the senior Member and the dean of the House of Representatives, my very dear friend.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, I rise in opposition to the legislation and to applaud the efforts of my good friend and colleague from New Jersey and his opposition to it.

This legislation is bad. It is going to encourage cherry-picking and cream-skimming. It is going to create a bunch of plans that are going to be exempt from State regulation. It is going to actually reduce the quality of care available, the quality of health insurance available, and also the amount of insurance available and the people who will be covered.

More than 1,000 organizations oppose AHPs: the National Governors, Republicans and Democrats alike; the National Association of Insurance Commissioners who say that it is going to encourage cherry-picking and cream-skimming; the National Association of Attorneys General, Republicans and Democrats alike; the American Academy of Pediatrics; the Consumers Union; and Families USA, plus many others.

What it is going to do is to actually undermine the current employer-sponsored market. As I mentioned, it will encourage cherry-picking of healthier and younger populations because they will be permitted to cover specific types of employers and thus establish a special new, separate market and will be a market where it will not cover many people, who will find that the difficulties in procuring insurance will be more difficult because of this.

The Congressional Budget Office tells us that AHPs will cut benefits for 8 million Americans who now have coverage. That alone is argument enough to defeat this legislation. Additionally, CBO determined that AHPs will only increase enrollment in employer-sponsored coverage by 330,000 people.

A Mercer study commissioned by the National Small Business Association found that AHPs would cause the uninsured to grow by better than 1 million. That, again, should be warning enough.

At a time when 43 million of our people are uninsured, AHPs will simply move us backwards. I urge us to defeat this legislation. It is bad. It is not in the interest of the country. Everybody who is responsible for dealing with insurance has said this is bad legislation. Reject it.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

With all due respect to my good friend from Michigan, I think what we see here at the central issue of this debate is a basic distrust of the private sector. Now, two-thirds of the American people get their health insurance through their employer. We have an employer-based system in America, and it has worked very well; and some of the best coverage and the most high-quality health plans are offered by employers to their employees.

Today, both employers, and increasingly employees, are paying for the cost of those plans. What we are attempting to do here is to give small businesses who do not have big purchasing power in the marketplace the ability to join together and to offer the same kinds of plans that large companies and unions offer to their employees and members, give those small employers and their employees the same opportunity.

Plain and simple.

Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN), a member of the committee.

Mrs. BLACKBURN. Mr. Speaker, I thank the chairman for his excellent work on this issue for our Nation's small businesses.

We know that those small businesses fuel this economic growth in our country, and we appreciate their efforts; and we know that our small business employees are being burdened paying on average 17 percent more for their health benefits than their counterparts at large companies.

I recently held a small business health care roundtable in my district and talked with these small business employers about their desire to make better health benefits available to their employees and still stay competitive. This legislation is an opportunity that Congress has to help bring about that affordable health care to millions of employees.

AHPs would save the typical small business owner between 15 and 30 percent on health insurance and help make that coverage available. As our chairman said, too often regulations and mandates add to the cost burden.

Current law exempts large employers and unions from State mandates so that they are able to offer quality benefits across State lines. The Small Business Health Fairness Act will give that same opportunity to our small businesses in this country.

This is a benefit that will help them to be competitive in the world market. It is bipartisan legislation. It passed overwhelmingly last year, and I urge all of my colleagues to support this commonsense legislation for our Nation's small businesses.

Mr. ANDREWS. Mr. Speaker, I yield myself 15 seconds.

My friend said that the opposition is evidence of distrust of the private sector. It is odd, because 66 local chambers of commerce have mounted an objection to the bill and the Republican Governors Association. I guess they share our distrust for the private sector.

Mr. Speaker, I am submitting a list of over 1,050 organizations that oppose this bill for the RECORD.

ORGANIZATIONS AND PUBLIC OFFICIALS OPPOSED TO FEDERAL AHP LEGISLATION, APRIL 23, 2004

Over 1,050 Organizations Have Expressed Opposition:

STATE OFFICIALS

National Groups

National Governors Association
Republican Governors Association
Democratic Governors Association
Attorneys General Representing 41 States
National Association of Insurance Commissioners
National Association of State Mental Health Program Directors
National Conference of Insurance Legislators
National Conference of State Legislatures

CHAMBERS OF COMMERCE

Albuquerque (NM) Chamber
Arapahoe Chamber of Commerce (Nebraska)
Ashland Chamber of Commerce (Nebraska)
Black Chamber of Commerce of Greater Kansas City
Blanding Chamber of Commerce (Utah)
Bloomfield Chamber of Commerce (Nebraska)
Boise Metro Chamber of Commerce (Idaho)
Boston Chamber
Broken Bow Chamber of Commerce (Nebraska)
Buffalo-Niagara Partnership (New York)
Carey Area Chamber of Commerce (Ohio)
Cherry Creek Chamber (Colorado)
Colorado Black Chamber of Commerce
Colorado Hispanic Chamber of Commerce
Council of Smaller Enterprises/Greater Cleveland Growth Association (COSE)
Denver Metro
Detroit
Draper Chamber of Commerce (Utah)
Duchesne Chamber of Commerce (Utah)
Evans Chamber of Commerce (Colorado)
Florence, Colorado
Grand Raids Area Chamber of Commerce
Greater Akron Chamber (Ohio)
Greater Cincinnati Chamber
Greater Columbus Chamber (Ohio)
Greater Des Moines Partnership (Iowa)
Greater Indianapolis Chamber (Indiana)
Greater Louisville, Inc. (Louisville, Kentucky Chamber of Commerce)
Greater Manchester, New Hampshire
Greater North Dakota Association
Greater Seattle Chamber
Heber Valley Economic Development (Utah)
Herington Chamber of Commerce (Kansas)
Hiawatha Chamber of Commerce (Kansas)
Holton Area Chamber of Commerce (Kansas)
Lake City Chamber of Commerce (Colorado)
Lansing Regional Chamber (Michigan)
Lehi Chamber of Commerce (Utah)
Merrimack Valley Chamber of Commerce
Metro Jackson, Mississippi
Michigan Chamber of Commerce
Midvale Chamber of Commerce (Utah)
New Hampshire Business and Industry Association
North Central Massachusetts Chamber of Commerce
North Park Chamber (Colorado)
Northern Kentucky Chamber of Commerce
Northern Ohio Chamber of Commerce
Oklahoma City
Oklahoma State
Oregon Association of Industries (Oregon State Chamber of Commerce)
Palisade Chamber (Colorado)
Paola Chamber of Commerce (Kansas)
Ravenna Area Chamber of Commerce (Ohio)
Salem Economic Development (Utah)
Saratoga County Chamber of Commerce (New York)
Spanish Fork Area Chamber of Commerce (Utah)
Springfield Chamber of Commerce (Colorado)
Springville Area Chamber of Commerce (Utah)
Tacoma-Pierce County Chamber of Commerce
Toledo Area Chamber of Commerce
Tulsa, Oklahoma
Washington State (Association of Washington Business)
West Jordan Chamber (Utah)
Woodson County Chamber of Commerce (Kansas)
Worland Chamber of Commerce (Wyoming)
Youngstown-Warren Chamber (Ohio)

FARM BUREAUS:

Alabama Farmers Association (ALFA)
Mississippi Farm Bureau
Tennessee Farm Bureau Federation—Tennessee Rural Health
Virginia Farm Bureau

SMALL BUSINESS ASSOCIATIONS

Alaska Coalition of Small Business
Arizona Small Business Association
4D Industries (Oregon)
Indiana Association of Community and Economic Development
Indiana Manufacturers' Association
Fargo-Moorhead Homebuilders' Association
Ohio/Kentucky Concrete Pavement Association
National Small Business Association (Represents over 150,000 small businesses nationwide)
New England Council
New Hampshire Business Council
New Hampshire High Tech Council
Oregon Business Alliance
Professional Musicians Of Arizona
Rhode Island Small Business Association
SMC Business Councils (Pennsylvania)
Santaquin Economic Development Agency (Utah)
Small Business Association of Michigan
Utah Small Business Development Center—Utah Valley State College

LABOR UNIONS

AFL-CIO—American Federation of Labor and Congress of Industrial Organizations

With additional letters from: Alabama AFL-CIO, Alaska AFL-CIO, Arkansas AFL-CIO, Arizona AFL-CIO, California AFL-CIO, Indiana AFL-CIO, Kansas AFL-CIO, Louisiana AFL-CIO, Maine AFL-CIO, Minnesota AFL-CIO, Missouri AFL-CIO, Montana State AFL-CIO, Nebraska AFL-CIO, Nevada State AFL-CIO, New Mexico Federation of Labor, North Carolina State AFL-CIO, Northern Nevada Central Labor Council, Nevada State AFL-CIO, District 2, Ohio AFL-CIO, Oregon AFL-CIO, Rhode Island AFL-CIO, Southern Nevada Central Labor Council, Nevada State AFL-CIO, District 3, Tennessee Labor Council, Utah State AFL-CIO, Virginia AFL-CIO, Washington State Labor Council

Alabama Education Retirees Association
Alabama Retired State Employees Association
Alabama Teacher's Union (AEA)
American Federation of State, County and Municipal Employees (AFSCME)

With additional letters from: Alabama, Colorado, Indiana, Kansas Council 72 (Local 1715—Chapter 3371), Louisiana AFSCME Council 17, Nebraska, New Mexico, Ohio AFSCME United, AFSCME Local 4, AFSCME Council 8, Ohio Local 11 OCSEA, AFSCME Local 11, Rhode Island Council 94, Utah Local 1004, Virginia Local 27

American Federation of Teachers (AFT)

With additional letters from: Albuquerque, New Mexico Federation of Teachers, Arkansas Federation of Teachers, Colorado Federation of Teachers, Kansas Southwest and Mountain States Region for the AFT, Louisiana Federation of Teachers, Oregon Federation of Teachers, Rapides (Louisiana), Utah American Federation of Teachers

Atlanta Labor Council
Boilermaker's Lodge 101 (Colorado)
Cement Masons Local 577 (Colorado)
Central Georgia Federation of Trades and Labor Council
Colorado Federation of Public Employees
International Brotherhood of Electrical Workers (IBEW)

With additional letters from: Cleveland, Ohio Local 1377, Dayton, Ohio Local 82, Kansas Local 304, Milan, Ohio Local 1194, Oak Harbor, Ohio Local 1432, Ohio Local 2331, Oregon

International Union, United Auto Workers (UAW)

With additional letters from: Indiana UAW—Region 3 (Indiana and Kentucky), Kansas Local 31

International Union of Bricklayers and Allied Craftworkers
Kansas Association of Public Employees
Kansas Postal Workers Union
Labor Federation of Central Kansas
Laborers' International Union—Local 149—Aurora, Illinois
Maine Teacher's Union/Maine Educational Association
Middle Georgia Central Labor Council
Missouri Steelworkers Union
Montana Progressive Labor Caucus
National Education Association—Rhode Island
Nebraska State Education Association
Ocean State Action (AFT—Rhode Island)
Ohio AFSCME Retiree Chapter 1184
Ohio Association of Public School Employees
Oregon Federation of Nurses
Paper Allied-Industrial, Chemical and Energy Workers International Union (PACE)
Providence (Rhode Island) Central Federation of Labor
Service Employees International Union (SEIU)

With additional letters from: Alabama, Arkansas, Colorado, Georgia, Local 1985, Kansas, Missouri, Local 2000, New Hampshire, Local 1984, Ohio, District 1199, Oregon, Local 503, Rhode Island, Washington

Shipbuilders and Boilermakers International Union—Virginia Chapter
Teamsters Union—Maine
Teamsters' 190—Montana
Teamsters Local 407—Ohio
United Food and Commercial Workers Union—Nebraska (Local 22)
United Food and Commercial Workers Union—Washington
United Teachers of Wichita, Kansas
United Transportation Union—Louisiana

CONSUMER/ADVOCACY GROUPS

National Groups

Alliance for Children and Families
American Agricultural Movement, Inc.
American Association of Pastoral Counselors
American Association of People with Disabilities
American Association of University Women—Oregon Chapter
American Cancer Society
American Congress of Community Supports and Employment Services
American Corn Growers Association
American Diabetes Association

With additional letters from: Alabama Chapter, Arkansas Chapter, Central Ohio Chapter, Cleveland Ohio Chapter, Colorado Chapter, Indiana Chapter, Kansas Chapter, Louisiana Chapter, Maine Chapter, Minnesota Chapter, Montana Chapter, Nebraska Chapter, Nevada Chapter, New Hampshire Chapter, New Mexico Chapter, North Carolina Chapter, Northeast Ohio Chapter, Oregon Chapter, Utah Chapter, Seattle, Washington Chapter, Southwest Ohio & Northern Kentucky Chapter, Washington Chapter

American Family Foundation
American Homeowners Grassroots Alliance
Americans for a Balanced Budget
Anxiety Disorders Association of America
Association for the Advancement of Psychology
Bazelon Center for Mental Health Law
Center on Disability and Health
Child Welfare League of America
Children & Adults with Attention-Deficit/Hyperactivity Disorder

With additional letters from: Ohio Chapter

Children's Defense Fund—With additional letters from: Ohio Chapter

Coalition Against Insurance Fraud
Consumer Federation of America
Consumers Union
Depression and Bipolar Support Alliance

With additional letters from: Depression and Bi-Polar Support Alliance of Ohio, Depression and Bi-Polar Support Alliance of Columbus, Ohio, Depression and Bi-Polar Support Alliance of Dayton, Ohio, Depression and Bi-Polar Support Alliance of Medina, Ohio

Families USA
Federation of Families for Children's Mental Health
Federation of Southern Cooperatives
Friends Committee on National Legislation
International Certification and Reciprocity Consortium
League of United Latin American Citizens (LULAC)—With additional letters from: Arkansas Chapter
Maternal and Child Health Coalition for Healthy Families
National Alliance for the Mentally Ill

With additional letters from: Arkansas Chapter, Colorado Chapter, Georgia Chapter, Kansas Chapter, Louisiana Chapter, Maine Chapter, Montana Chapter, Nebraska Chapter, New Hampshire Chapter, New Mexico Chapter, North Carolina Chapter.

Ohio Chapter: Allen, Auglaize & Hardin Counties, Adams County, Butler County, Clark County, Clermont County, Cleveland Metro, Fairfield County, Franklin County, Licking County, Logan & Champaign County, Richland County, Ross/Pickaway Counties, Seneca, Sandusky and Wyandot Counties, Stark County, Warren County.

Oregon Chapter, Rhode Island Chapter, St. Louis Chapter, Utah Chapter, Washington Chapter

National Association for Children's Behavioral Health
National Association for Rural Mental Health
National Association for the Advancement of Colored People (NAACP) North Carolina Chapter
National Association of Anorexia Nervosa and Associated Disorders
National Association of Farmer Elected Committees
National Association of Protection and Advocacy Systems
National Coalition for the Homeless
National Council of La Raza
National Farmers Organization
National Foundation for Depressive Illness
National Mental Health Association

With additional letters from: California Chapter, Colorado Chapter, Franklin County (Ohio), Georgia Chapter, Greater St. Louis Chapter (Missouri), Illinois Chapter, Indiana Chapter, Knox County (Ohio), Licking County (Ohio), Louisiana Chapter, Lucas County (Ohio), Miami County (Ohio), Minnesota Chapter, Montana Chapter, New Mexico Chapter, Nebraska Chapter, North Carolina, Oregon Chapter (Mental Health Association of Oregon—MHAO), Ottawa County (Ohio), Stillwater-Sweetgrass Counties (Montana), Summit County (Ohio), Union County (Ohio), Utah Chapter, Wyoming Chapter

National Partnership for Women & Families
National Patient Advocate Foundation
Planned Parenthood Federation of America
Research Institute for Independent Living
Soybean Producers of America
Suicide Prevention Action Network
Tourette Syndrome Association
United Cerebral Palsy Association
USAction
Women Involved in Farm Economics

Local Groups

9 to 5 National Working Women's Association (Colorado)
AIDS Alliance Service (North Carolina)
AIDS Prevention ACTION Network (California)
AIDS Project Rhode Island
AIDS Response Seacoast—New Hampshire
AIDS Survival Project (Georgia)
ARC of Alabama
ARC of Colorado
ARC of Indiana
ARC of Norfolk, Nebraska
ARC of Ohio
ARC of Oregon
ARC of Utah
Access Utah Network
Adoption Options (Colorado)
Advocacy Coalition of Seniors and People with Disabilities (Oregon)
Alabama Council on Substance Abuse
Alabama Watch
Alaskans for Tax Reform
Alliance Against Family Violence (Kansas)
Allies With Families (Utah)
American Agricultural Movement of Arkansas, Inc.
American Association of University Women—Oregon Chapter
American Lung Association—Alaska Chapter
American Lung Association—Colorado Chapter
Arkansas Interfaith Conference
Arizona Association of Community Mental Health Centers
Assistive Technology Through Action in Indiana (ATTAIN)
Association of Community Organizations for Reform Now (California)
Bethpage Omaha (Nebraska)
Best Buddies International—Indiana Chapter
Big Brother and Big Sister—Illinois
Bosom Buddies of Georgia, Inc.
Brain Injury Association of Colorado
Brain Injury Association of Utah
Buckeye Art Therapy Association of Ohio
California Coalition for Mental Health
California Pan-Ethnic Health Network
Campaign for Better Health Care (Illinois)
Campaign for Health Security (Oregon)
Cancer World (Oregon)
Catholic Charities of Colorado
Catholic Charities of Colorado Springs
Catholic Charities of Omaha, Nebraska
Catholic Charities Pueblo (Colorado)
Catholic Community Services of Utah
Catholic Conference of Kentucky
Center for Policy Analysis (California)
Central Ohio Diabetes Association
Centro Legal (Minnesota Minority Support Group)
Child Connect (Nebraska)
Children's Defense Fund—Ohio Chapter
Children's Diabetes Foundation—Denver Chapter

Children's First of Oregon
Citizen Action of Arizona
Citizen Action of Illinois
Citizen Action of New York
Citizen Action Network of Iowa
Coalition for Accountable Government (Utah)
Coalition for Independence (Kansas)
Coalition of New Hampshire Taxpayers
Colorado Classified School Employees Association
Colorado Forum on Community
Colorado Developmental Disabilities Planning Council
Colorado Programs for Children with Disabilities
Colorado Progress Coalition
Colorado Women's Agenda
Columbus Ohio Chapter of N.O.W.
Community Action Directors of Oregon
Community Connection (Utah)
Community Connections (Nebraska)
Community Harvest Food Bank of Northeast Indiana
Community Humanitarian Resource Center (Nebraska)
Community Pharmacists of Indiana
Community Support Services (Oregon)
Concerned Christian Americans—Illinois
Congress of California Seniors
Connecticut Citizen Action Group
Damien Center—Indiana
Day At A Time Club (Colorado)
Denver, Adams and Arapahoe County (CO) CARES
Diocese of Salt Lake City (Utah)
Durango Ltd. (Illinois)
Eagle Forum (Illinois)
East Liverpool (Ohio) Breast Cancer Support Group
Ecumenical Ministries of Oregon
El Comite—Colorado
Electric League (Missouri)
EMPOWER Colorado
Families First (Georgia)
Family Planning Association of Maine
Family Planning Association of Northeast Ohio
Family Ties Adoption Center of Colorado
Federation of Families for Children's Mental Health—Colorado
Future Coalition (Ohio)
Gathering Place (Nebraska)
Georgia Abortion and Reproductive Rights Action League (GARAL)
Georgia Rural—Urban Summit
Georgia Watch
Georgians for Healthcare
Good Faith Fund (Arkansas)
Granite State Independent Living Foundation (New Hampshire)
Gray Panthers California
Gray Panthers of Oregon
Gray Panthers of Rhode Island
Health Action New Mexico
Health Care for All (Massachusetts)
Health Law Advocates (Massachusetts)
Healthy Kids Learn Better (Oregon)
Healthy Mothers/Healthy Babies (Montana)
Helena Indian Alliance—Montana
Hispanic Community Center (Nebraska)
Hispanic Contractors Association (Colorado)
Human Services Coalition of Oregon
Illinois Caucus for Adolescent Health
Indiana Association of Area Agencies on Aging
Indiana Central Association of Diabetes Educators (ICADE)
Indiana Coalition on Housing and Homeless Issues
Indiana Pharmacy Alliance
Individual and Family Counseling—Illinois
Insure the Uninsured Project (California)
Interfaith Service Bureau (California)
Iowa Christian Coalition
Jewish Community Relations Council—Indiana
Kansas Alcohol & Drug Services Providers Association
Kansas Association of Middle School Administrators
Kansas United School Administrators
Kentuckians for Health Care Reform
Kentucky Minority Farmers Association
Latin American Research and Service Agency (Colorado)
Louisiana Maternal and Children's Health Coalition
Maine Consumers for Affordable Healthcare
Maine Women's Lobby
Maine Women's Policy Center
Mental Health Consumer Advocates of Rhode Island
MESA (Moving to End Sexual Assault) Administrative Office (Colorado)
Minnesota AIDS Project 10
Minnesota Lawsuit Abuse Watch (M–LAW)
Minnesota State Council on Disability
Montana Children's Initiative
Montana Coalition for Competitive Choices
Montana Council for Families
Montana March of Dimes
Montana NARAL
Montana Peoples Action
Montana Senior Citizens Association
Montana's Child Project
Multiple Sclerosis Society of Indiana
Mutual Ground—Illinois
National Barter and Commodity Association (Formerly the Colorado Citizens for an Alternative Tax System)
National Kidney Foundation of Georgia
Navajo County Arizona Special Public Health District
Nebraska Arthritis Foundation
Nebraska Tax Research Council
Nebraskans for Equal Taxation
Neighborhood Activists Inter-Linked Empowerment Movement (NAILEM)—Arizona
Nevada Alliance for Retired Americans
Nevada Cancer Institute
Nevada Diabetes Assocaition for Children and Adults
Nevadans for Affordable Health Care
New Mexico Voices for Children (formerly—New Mexico Advocates for Children and Families)
New Mexico Teen Pregnancy Coalition
New Hampshire Commission on the Status of Women
New Hampshire Developmental Disabilities Commission
New Hampshire for Health Care
Noble/ARC of Central Indiana
Noble/ARC of Greater Indianapolis
North Carolina Committee to Defend Healthcare
Ohio AIDS Coalition
Ohio Advocates for Mental Health
Ohio Association of Mental Retardation
Ohio Citizen Advocates for Chemical Dependency, Prevention and Treatment
Ohioans for Diabetes Control
Oregon Alliance of Retired Americans
Oregon Association of Retired Persons (AARP Chapter)
Oregon Council of Senior Citizens
Oregon Disabilities Commission
Oregon Health Action Campaign
Oregon Heart and Lung Association
Oregon Law Center
Oregon Special Concerns Ministry
Oregonians for Health Security
Paola Foster Grandparent Program (Kansas)
People First of Nebraska
People Living Through Cancer—New Mexico
Planned Parenthood of Alaska
Planned Parenthood of Georgia
Planned Parenthood of Greater Indiana
Planned Parenthood of Mid/East Tennessee
Planned Parenthood of Northern New England
Precita Park Democratic Club (California)
Protectmontanakids.org
Pulaski County Democratic Women (Arkansas)
Pulaski County Young Democrats (Arkansas)
Quality Care for Children (Georgia)
Redemptorist Social Services Center (Missouri)
Religious Action Center of Reform Judaism
Rhode Island Kids Count
Rhode Island Poverty Institute
Rhode Island Public Health Association
Safe Kids—Safe Communities—Montana
Self-Determination Resources (Oregon)
Small Business Lobby (Virginia)
Special Concerns Ministry (Oregon)
Sudden Arrhythmia Death Syndrome (Utah)
Support Oregon Services Alliance
Tennessee Association of Alcohol and Drug Abuse Services
United Cerebral Palsy Association—Colorado
United Cerebral Palsy Association—Nebraska
United Cerebral Palsy Association—Utah
United Seniors of Oregon
Universal Health Care Action Network of Ohio
University Village Association (Illinois)
Utah Association of Counties
Utah Center for Persons With Disabilities
Utah Coalition Against Sexual Assault
Utah Hispanic Advisory Council
Utah State University
Victim Assistance Team of Grand County Colorado
Virginia Coalition of Police and Deputy Sheriffs
Washington Citizen Action
Wisconsin Citizen Action
Wisdom of Wellness Foundation (Georgia)
WISE Foundation (Tennessee)
Women's Association of Northshore Democrats—Louisiana
Women's Policy Group (Georgia)
Women's Rights Organization (Oregon)
Working for Equality and Economic Liberation (WEEL)—Montana

PHYSICIAN GROUPS

NATIONAL GROUPS

American Academy of Child and Adolescent Psychiatry
American Academy of Neurology
American Academy of Pediatrics

With additional letters from: Alabama Chapter, Illinois Chapter, Indiana Chapter, Iowa Chapter, Louisiana Chapter, Minnesota Chapter, Montana Chapter, Nebraska Chapter, New Hampshire Chapter, New Mexico Chapter, Ohio Chapter, Oregon Chapter, Rhode Island Chapter, Tennessee Chapter, Utah Chapter

American Association for Geriatric Psychiatry
American College of Foot & Ankle Surgeons
American Psychiatric Association

With additional letters from: Colorado Chapter, Kansas Chapter, Louisiana Chapter, New Hampshire Chapter, New Mexico Chapter, Ohio Chapter, Tennessee Chapter, Utah Chapter

National Alliance of Medical Researchers and Teaching Physicians
National Hispanic Medical Association
Pediatrix Medical Group
The Society for Maternal Fetal Medicine

Local Groups

Alabama Academy of Family Physicians
Alabama Medical Association
American Academy of Physicians—Nebraska Chapter
American College of Cardiology—Alabama Chapter
American College of Emergency Physicians—Alabama Chapter
American College of Surgeons—Rhode Island Chapter

Arkansas Medical Society
Bellevue Pediatric Center (Nebraska)
Bennett Breast Cancer Center (Maine)
Colorado Medical Society
Family Medicine Specialists of St. George (Utah)
Internal Medicine and Pediatric Medicine (Utah)
Missouri State Medical Association
Nebraska Academy of Family Physicians
Nebraska Academy of Physicians
Nebraska Medical Association
New Hampshire Health Care Association
New Mexico Medical Society
Rhode Island Medical Association
Rhode Island Neurological Society
Rose Breast Center (Colorado)
Utah Optometric Physicians
Utah Valley Pediatrics
Virginia Medical Society
Washington Healthcare Forum

PROVIDER GROUPS

National Groups

American Association for Marriage and Family Therapy
American Association for Psychosocial Rehabilitation
American Association on Mental Retardation
American Chiropractic Association

With additional letters from: Alabama Chapter, Arkansas Chapter, Indiana Chapter, Kansas Chapter, Kentucky Chapter, Louisiana Chapter, Maine Chapter, Minnesota Chapter, Montana Chapter, New Hampshire Chapter, New Mexico Chapter, North Carolina Chapter, Oregon Chapter, Rhode Island Chapter, Tennessee Chapter, Washington Chapter

American College of Nurse-Midwives
American Counseling Association
American Group Psychotherapy Association
American Mental Health Counselors Association
American Nurses Association

With additional letters from: Alabama Chapter, Arkansas Chapter, California Chapter, Colorado Chapter, Illinois Chapter, Kansas Chapter, Maine Chapter, Minnesota Chapter, Montana Chapter, Nebraska Chapter, Nevada Chapter, New Hampshire Chapter, New Mexico Chapter, Ohio Chapter, Oregon Chapter, Rhode Island Chapter, Tennessee Chapter, Utah Chapter, Virginia Chapter, Wyoming Chapter

American Optometric Association

With additional letters from: Alabama Chapter, Arizona Chapter, Arkansas Chapter, Indiana Chapter, Iowa Chapter, Kentucky Chapter, Louisiana Chapter, Montana Chapter, Nebraska Chapter, Nevada Chapter, New Hampshire Chapter, New Mexico Chapter, Tennessee Chapter, Utah Chapter, Virginia Chapter, Wyoming Chapter

American Podiatric Medical Association
American Psychiatric Nurses Association
American Psychological Association

With additional letters from: Arkansas Chapter, Colorado Chapter, Illinois Chapter, Indiana Chapter, Iowa Chapter, Kansas Chapter, Kentucky Chapter, Louisiana Chapter, Minnesota Chapter, Montana Chapter, Nebraska Chapter, Nevada Chapter, North Carolina Chapter, Ohio Chapter, Oregon Chapter, Rhode Island Chapter, Tennessee Chapter, Utah Chapter, Wyoming Chapter

American Psychotherapy Association
American Society of Clinical Psychopharmacology, Inc.
Association for Ambulatory Behavioral Healthcare
Association of Women's Health, Obstetrics and Neonatal Nurses
Clinical Social Work Federation
Employee Assistance Professionals Association
Federation of Behavioral, Psychological and Cognitive Sciences
National Association of County Behavioral Health Directors
National Association of School Psychologists
National Association of Social Workers

With additional letters from: Alabama Chapter, Arkansas Chapter, Iowa Chapter, Kansas Chapter, Louisiana Chapter, Maine Chapter, Nebraska Chapter, New Hampshire Chapter, New Mexico Chapter, North Carolina Chapter, Ohio Chapter, Rhode Island Chapter, Utah Chapter

National Council for Community Behavioral Healthcare

Local Groups

AAC Association (Nebraska)
Access Utah Network
Act Now Counseling (Utah)
Action Counseling (Colorado)
Acupuncture Association of Colorado
Acupuncture Association of Utah
Acupuncture Association of Washington
Addiction and Behavioral Health Center (Nebraska)
Advance Women's Health Care (Utah)
Advantage Eye Care (Utah)
AIM Institute (Nebraska)
Affiliates in Psychology (Nebraska)
Alabama Association of Home Health Agencies
Alabama Association of State & Provincial Psychology Boards
Alabama Council for Community Mental Health Boards
Alabama Family Practitioners Rural Health
Alaska Ophthalmological Society
Alegent Health Psychiatric (Nebraska)
Alternative Health Center (Utah)
Alternative Pathways (Colorado)
Alzheimer's Association of Oregon and Greater Idaho
Alzheimer's Association of Utah
American Society of Addictive Medicine—Kansas Chapter
American Society of Addictive Medicine—Utah Chapter
Andrus Vision Center (Utah)
Arden Courts (Illinois)
Arkansas Association for Marriage and Family Therapy
Arkansas Chiropractic Legislative Council
Arkansas Independent Living Council
Arkansas Mental Health Counselors Association
Aspen Therapy (Utah)
Association of Community Service Agencies (California)
Association of Oregon Community Mental Health Programs
Association of School Based Health Centers (Oregon)
Asthma and Allergy Clinic (Utah)
Autism Coalition of Indiana
Autism Society of Arkansas
Autism Society of Nebraska
Autism Society of Ohio
Avenues to New Horizons (Nebraska)
Avera St. Anthony's Hospital (Nebraska)
A.W.A.R.E. Inc. (Mental Health Provider—Montana)
Bear River Medical Arts (Utah)
Bear River Mental Health Services (Utah)
Beaver Valley Hospital (Utah)
Behavioral Health Specialists (Nebraska)
Bergan Mercy Child Development Center (Nebraska)
Berner Eye Clinic (Utah)
Black River Mental Health Services (Utah)
Blue Valley Mental Health Center (Nebraska)
Boulder County Partners (Colorado)
Boulder Valley Women's Health Center (Colorado)
Broadway Counseling Services (Colorado)
Bungalow Care Center (Utah)
California Council of Community Mental Health Agencies
California Society for Clinical Social Work
Care Oregon
Cedar Springs Behavioral Health (Colorado)
Centennial Mental Health Center (Colorado)
Center for Counseling and Consultation (Kansas)
Center for Human Development (Kansas)
Center for Independent Living (Kansas)
Center for Psychological Services (Nebraska)
Central District Health Center (Nebraska)
Central Iowa Psychological Services
Central Kansas Psychological
Children and Adults with Attention Deficit/Hyperactivity Disorder (Ohio)
Chiropractic and Spinal Rehabilitation (Colorado)
City of Geneva Mental Health Board (Illinois)
Clarian Health (Methodist Hospital, Indiana University Hospital, Riley's Children's Hospital) (Indiana)
Collidge Mental Health Center (Nebraska)
Colorado Association of Surgical Technicians
Colorado Dental Association
Colorado Health and Hospital Association
Colorado Osteopathic Society
Colorado Podiatric Medical Society
Community Adolescent Counseling (Colorado)
Community Access Services (Oregon)
Community Counseling Center of Fox Valley (Illinois)
Community Nursing Services (Utah)
Community Pharmacists of Indiana
Community Providers Association of Oregon
Conway Regional Health Systems (Arkansas)
Council of Volunteers and Organizations for Hoosiers with Disabilities (Indiana)
Council on Substance Abuse (Alabama)
Counseling Associates (Utah)
Counseling Center for the Rockies (Colorado)
Coventry Group (Kansas)
Crawford County Health Department (Kansas)
Danville Services Corporation (Utah)
Delta Resource Independent Living Center (Arkansas)
Denver Naturopathic Clinic—Colorado
DPF Counseling Services (Kansas)
Dignity Health & Home Care (Utah)
Direct Benefits (Minnesota)
Elgin Mental Health Facility (Illinois)
Family Counseling Service of Aurora, Illinois
Family Life Center (Kansas)
Family Medicine Specialists of St. George (Utah)
Fetzer OB-GYN (Illinois)
First Call For Help (Nebraska)
First Plan in Two Harbors (Minnesota)
Fore Chiropractic Clinic (Kansas)
Four Corners Community Behavioral Health (Utah)
Four County Mental Health Center (Kansas)
Franklin County Memorial Hospital (Nebraska)
Full Circle Alternative Center (Colorado)
Gabriel Chiropractic Office (Colorado)
Geneva Mental Health (Illinois)
Gordon Memorial Hospital (Nebraska)
Greenwood Health Center (Utah)
Gynecology, Obstetrics & Infertility (Colorado)
Healthy Mothers—Healthy Babies (Montana)
Heartland Counseling and Consulting (Nebraska)
Higgins Center for Natural Health (Colorado)
Highland Family Eye Care (Utah)
Highland Ridge Hospital (Utah)
Holladay Family and Child Guidance Clinic (Utah)
Home Health Services and Staffing Association of New Jersey
Hutchinson Psychological & Family Services (Kansas)

Idaho Hospital Association
Independent Living Resource Center (New Mexico)
Indiana Association of Rehabilitation Facilities
Indiana Pharmacy Alliance
Institute for Alcohol Awareness (Fort Collins, Colorado)
Institute for Alcohol Awareness (Greeley, Colorado)
Intermountain Health Care (Utah)
Intermountain Health Care Diabetes Education (Utah)
Iowa Breast Cancer Education-Action (IBCE)
Iowa Dental Association
Iowa Podiatric Medical Society
Jane Phillips Nowata Health Center (Oklahoma)
Johnson County Hospital (Nebraska)
Josephine County Mental Health (Oregon)
Kane County Hospital (Utah)
KANZA—Mental Health and Guidance Center (Kansas)
Kelly Roybal-Sanchez Pediatric Clinic (Colorado)
Kentucky Dental Association
Kentucky Mental Health Coalition
Lane Independent Living Alliance (Oregon)
Larimer Center for Mental Health (Colorado)
Legislative Coalition of Virginia Nurses
Leo Pocha Clinic (Montana)
Leukemia Lymphoma Society of Oregon
LifeWise Health Plan of Oregon
Lincoln/Lancaster County Human Services Federation (Nebraska)
Longmont Psychiatric Associates (Colorado)
Louisiana Academy of Medical Psychologists
Louisiana Association of Ambulatory Healthcare
Louisiana Association for the Advancement of Psychology
Louisiana Healthcare Commission
Louisiana Mental Health Consortium
LTC Resolutions (Indiana)
Maine Association of Mental Health Services
Maine Association of Substance Abuse Programs
Maine Nurse Practitioners Association
Medical Weight Management (California)
Melham Medical Center (Nebraska)
Mental Health and Guidance Center (Kansas)
Mental Health Associates (Kansas)
Mental Health Care Associates (Nebraska)
Mental Health Corporation (Colorado)
Mental Health Liaison Group
Mesability (Colorado)
Metro Chiropractic (Nebraska)
Midwest Parkinson's Awareness of Northeast Ohio
Minnesota Association of Community Mental Health Programs
Minnesota Council of Health Plans
Missouri Ambulance Association
Montana Academy of Ophthalmology
Montana Academy of Otolaryngology
Montana Association of Ambulatory Surgery Centers
Montana Association of Independent Disability Services
Montana Council of Community Mental Health Centers
Montana Podiatric Medical Association
Nebraska Chiropractic Physicians Association
Nebraska Dental Association
Nebraska Health Care Association
Nebraska Methodist Hospital
Neighborhood Health Plan of Rhode Island
Nemaha County Breast Cancer Support Group (Nebraska)
Nevada Dental Hygienists Association
New Hampshire Mental Health Coalition
New Hampshire Mental Health Counselors Association
New Hampshire Pastoral Psychotherapists Association
New Mexico Podiatric Medical Association
New West Health Services (Montana)
Niobrara Valley Hospital (Nebraska)
Norfolk Psychological Service (Nebraska)
Northstar Mental Health Services (Nebraska)
Northwest Alzheimer's Association (Nebraska)
Norton Health Care (Kentucky)
Nurse Practitioners of Oregon
Ogallala Counseling Center (Nebraska)
Ohio Ambulatory Behavioral Healthcare Association
Ohio Association of Women's Health, Obstetrics and Neonatal Nurses
Ohio Clinical Social Work Society
Ohio Counseling Association
Ohio Council of Behavioral Healthcare Providers
Ohio Dietetic Association
Old Mill Counseling (Nebraska)
Omni Behavioral Health (Nebraska)
One Source (Nevada)
Oregon Advocates for the Mentally Ill
Oregon Association of Physicians' Assistants
Oregon Centers for Mental Health and Addiction
Oregon Dental Association
Oregon Health Sciences University
Oregon Optometric Physicians Association
Oregon State Denturists' Association
Oriental Medical Association of New Mexico
Palmer Chiropractic College (Iowa)
Park City Family Health and Urgent Care Center (Utah)
Parkview Medical Center Department of Pathology (Colorado)
Pediatric Pathways (Colorado)
Phelps Memorial Health Center (Nebraska)
Phoenix Rising Center (Utah)
Polk County Mental Health (Oregon)
Professional Christian Counseling Services (Nebraska)
Providence Medical Center (Nebraska)
Pueblo Women's Center—Obstetrics and Gynecology (Colorado)
Rainbow Center (Nebraska)
Region VI Behavioral Healthcare (Nebraska)
Rhode Island Association of Health Centers
Rhode Island Autism Project
Rhode Island Council of Community Mental Health Organizations
Rhode Island Dental Society
Richard H. Young Hospital (Nebraska)
River Park Psychology Services (Kansas)
Riverton Eye Care (Utah)
Rock County Hospital (Nebraska)
Rural Counties Program, Spanish Peaks Mental Health Center (Colorado)
Rural Health Management (Utah)
Rural Hospital Coalition (Louisiana)
Saint Francis Memorial Hospital (Nebraska)
Sanpete Valley Hospital (Utah)
Saunders County (Nebraska) Health Services
Serenity Place (Nebraska)
Shopko Eyecare Center
Southwest Kansas Independent Living Resources Center
Southwest Utah Community Health Center
Spa Area Independent Living Services (Arkansas)
St. Mary's Health Network—Oregon
Stoney Ridge Day Treatment Center (Nebraska)
Sundance Women's Healthcare (Utah)
Sweetgrass-Stillwater Mental Health Association (Montana)
Swope Parkway Health Center (Missouri)
Tennessee Academy of Ophthalmology
The Home Team of Kansas
The Psychology Clinic (Louisiana)
Three Rivers Independent Living (Kansas)
Topeka Independent Living Resource Center (Kansas)
Town Center Chiropractic (Montana)
Tri-County Hospital (Nebraska)
Tri-County Mental Health Services—Maine
Tulane University Health Sciences Center (Louisiana)
United Healthcare—Alabama
Utah Society of Pathologists
Valley Community Clinic (California)
Valley Counseling Services (Ohio)
Valley County Hospital (Nebraska)
Valley View Medical Center (Utah)
Van WYK Family Chiropractic Center (Colorado)
Virginia Academy of School Psychologists
Virginia Association of Community Services Boards
Virginia Association of Free Clinics
Virginia Association of Hospices
Vision Health Center (Utah)
Wasatch Canyon Mental Health (Utah)
Washington Massage Therapy Association
West Holt Memorial Hospital (Nebraska)
Wills Chiropractic Clinic (Nebraska)
Willowbrook Mental Health Center (Nebraska)
Wiseman Chiropractic Wellness Center (Nebraska)
Workman Chiropractic Clinic (Nebraska)
Wyoming Counseling Association

HEALTH INSURANCE TRADE ASSOCIATIONS

Alabama Associated Life Insurance Companies
America's Health Insurance Plans (AHIP)

With additional letters from: Alabama Association of Health Plans, California Association of Health Plans, Georgia Association of Health Plans, Indiana Association of Health Plans, Kansas Association of Health Plans, Kentucky Association of Health Plans, Nebraska Association of Health Plans, Nevada Association of Health Plans, New Jersey Association of Health Plans, North Carolina Association of Health Plans, Ohio Association of Health Plans, Virginia Association of Health Plans, Association of Washington Healthcare Plans, American Managed Behavioral Healthcare Association, American Republic Insurance Company (Iowa)

Association of Health Insurance Advisors/National Association of Insurance and Financial Advisors

With additional letters from: Indiana Chapter, Maine Chapter, Nebraska Chapter, Ohio Chapter, Utah Chapter

Blue Cross and Blue Shield Association
Delta Dental Plans Association

With additional letters from: Delta Dental Plan of Arkansas, Delta Dental Plan of Indiana, Delta Dental Plan of Iowa, Delta Dental Plan of Kentucky, Delta Dental Plan of Minnesota, Delta Dental Plan of New Mexico, Delta Dental Plan of North Carolina, Delta Dental Plan of Virginia

Christiana Care Health Plans
Cimarron Healthcare (New Mexico)

Federation of Iowa Insurers
Health Net (Oregon)
Louisiana Pest Control Insurance Company (LIPCA)
Lovelace Health Systems (New Mexico)
Magellan Health Services
National Association of Health Underwriters

With additional letters from: Alabama Chapter, Arkansas Chapter, Central Arkansas Chapter, Georgia Chapter, Indiana Chapter, Maine Chapter, Minnesota Chapter, Nevada Chapter, New Hampshire, New Mexico Chapter, North Carolina Chapter, Ohio Chapter, Oregon Chapter, Rhode Island Chapter, Virginia Chapter

Nebraska Association of Professional Insurance Agents
Nevada Hometown Health
NevadaCare
PacifiCare of Nevada
Principal Financial Group—with additional letters from: Iowa Office
Sierra Health Services (Nevada)
Tufts Health Plan

Mr. Speaker, I yield such time as he might consume to the gentleman from New Jersey (Mr. HOLT).

(Mr. HOLT asked and was given permission to revise and extend his remarks.)

N O T I C E

Incomplete record of House proceedings. Today's House proceedings will be continued in the next issue of the Record.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, THURSDAY, MAY 13, 2004 No. 67

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

The PRESIDING OFFICER. Today's prayer will be offered by guest Chaplain Dr. Kathryn Towne, of Lakewood, CO.

PRAYER

The guest Chaplain offered the following prayer:

Our great and mighty God, today I ask that You be present, O God of Wisdom, and direct the counsel of this Honorable assembly. Enable them to settle things on the best and purest foundation. Make them strong to do the work at hand and to heed Your will. They are empowered to serve the people of the United States. Enable them to do so with great assurance that You are directing them.

''Righteousness exalts a nation.'' May righteousness inspire every thought, word, and action of this Senate. Their task is great. Thank You for their diligence and long hours given in the endeavor to keep this Nation the greatest on Earth. Truly ''Blessed is the nation whose God is the Lord.'' We are a blessed nation indeed. Thank You, Our Lord. In Your Name I pray. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 13, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. SUNUNU thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today following my remarks and any remarks from the Democratic leader, we will have a period of morning business for up to 60 minutes. The order provides for the first 30 minutes to be controlled by the minority and the second 30 minutes to be controlled by the majority.

Following the 60-minute period, we will resume consideration of S. 1248, the IDEA—Individuals with Disabilities Education Act—reauthorization bill. Yesterday we made very good progress on the bill and we now have an agreement to finish the bill early this afternoon.

We do have one final outstanding issue on paper reduction, and we should then vote on final passage of the bill. I anticipate passage will occur somewhere between 11:30 and 12:30 today.

I do want to congratulate both managers on their hard work on this very important piece of legislation. I thank them for allowing us to proceed through the legislation under a unanimous consent agreement.

Later today I will also be discussing Executive Calendar nominations with the Democratic leader. I hope to begin scheduling consideration of those nominations, including the judicial nominees. We will have more to say on the nomination schedule later today.

Finally, I want to remind everyone that next week we will be considering the Department of Defense authorization bill. Senators can expect busy sessions throughout the week, including votes on Monday. That will be late Monday afternoon.

RECOGNITION OF THE ASSISTANT MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The assistant majority leader is recognized.

Mr. REID. If I may make a comment to the majority leader, we have been told this morning Senator BINGAMAN will not offer a second-degree amendment to the Santorum amendment; therefore, the managers will accept the Santorum amendment. So I think all we have left on the IDEA bill is final passage.

Senator KENNEDY is the godfather to his niece or nephew—I really don't remember who it is—but Caroline's child was confirmed and he will not be able to be here until around 11:30 today, so the majority leader should keep that in mind. If we will vote 12:15 or 12:20, if that meets the majority leader's plans, Senator KENNEDY would like to speak before final passage, and, as I indicated, he will not be here until 11:30.

Mr. FRIST. Through the Chair, we are aware of Senator KENNEDY's plans and we will do everything we can to accommodate all Senators. We have a number of people who have engagements this morning and this afternoon, and we will do our best. I think that is consistent, having this vote in the hour we so designated.

PRISONER ABUSE SCANDAL

Mr. FRIST. Mr. President, I want to comment briefly on two other issues.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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One has to do with the event yesterday, which was very tough for many of us, and that was the opportunity to review the photos related to the prisoner abuse scandal.

I thank the Department of Defense for their responsiveness so as to give everyone in this body the opportunity to view those pictures. As has been said by so many, the photos are appalling and offensive to America's sense of humanity. Many of the images we saw were consistent with those that have already appeared in the press. They are pictures and images of abusive behavior. There were a lot of photos. Others do not show prisoner abuse but do expose the character of those under investigation.

The new material supports my belief that we must act swiftly and we must fully investigate the incidents of this prisoner abuse at Abu Ghraib prison to assure that justice is served. It is the mark of America, and that mark will be demonstrated by this swift justice. We must find out who is responsible for the abuses that occurred and hold them accountable. And indeed we will.

At the same time, we must all remember to separate this incident from the outstanding, remarkable work so many thousands and thousands and thousands of our brothers and sisters and men and women and children are carrying out in uniform right now in Iraq and indeed in Afghanistan and around the world. It is tremendous work, fighting for the liberty and the democracy we all cherish. It is truly disheartening to see that the actions of a few—a few—have really tarnished the reputations and professionalism of our Nation's Armed Forces. So let's never ever forget the tremendous work the men and women in uniform are doing for us right now, each and every day, and today.

I am pleased to learn Secretary of Defense Rumsfeld and General Myers have traveled to Baghdad to get a better sense of what is happening on the ground in Iraq and to ensure corrective actions are being taken to prevent such prisoner abuse from ever happening again. I think it is important that they are there to boost the morale of the thousands of American troops who are serving so nobly and courageously in Iraq. This is the right and proper thing for our Nation's senior defense civilian and senior military leader to be doing.

I do again want to assure our colleagues that the American people expect, and the Senate will deliver by having its committees of jurisdiction continue their inquiries into this matter and work diligently with the executive branch to ensure that justice prevails and that such acts never ever occur again.

HEALTH CARE

Mr. FRIST. Mr. President, on a final issue, I want to comment on an issue that is dear to my heart. It stems from the fact that if you have health insurance in this country today you do better than if you don't. This week is a week that addresses the issues of the uninsured, both in this body, in the Congress, in the executive branch—indeed, all over the country.

Last October I appointed a task force on health care costs and the uninsured, and earlier this week the task force, led by our distinguished colleague, Senator JUDD GREGG, unveiled its recommendations. I thank Senator GREGG for his tremendous work and each of the team members for the work they put in, both studying this issue and then fashioning a plan and proposal in a document which helps all of us in this body understand but also gives us a direction to address this huge problem.

Helping the uninsured gain more access to affordable, quality health care is one of the most critical and the most complex and most fundamental challenges in domestic policy that face us today.

Under Senator GREGG's leadership, the task force has developed a detailed, pragmatic, and systematic way of addressing this issue.

They cast a wide net to gather input from a broad range of resources. Their recommendations offer a serious and substantial framework to tackle what to many people seems to be an intractable problem of uninsurance in America.

The first thing is so obvious when you look at what the task force presented. The uninsured is not just a single sector. It is not just a piece of pie on a pie chart. It is a very complex group. It is a diverse mix. They include the chronically uninsured poor, the working uninsured, college students, and other young, healthy adults who simply choose not to get health care insurance. That complexity explains why it is impossible to have a one-size-that-fits-all approach, and, thus, the task force has drafted distinct recommendations for each of these different cohorts.

America offers the best health care in the world. We have the very best trained physicians, the very best trained nurses, top researchers, top medical research, and topnotch medical research facilities in the country doing the very best research with vast numbers of new and improved medical technology and prescription drugs. But in spite of the very best of health care, we have these chasms, these huge gaps, with the uninsured.

We have worked hard to find definitive solutions in the past. But still the number of uninsured in this country continues to climb. Forty-three million people are uninsured. Of those, 21 million people are without insurance for a year or more.

We have this coupled or working in parallel with the spiraling upward health care costs. For the second straight year, health care spending grew significantly faster than the rate of growth of the gross domestic product by a whopping $1.6 trillion. The cost is caused by a whole range of factors.

We have improvements in technology, which we understand. We have frivolous lawsuits. Many doctors are having to conduct and practice defensive medicine where they overprescribe in terms of diagnostic tests, really just to protect themselves in the event there is an overly aggressive lawyer who is going to be going after them.

The liability insurance rates continue to rise. With these increased premiums, doctors pay as much as $400,000 for liability insurance such as a neurosurgeon, even if he has never been sued before in the past. It ultimately simply has to get passed on to the system itself, and that drives up everybody's health care costs.

We have medical information gaps that cause costly insufficiencies today. A lot of times doctors don't have access to up-to-date information on patients who come into the emergency room because the record for that patient may be at another hospital or in another town or in the basement of that hospital.

We can address that by improving our information technology and investing appropriately in electronic medical records.

Individuals don't have the same tax advantages if they are out working by themselves than they do if they are working with a large company. That inequity of the individual market has consequences that affect the uninsured in a way that is detrimental. Health care is expensive for small companies today.

There are initiatives we can take in this body to address the fact that small companies' access is really disproportionate in providing health care, in part, because of the types of packages that are available to them and, in part, because of the tax treatment.

We have to find a way to address this escalating cost at the same time we are addressing the issue of the uninsured. The task force materials will be shared with our caucus, and hopefully a number of these issues will be addressed and debated and brought to the floor in the appropriate form so we can really accomplish reducing the number of uninsured in this country.

I close by once again thanking Senator GREGG and the members of the task force. Their recommendations are enlightening and they are promising. They give us a great template from which to operate as we go forward.

I am optimistic that by working together in this body we can produce good ideas, we can significantly increase the number of Americans covered, and we can keep health care in America moving forward.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

THANKING ARMY RESERVE LT. JEFF ALLEN

Mr. DASCHLE. Mr. President, tomorrow is a very special day for two little twin brothers in Rapid City, South Dakota. Ethan and Abraham Allen turn 2 tomorrow. Among the people who will be there to celebrate with them is their father, Lt. Jeff Allen.

Lt. Allen came closer than he likes to think to not seeing his sons' birthday. On April 6, he was in a convoy near Mosul, traveling south through Iraq, when a homemade bomb exploded under his Humvee. The explosion filled the calves on both of Lt. Allen's legs with shrapnel. His right ear drum was shattered, the retina in his right eye was torn, and he suffered serious lacerations on his face. He had been in Iraq for just under a month.

Like more than 40 percent of the American troops in Iraq today, Lt. Allen is a reservist. He is a nurse anesthetist with the Army Reserve's 348th Combat Support unit. When he is not on active duty, he works at Rapid City Regional Hospital. Like so many others civilian and military—he was in Iraq trying to save lives.

Before he arrived home on Monday night, Lt. Allen spent a month at Brooks Army Medical Center in San Antonio, where he underwent three surgeries, including skin grafts to his legs. He's likely to need more surgery, but doctors are hopeful about his recovery. He and his wife, Andrea, have been married for 6 years. He has been in the Army Reserve for 5 years.

At the beginning of our life as a nation, Thomas Paine said, ''If there must be trouble, let it be in my day, that my children may have peace.'' America is fortunate today that we still have people, like Lt. Jeff Allen, who are willing to sacrifice so much and risk their lives so that their children will know peace. As he and his wife prepare to celebrate their sons' birthdays, we thank Lt. Allen and wish him a full and speedy recovery.

SPURRING AN ECONOMIC RECOVERY IN RURAL AMERICA

Mr. DASCHLE. Mr. President, last month the Department of Commerce reported that my home State of South Dakota had the Nation's second-highest rate of growth in per-capita personal income during 2003.

This surely comes as welcome news to many South Dakotans who have struggled to make ends meet during our Nation's recent economic downturn.

But now is not the time for us to congratulate ourselves. Too many Americans still can't find work. Too many Americans still don't have health insurance. And of those lucky enough to have health insurance, too many Americans can barely afford it.

Last Thursday, Alan Greenspan warned that rising deficits threaten the long-term stability of our economy and he is right.

We need sound fiscal policies that preserve and protect the health of our economy. We must do everything we can to ensure that the economic recovery finally takes hold, and that the benefits of the recovery extend to all Americans, not just to a privileged few.

Unfortunately, even after last year's encouraging growth in personal income, South Dakotans still tend to earn far less than the national average, and the same is true for many other rural States in our region.

Even worse, average income figures conceal wide disparities in wealth between those at the top and those at the bottom even within our States. Sadly, rates of poverty in many parts of rural America are worse than we find in countries we often consider to be ''developing.'' This is a quiet national crisis that we must address.

To reduce the prosperity gap between rural States and the rest of the Nation, Congress has created a variety of Federal programs designed specifically to promote rural economic development.

Unfortunately, the administration proposes to cut many of these programs, despite the positive results they have achieved. Instead of pulling the rug out from under those who need our help the most, we should be supporting programs that provide a helping hand to farmers, ranchers, and small businesspeople in rural areas.

With our help, they can bring the benefits of economic recovery to more Americans than ever before.

Small businesses are the backbone of this economy. According to the Small Business Administration, or SBA, businesses with 500 or fewer employees are responsible for roughly three-quarters of net job creation in this country. In my State, and in many other rural States, this figure is even higher.

According to the FDIC the 7(a) program is one of the single largest sources of long-term capital to small businesses in this country. By providing lenders a guarantee against default by small borrowers, it provides capital to those borrowers on more favorable terms than they could get anywhere else.

This is not a big-government handout, as some might be tempted to claim. It is a helping hand from the government to the invisible hand of the market.

So I was disappointed in January when the SBA was forced to temporarily suspend its most successful small business loan program, the 7(a) Loan Guarantee Program, because the Bush administration failed to support sufficient operating funds.

Unfortunately, this is the most recent manifestation of the administration's history of underfunding successful small business programs. According to the FDIC, the 7(a) program is one of the single largest sources of long-term capital to small businesses in the country.

By providing lenders a guarantee against default by small borrowers, it provides capital to those borrowers on more favorable terms than they get anywhere else. This is not a big government handout as some might be tempted to claim. It is a helping hand from the government to the invisible hand of the market. With the funds acquired through the 7(a) program, small businesspeople are free to expand their operations as they see fit, and their positive record of job creation shows plainly that they know how to do so effectively.

For all of its rhetoric about supporting small business, how much did the Bush administration devote to this key program in the proposed budget for the upcoming year?

Not one dollar. The administration actually proposes to eliminate the funding for the 7(a) program—in effect, doing away with the single most helpful nudge the Government can provide to these businesses. In my view, this is not the way to boost job creation.

The abandonment of the 7(a) program is not an isolated case. It is part of a larger pattern of cuts to programs that always have assisted small business especially.

Consider the SBA's Microloan Program. Under this program, the SBA provides funds to qualified nonprofit organizations which then make up loans of up to $35,000 to new and existing small business. According to the SBA, the average loan is around $10,500. The nonprofit lenders that participate in the program also provide management and technical assistance to borrowers to ensure that they have the skills necessary to succeed. Since the Microloan Program was established in 1992, it has facilitated more than 12,500 loans with $102 billion. Despite the fact that the borrowers who benefit from this program tend to have relatively low credit ratings which makes them unattractive to commercial lenders, the program has had only one loss to date. Few government programs can match that record of success. And few provide as much value to able entrepreneurs. Regrettably, the administration has proposed eliminating this program, as well.

Another critical area that has been shortchanged is the small business outreach in Indian country. Native Americans continue to suffer from rates of unemployment far greater than those that existed in America even during the Great Depression. Part of this problem stems from the lack of an active small business community in much of Indian country and a lack of resources to help stimulate the creation of such a community.

Years of experience with efforts to reduce poverty in Indian country have taught us that market-based, business-oriented approaches hold the greatest promise for success. But the market will not eliminate poverty on its own in Indian country. The neglect by the Federal Government has gone on far too long. The poverty is too extreme, too deep rooted.

We need special outreach efforts dedicated to bringing new business skills and financial resources to Native-American communities. But these efforts have fallen victim to the administration's budget priorities. For the second year in a row, the administration has proposed to eliminate all funding for Native-American business outreach.

The list of small business programs on the chopping block is too long to mention here. Cumulatively, the SBA has already seen its resources reduced by this administration by 25 percent, giving it the unfortunate distinction of being the most cut of all 26 Federal agencies. This, to me, does not demonstrate a commitment to economic development in job creation. We need to restore adequate funding to the SBA.

While the SBA's budget has suffered the deepest cuts under the administration, it is not the only agency that has seen its small business and rural development programs cut. The Treasury Department oversees a fund that provides capital to community development financial institutions, or CDFIs. These are specialized private sector institutions that provide financial products and services to people and communities underserved by traditional financial markets.

The Treasury Department estimates that every dollar it invests in a CDFI leverages 12 non-Federal or private sector dollars.

There are 13 CDFIs in South Dakota, and they do enormous good. The Lakota Fund is one that operates on the Pine Ridge Indian Reservation. The two counties that make up the reservation are the twenty-sixth and second poorest counties in America. Few areas need economic development as badly as Pine Ridge.

When the Lakota Fund began lending in 1986, there were 40 businesses on the reservation, and most of them were owned by nontribal members. Today, thanks in large measure to the financial and technical assistance delivered by the Lakota Fund, Pine Ridge has nearly 100 businesses, and many of them are owned by members of the Oglala Sioux Tribe.

If the more than 800 CDFIs around the United States had more funds to lend, there is no telling how much good they could achieve. But instead of helping CDFIs meet the growing demand for their services, the administration has underfunded them dramatically. This year, like last year, it requested only three-fifths of what the CDFIs received in 2002.

The President's proposed budget cuts also provide cuts in the 2002 Farm Bill. Democrats worked alongside Republicans to establish new initiatives under the Department of Agriculture to bring new jobs and opportunities to rural communities. When the President signed the Farm Bill into law, many people believed those programs would become a reality. I believed the President when he expressed his support for those programs with the stroke of his pen. But since then, many of these programs have languished due to inaction or even opposition by the White House.

From my State and several neighboring States, including Iowa, Minnesota, Nebraska, and North Dakota, the establishment of a Northern Great Plains Regional Authority was one of the most exciting features of the Farm Bill. This authority was modeled on the successful Appalachian Regional Commission, which demonstrated the power of a regional approach to economic development.

Unfortunately, nearly 3 years after its creation, the Northern Great Plains Regional Authority has yet to fulfill even a fraction of its promise, in large part because the administration has not fulfilled the responsibilities to the Authority. The administration failed to appoint Federal and tribal cochairs to lead the Authority, and it has failed to support any funding for the Authority's activities.

Other programs in the Farm Bill are also neglected. The Rural Business Investment Program, which is supposed to provide millions of dollars to private companies willing to invest and leverage that money in rural areas, has not been implemented even though the Farm Bill was enacted over 2 years ago.

The same goes for the Rural Strategic Investment Program which was designed to help rural areas develop plans to attract new investment.

And the list of underfunded programs goes on and on. They include cuts to firefighter assistance grants, coupled with proposed changes in the eligibility criteria to favor urban areas; cuts in assistance for rural hospitals, where costs are rising fast—many rural hospitals are already in danger of having to close their doors; cuts to USDA community facility loans, which help finance construction of fire halls, clinics, daycare centers, senior centers, and critical community facilities; cuts to rural housing loans; cuts to rural electric contribution and telecommunication programs.

It is hard to understand how we can slash and eliminate programs that are designed specifically to strengthen the economy of rural America and then claim to be champions of rural communities and small business.

Unfortunately, the President's two-word solution to the economic struggles of rural America is the same two-word answer he offers on virtually every other problem: tax cuts. In the face of exploding deficits and rising health care costs that threaten the long-term sustainability of our economy, the President continues to insist on the wrong kinds of tax cuts.

Many of us support tax cuts if they are smart, if they are targeted, if they are fair, if they are affordable. The right kinds of tax cuts can help stimulate the economy during times of economic distress.

That is why some of us introduced S. 2245 to create a small business health tax credit that would reduce the burden of health costs on small business and enable them to retain and hire more workers. That is also why we worked to reach a compromise on the estate tax that would exempt all but the very richest Americans and fully exempt farms, ranches, and small businesses that parents pass on to their children.

But tax cuts cannot be our only weapon in the battle against rural poverty. Independent analysis shows the vast majority of small businesses receive little or no benefit from the President's tax cuts.

And let us not forget that these cuts have a cost, or as Chairman Greenspan put it, ''The free lunch has still to be invented.''

In order to help finance his tax cuts, the President has proposed cutting or eliminating program after program designed to help small business and residents of rural America.

If the choice is between ruinously expensive tax cuts that overwhelmingly benefit the wealthiest Americans and proven, cost-effective, and desperately needed economic development programs for rural America, I think the answer should be clear. We should stick with what works. We should invest in the targeted, proven solutions we know will bring new prosperity to Main Street, not just to Wall Street.

We need to continue to support programs designed to improve the quality of life in rural America, and we need to uphold our common commitment to ensuring that those programs succeed.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for up to 60 minutes, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the majority leader or his designee.

The Senator from Alaska.

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, I ask unanimous consent that I be recognized to speak in morning business, to be followed by Senator MURKOWSKI, provided that following our remarks, the Democratic time be extended by an equal amount of time that we use.

The ACTING PRESIDENT pro tempore. Is there objection?

The Senator from Nevada.

Mr. REID. Mr. President, I would just like to say to my Democratic colleagues, the reason we are doing this is

because this involves the death of a police officer, and they have to leave very soon. So I apologize to my friend. We were supposed to get the first half hour of morning business, but we understand and acknowledge the tragedy in the State of Alaska.

Mr. President, on behalf of Senator DASCHLE, I extend 5 minutes of our morning business time to Senator KOHL, 15 minutes to Senator CORZINE, and 10 minutes to Senator BOXER.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I thank the distinguished deputy minority leader. The family of our lost officer is in attendance, and I did wish to speak at this time.

TRIBUTE TO OFFICER JOHN WATSON

Mr. STEVENS. Mr. President, I was deeply saddened last Christmas evening to learn that Alaska had lost a true hero. Officer John Watson, an 18-year veteran of the police force, was the Kenai Police Department's longest-serving officer. He served with distinction, earning numerous commendations and citations throughout his career. He was a dedicated public servant, taken from us in the line of duty. He will be missed by his family, friends, and the community he served.

The stories I have heard since his passing have demonstrated his strength of character and his impact on the community.

Nearly 2,000 peace officers, emergency personnel, State officials, and community members remembered Officer Watson at a service held in his honor. I think John's pastor said it best when he remembered Officer Watson as someone who ''throughout his life walked the talk, protecting and serving.''

Officer Watson is the first Kenai police officer to be taken from us in the line of duty. Understandably, our community has been stunned by this loss. But it is my hope we can reflect upon John's life and renew our commitment to the causes he defined and that defined him: particularly, his dedication to public service and his willingness to help his fellow citizens. That will be a most fitting tribute to the life he spent protecting others, if we remember him in that way.

I extend my deepest sympathies to John's wife Kathy, his daughter, and six stepchildren. They have been, and will continue to be, in our thoughts and prayers, and in all Alaskans' prayers, since he has passed.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, this evening, in a candlelight vigil at the National Law Enforcement Officers' Memorial on Judiciary Square, thousands of law enforcement officers from all corners of our Nation will come together. Many will be accompanied by their spouses, some by their children. Law enforcement is truly a family business.

Tonight, we will come together to honor 362 heroes whose names were inscribed on that marble wall last month. These heroes are law enforcement officers who have lost their lives in the line of duty. Mr. President, 145 of those officers lost their lives just last year.

I rise this morning to pay tribute to the men and women whose names are inscribed on that wall. I rise to lend my support to their survivors and to their colleagues.

The 362 individuals we will honor tonight were each distinct individuals. Together, they represent all of the diversity that is America. Together, they shared a commitment to service that is central to the tradition of American law enforcement.

This commitment to service means spending Christmas Day in the patrol car instead of with family. It means working on your spouse's birthday, checking on the welfare of others.

The officer's name is John Patrick Watson. On Christmas Day, 2003, he went to work, leaving behind his beloved wife Kathy on her birthday, to do the job he loved, which was protecting the people of Kenai, AK. That had been his job for 18 years.

That Christmas night, answering a call for a ''welfare check,'' Officer Watson would become the first member of the Kenai Police Department to lose his life in the line of duty.

Officer Watson was shot to death with his own weapon, allegedly by the individual on whose welfare he was checking.

The individuals who will be remembered this evening at the memorial are regarded as heroes, not for the way they died but for the way they lived. So let us not dwell on how Officer Watson lost his life but on the way he lived it.

During the memorial services in the city of Kenai, Chief Chuck Kopp recounted another call, 3 years earlier, which began with the words: ''My name is Officer Watson and I am here to help.''

Officer Watson was responding to aid a woman who almost died from a sleeping pill overdose. The woman, writing after Officer Watson's tragic death, stated that she did not remember much of what had occurred that night, but the peace she felt as his unshaken voice reached her is something she will never forget.

The woman whose life Officer Watson saved, ironically, never had an opportunity to thank him during his lifetime. In a letter that was read during Officer Watson's memorial service, the woman wrote:

> Please know that with every breath I take, I thank you. . . . I will make every day count. Your time and energy were not wasted.

I never had the opportunity to meet Officer John Watson. It is troubling to me that in spite of his many good works, only in death have his many contributions been recognized on the Senate floor.

So to Kathy, to John's children, and to the members of his family in Michigan, I say that John Watson's time and energy were certainly not wasted. He trained nearly every member of the Kenai Police Department. He was a pillar of the community, devoted to his church and to God, a bear of a man with a smile for everyone.

John Watson was an Alaskan by choice rather than by birth, but he will remain forever in our hearts as a true Alaskan hero. For in valor, there is hope.

I thank the Presiding Officer and yield the floor.

The PRESIDENT pro tempore. The Senator from Wisconsin is recognized for 5 minutes under the previous order.

COVER THE UNINSURED WEEK

Mr. KOHL. Mr. President, today I rise to address the growing problem of the uninsured in America. This week is Cover the Uninsured Week. It is not only appropriate but necessary that we take this time to acknowledge the tragedy of American families living without health insurance, and often, as a result, without adequate health care. Solving this problem is going to take a lot more than talk; it is going to take decisive action by the Congress and, very importantly, by the administration.

The number of Americans without health insurance continues to grow. In 2002, 15 percent of our population—over 43 million Americans—were uninsured. Since the year 2000, 3.8 million more Americans have become uninsured. While Wisconsin is doing better than the national average, we still had nearly 474,000 people uninsured in 2002—almost 10 percent of our population.

More than half of the nonelderly uninsured are full-time workers or their spouses and children. It makes no sense to blame this staggering figure just on business. Good businesspeople want to provide health insurance to their employees. They know the value of a workforce that is receiving necessary preventive health care. They know the bottom-line productivity losses that occur when workers have to struggle with the costs of a serious illness in their families, and they are, in great part, family members themselves, often relying on the same insurance coverages as their employees, never wanting to see someone they work with suffer because they cannot afford adequate health care.

Businesses want to offer solid, affordable health insurance to their employees, but it is getting harder to find every year.

As premiums increase at double-digit rates every year, employers are forced to drop coverage or pass on more costs to their workers in the form of higher cost sharing, deductibles, and copays.

Too often employees' wage increases are more than consumed by the higher health care costs they face.

This crisis affects everyone. A recent study by the Kaiser Commission estimates the United States could spend $41 billion for uncompensated care for the uninsured in 2004. Eighty-five percent of that will be paid by Federal, State, and local governments using taxpayer funds. This issue has reached a crisis point. Yet it has been 8 years since Congress enacted meaningful health insurance reform. Further, this is not a partisan crisis. It is a national crisis. It will take a national solution, bipartisan and resolute, ambitious and courageous. That means we will need to reorder pet projects and other priorities in order to devote significant new resources to covering the uninsured. That means we need to give up political rivalries and partisanship in order to consider any good idea, regardless from which side of the aisle it comes. It means we need decisive leadership and commitment from the top; namely, from the President himself.

So far we haven't seen much of that. The proposals the President has put forward would barely scratch the surface and some would create more problems than they solve. With over 43 million Americans uninsured, less than 3 million will be covered by his proposals, and they offer nothing to stem the rising health care cost problems we face. The American people deserve a more serious effort.

When the President makes something a priority, we see action. When the President wanted tax cuts, he pushed two massive bills through Congress. When the President wanted authorization for war in Iraq, he successfully argued long and hard, not only here but all over the world, for the authority he needed. If the President wants to make the uninsured a priority, he has the influence, the control, and the position to make it happen.

I know there is no silver bullet for dealing with the cost of health care. It will take a variety of solutions to expand coverage to the uninsured and help reign in the skyrocketing cost of health care. And it will take a combination of market and government-based solutions. We should look at proposals like tax credits to help small businesses afford health insurance, expansion of Government programs that work, like Medicaid and the State Children's Health Insurance Program, increased funding for community health centers, encouraging more purchasing pools, and the greater use of technology to improve quality and cut costs.

Whatever the combinations are, it is time to have this debate. This administration needs to step up and provide leadership. We cannot ignore the crisis or wish it away. We cannot waste more time on sound-bite solutions that do nothing to solve the problem. We need to fight the plague of the uninsured the way we have fought other threats to our way of life and our basic values. This fight we desperately need to win.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from New Jersey.

Mr. CORZINE. Madam President, I compliment the Senator from Wisconsin for his remarks. I will be giving a similar presentation, but I think there is not a more important domestic issue, one that is impacting the quality of life for middle-income and moderate-income Americans more than almost anything in their private financial affairs. Obviously, it is having a major impact on business and the quality of our economy. I don't think there is a more important issue for us to debate and to achieve those necessary elements that will change the terms and conditions so we can address the 44 million uninsured, but also provide the kind of underlying support for the quality of life for Americans we have come to expect. This is the priority domestic issue.

I compliment the distinguished Senator for his remarks. I hope I can be as eloquent.

I do want to make sure I speak out on this issue. I have been talking consistently about the state of our economy, particularly the squeeze middle-class Americans have. Health care costs are absolutely at the top of that list, but we see it in tuition costs at colleges and universities, property taxes, gasoline prices, and energy prices. There are a number of things that are impinging the ability of middle-income and moderate-income families to navigate the American economy. But none of those is more troubling than both the access and the affordability of health care.

Today there are roughly 44 million Americans without health coverage. Those who do have health coverage are seeing increases in their costs. Particularly those who are part of group programs see that costs rise exponentially. We are seeing that carry through into the challenges in our budgetary policies in Washington with regard to Medicare and Medicaid. Costs are truly phenomenal.

The average cost of a family health insurance policy today is roughly $10,000 a year. A study released this week by the Kerry campaign shows there has been a $2,700 increase in the average annual family premium per year over the last 3 years for those who have insurance, 4 times the rate at which family income has grown in the last 4 years.

I have to say this is a particularly troubling issue for those folks in the State of New Jersey, because we have had the highest rate of premium increase of any State in the Nation. I am hearing a lot of complaints back home. This is unsustainable and needs to be addressed. For the Senate, representing the people of our States, to not have a serious debate about the uninsured, with all of the pressures on the middle class, is hard for me to understand.

We used to take for granted that if you had a good job, guaranteed health benefits came along with the job. This is not the way it is today. In fact, you would usually be able to count on those health insurance benefits through retirement. That is no longer a certainty. Employers, on the other hand, have seen their costs rising 10 or 15 percent. We have a chart that shows how, over the period of time from 1996 to 2003, we have seen a surge in health care costs. For the third year in a row we have had double-digit increases in the cost of premiums for health care insurance. When employers have seen their costs rise, they have taken an obvious strategic step and shifted the cost to their employees, eliminated coverage for retirees, or eliminated coverage altogether for employees, or had all kinds of cost-sharing arrangements. It is amazing how the burden has shifted increasingly to working families.

Eighty-one percent of the uninsured, those 44 million, are actually people who are working. A lot of times you think it is folks who are unemployed or somehow are not connected to the economy. Eighty-one percent of the uninsured are in working families, people who have jobs.

Competitive pressure among employers to drop coverage is growing because it is such an important cost element in their overall means of doing business. We have to take steps to address the health care coverage and affordability crisis. Fewer and fewer people can afford to maintain the coverage they have; fewer and fewer businesses can afford to. It is time we actually get on with it.

To give you one example, the average annual premium for a standard plan for a healthy, nonsmoking 25-year-old in New Jersey is almost $5,000.

That is the average—$5,000 for a single individual. Just to contrast that with some of the initiatives we see out of the administration, which I find remarkably unacceptable and limited to addressing this problem, President Bush has proposed giving a $1,000 to $3,000 tax credit to low to moderate income-tax paying individuals and families. A $1,000 tax credit for a single individual earning $15,000 a year would leave that single 25-year-old I just mentioned paying 30 percent of the gross income to purchase coverage.

How does that work? What kind of help is that? A $5,000 premium, you get a $1,000 tax credit, and you make $10,000, $15,000, $20,000, and 30 percent of the income pays for coverage. This is the kind of problem with which individuals are dealing. You can do that across the income and age spectrum, and it is an enormous issue.

The President's tax credit proposal simply falls far short of offering the whole health care coverage for 44 million Americans. In fact, an independent study by Ken Thorpe of Emory University finds that the President's proposal would provide coverage to only 2.1 million of that 44 million uninsured. That

is over 10 years, by the way. So we are making no dent whatsoever. It would not even cover the 3.8 million who lost coverage since President Bush came into office.

Furthermore, the CBO determined the President's associated health plan proposal would actually increase health care premiums for a majority of employees working in small firms and would cause about 10,000 individuals to lose their coverage. So the second element of the President's proposal, beyond the tax credit, is going to actually increase the uninsured and increase premiums. It is hard to see how that will be helpful in this overall health care crisis.

We could begin to address these difficult issues by acting on health care in the way that a number of people put forward and, most particularly, Senator KERRY has put forward. His plan would reduce health care costs for those with health insurance and expand coverage to 27 million Americans who currently lack it. Senator KERRY's commonsense proposal builds on existing successful health care programs such as SCHIP, State Children's Health Insurance Program; mandates coverage for all children; and provides incentives to States to expand coverage to uninsured adults. The Kerry plan would not only expand access to health coverage, it would reduce premiums by about 10 percent for those with insurance. He does this by making the Federal Government a secondary insurer, whenever an individual's health care costs exceed $50,000 in a year. So it is a catastrophic backstop that the Federal Government takes up and covers 75 percent of those costs above that level. It would reduce costs by 10 percent for everybody who has insurance. It is a very simple but important concept to add to the expansion of coverage the Senator has talked about.

We can provide coverage to more than half of those currently uninsured through these steps. I think we must take those programs and even expand them to make sure everybody has coverage. Expanding health coverage is not cheap, but the cost of refusing to expand access to health insurance is enormous as well, and it affects every one of us. We all pay more for health care because hospitals and other providers are forced to increase prices to compensate for those without coverage who use the services. They are mandated to do that at hospitals. We all pay higher State and local taxes to compensate providers who provide precare to those without coverage. We all know that. Emergency rooms, charity care—all of those places where we build up these costs. It is important that we understand the cost-benefit of actually having health insurance programs that work to take care of that and to eliminate some of those costs.

According to the Kaiser Commission on Medicaid and the Uninsured, we spent $41 billion in this Nation last year for uncompensated care for the uninsured. We hear about it from our hospitals, local providers. They give out care, and the total is $41 billion, according to the Kaiser Commission. The annual cost, by the way, of that program I just talked about with the Kerry proposal is $35 billion. So you have a cost-benefit tradeoff. If you could take care of the uninsured, you could take a big bite out of that $41 billion of uncompensated care. We would have to spend the money. Some folks would say we don't have the budget room. We don't have the budget room to pay for the $41 billion that we have. I think we can make major inroads if we work on it.

There are savings to be had if we are prepared to do it. I think making sure that we move on to preventive care, in conjunction with health care access, will make a huge difference in making sure that people deal with diabetes before it is chronic and critical, deal with hypertension before it is chronic and critical. All of these things will make a huge difference. People will deal with these in the normal course of preventive care as opposed to emergency or critical or chronic problems.

Madam President, there is a lot to be dealt with on this topic of access to health care in this country. We need to have that debate. Senator KERRY has laid down an incredibly important proposal—one that is self-financed by the costs that it would defray from the unreimbursed costs going through the system. We need to address these 44 million Americans and address the pressure that middle-class, moderate Americans are feeling every day as they see this 13-percent increase in health care.

I hope we can have a real debate on this floor so that we can move forward to take care of those 44 million uninsured and not have proposals that are dead on arrival, that have no real impact, maybe addressing 2 million of the 44 million and not even dealing with the numbers that are increasing. As we sit here and talk about it today, 3.8 million new Americans have gone on the uninsured rolls since this administration has been in office. We need to address that problem and the other 40 million that are without health insurance. There are proposals that make sense. It is time to address it. I hope we can have that debate.

I yield the floor.

Mrs. BOXER. Madam President, how much time do we have remaining?

The PRESIDING OFFICER. There is 17 minutes remaining on your side.

Mrs. BOXER. Madam President, I come to the floor, first of all, to thank my colleagues for pointing out what is happening in every State in America today. People are struggling to get health care. My mother used to say, ''If you have your health, you have everything.'' I thought, as a child, what does she mean? Now, as I get older, I realize she is right because when your family gets stricken with a disease, with a problem that makes them hurt and unproductive, your world really falls apart.

So, clearly, health care is a very big issue as we go into this election season. It should be a big issue every day here. We don't see the majority bringing up any kind of legislation to make life easier for people, in terms of their health care. We cannot even get enough votes to extend unemployment compensation for people who have been unemployed. So it is something for the people of America to think about.

HONORING OUR ARMED FORCES

Mrs. BOXER. Madam President, since the war in Iraq, I have been coming to the floor to pay tribute to fallen soldiers, heroes from my State. Today, I do that. Unfortunately, there are well over a hundred gone in our State. Today, I want to pay tribute to the 10 young Americans killed since April 26. All of them are either from California or based in California.

SSG Abraham D. Penamedina, age 32, died April 27 when his patrol came under sniper fire in Baghdad. He was from Los Angeles.

LCpl Aaron Austin, age 21, died April 26, due to hostile fire in Al Anbar Province. He was assigned to Camp Pendleton.

SGT Adam Estep, age 23, died April 21, when a rocket-propelled grenade hit his patrol in Baghdad. He was from Campbell, CA.

SPC James Beckstrand, age 27, was from Escondido, CA. He died in Baghdad while part of a dismounted improvised explosive device sweep patrol when a vehicle approached his unit and the driver detonated a bomb.

SPC Trevor Wine, age 22, died May 1, from injuries sustained on April 30, when his convoy vehicle hit an improvised explosive device in Tikrit. He was from Orange, CA.

SPC Ramon Ojeda, age 22, died May 1, when his convoy was attacked in Al Amarah. He was from Ramona, CA.

PFC Lyndon Marcus, Jr., age 21, was from Long Beach, CA. He died May 3, in Balad, Iraq, when his military vehicle rolled over into a canal.

SGT Marvin Sprayberry III, age 21, died May 3, in Balad, Iraq, when his military vehicle rolled over into a canal. He was from Tehachapi, CA.

Cpl Jeffrey Green, age 20, was assigned to Camp Pendleton, CA. He was found deceased on May 5, in the Euphrates River in Al Anbar Province. The cause of his death is under investigation.

Cpl Dustin Schrage, age 20, was found deceased on May 6, in Al Anbar Province. The cause of his death is under investigation. He was from Camp Pendleton, CA.

Madam President, 172 soldiers, who were either from California or based in California, have been killed by serving their country in Iraq. I pray for these young Americans. I pray for their families. I pray for their friends.

My heart goes out to all of our soldiers, to all of them. It is because of

my love for them and the country's love for them as they face danger at every turn that I call on this administration to finally get a doable, believable, well-thought-out plan and exit strategy for our troops.

From day 1, we really scorned the international community. The coalition the President talks about, when we really look at the numbers, we are still carrying the burden of well over 90 percent, probably 95 percent, both in the number of troops there and in the cost to our taxpayers, which is ever increasing.

Our troops were told they would be liberators, not occupiers. It has not gone the way they were promised. Even their stays in Iraq have been extended and extended. They are exhausted.

I was pleased that my amendment to repay counties and cities that are paying the full salaries of guardsmen and reservists—at least reimburse them for 50 percent of the cost—was adopted.

Because, in my opinion, this administration never had a plan from day 1, except for a brilliant military strategy which worked very well in the invasion part of this war, I believe our troops are in grave danger. Because nothing was expected to happen to them that has happened to them, they did not even have the equipment, they did not even have the training they needed. They are underequipped, they are ill trained, and that leads me to the prison scandal.

I saw those photos yesterday, and I still cannot get them out of my mind. I did not see them all because I physically and mentally could not see any more of them, about 15 minutes' worth of the photos.

What has made our country great has been our constant and consistent support for human rights. What has made our country great has been our respect for humanity. We have been a beacon of hope, not a beacon of fear, in the world. People have always looked up to America. We have been mighty, we have been strong, and we have been firm. Nobody is as strong as we are. No one can touch us militarily. That is clear.

We have never, ever had a scandal like this where our people who say they were under direct orders did such despicable, brutal, terrifying acts against other human beings. People say there are despicable acts happening on so many sides, and they are so right. There are acts that are beyond description, such as what happened to young Mr. Berg and Danny Pearl. Does it make us any stronger, any more a leader to turn our backs on years of human rights, years of Geneva Conventions? Does it make us better? Does it make us stronger? Or does it make us more like them, those who have no respect for humanity?

This is America. When I was a little girl, my parents said: We are different than everyone else. If someone hurts us, we will fight back, but we will do it within the context of humanity.

Those acts that I saw against other human beings—some women, some who were never even charged with anything but were just being detained—the most horrendous sexual humiliation and, in some cases, attacks, I can tell you, most of us would have fainted if it was done to us, fainted rather than be conscious, rather than be knowing, rather than be debased. Most of us would want to be dead.

Our President must take responsibility. He is the Commander in Chief. President Truman did not say, ''The buck stops anywhere else.'' It stops at the desk of the President. He is the head of the military.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mrs. BOXER. I ask for an additional 5 minutes.

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

Mrs. BOXER. Madam President, landing on a carrier in good times is understandable. Many Presidents have done that. Unfortunately, for this one, he had a sign that said ''Mission Accomplished,'' and that was not to be. I understand wanting to land on a carrier in dress in good times.

By the way, that was a moment when the whole world was with us, and he could have again engaged the international community, but he said no. They did not support us in the invasion, and they were not going to have any of the contracts. It was going to be kept for the people in this country, the Halliburtons, essentially. No, we could not share the glory of the moment—a horrific mistake, I think, when history is written.

I do not fault a President for landing on a carrier in good times. I do not fault a President—all of them have done it—for marching in parades with the heroes, the people who chose to fight for their country. Every one of us loves to stand for them, every one of us feels stronger, every one of us feels taller, every one of us feels proud. I do not fault the President for wanting to stand next to heroes, many of whom signed up. I do not blame him. But when things go wrong, that is the time when a real leader steps forward. A real leader would stop his ordinary schedule. A real leader would not be climbing into a campaign bus. This is my opinion, and this is my country, and this is what I think. A real leader, when faced with a crisis such as this, would stop everything.

We do not know how far up this goes. Today I read Secretary Rumsfeld told the committee he felt the rules of the prison were fine. After I came out of seeing those photographs, I said to myself and then I verbalized it to some of my colleagues, I do not want those photos seen by anyone in this country who has a pulse and a heart, but I have changed my mind.

If Secretary Rumsfeld says he thought the rules in the prison were fine, then I want the people of America to see what happened under the rules of those prisons. We cannot baby the people. We must allow them to see what has happened.

It is a sad day in America when I am in a car with my 9-year-old grandson and I have to turn the radio off of even a music station because I fear they might have a news break and he is going to hear something that is going to make him frightened.

It is a hard time for our country, but we have had these hard times before. We have had the hard times domestically. We have had the hard times during war. After 9/11, I think the heart of this country was broken. We are facing a new enemy. It is going to be a long-term battle. I gave the President full authority to go get those people, the al-Qaida. Instead of doing that, he made a u-turn and went into Iraq with no plan, and we are paying a price.

Those young people who are saying they were not trained, we will find out if that is a fact, but these are tough times. The thing that keeps me going is the greatness of the American people, the wisdom of the American people, the strength of our Constitution and our ability to face these things head on. That is where I will close today.

The American people need to see the truth. They are told by Secretary Rumsfeld that what went on in that prison, that the rules of engagement in that prison, were fine with him.

I want to clarify that. He did not say what went on in the prison was fine with him. He said the rules that governed the prison were fine with him. What I am saying is those rules that allowed this behavior, one prisoner being pulled by a belt over and over again, his head slammed against a steel door, his hands behind his back, others being forced into positions that I will not describe, being harmed in the most vulnerable ways imaginable. No, I did not want people to see it, but now I fear they must see it.

All the talk about the privacy of the people, absolutely if they see it they cannot see faces. That is for sure.

I did not expect to be here today even talking about this. I came to talk about another subject, but when I heard the Secretary of Defense defend the rules of that prison I felt I had to come and tell the people of this country, and the good people of my State who have sent me here twice, I think they need to see it for themselves.

Do not take my word for it. Do not take the word of another Senator who says, oh, God, they are making such a fuss over this; what is all the outrage about. That is another reason they should see the pictures. Do not believe me. Do not believe that other Senator. Believe your eyes, believe what you see.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

50TH ANNIVERSARY OF BROWN VERSUS BOARD OF EDUCATION

Mr. BROWNBACK. Madam President, it gives me great pleasure to join with my colleagues today and talk about something that happened 50 years ago, which has been a difficult and important journey that we have been on. On May 17, 1954, Dwight Eisenhower was President of the United States and the Supreme Court of the United States issued an opinion that changed the country. It was Brown v. the Board of Education. The Brown was the Reverend Oliver Brown of Topeka, KS, my hometown.

The case of Brown v. the Board of Education was the case that ended segregation in our schools and in our society. It was really the beginning legal case that moved that forward.

On Monday, we will dedicate in Topeka, KS, the school that was the basis for the complaint. It is the Monroe School. It will be dedicated as a national historical site, a national park. The President will be there. A number of different dignitaries will be there to celebrate and say where we have been over the last 50 years after we ended segregation in this country in 1954 and where we are going.

It is going to be a beautiful occasion. It is a momentous occasion. It is an important occasion. We have been on a journey during that period of time of the 50 years. It has been a rocky road since that time period. It was certainly difficult before that time period. It has not always been going in the right direction, but at the end of the day we have been going in the overall right direction.

We are on a journey. What is the destination? Well, I think the best place to look is to Martin Luther King's words. He said:

> The end is reconciliation; the end is redemption; the end is the creation of the beloved community.

These are words of the Reverend Dr. Martin Luther King spoken on December 3, 1956, after the completion of the Montgomery bus boycott. These words symbolize the goal of this great Nation, a goal that is echoed throughout our history: The end is reconciliation; the end is redemption; the end is the creation of the beloved community.

In this quote, Dr. King, who was and remains a prophet to the Nation, is speaking of a time in which all people in the United States will be able to live together harmoniously, reconciled with one another and with God, as one people under God.

Today we look back on the history of our Nation and take note of how far we have come as a people. We are reminded that we owe a great debt to those who have fought valiantly for the freedoms we easily take for granted.

On the eve of the 50th anniversary of this case, it is fitting that today the Senate takes time to honor the Brown case, the Brown family, which is one of the greatest civil rights cases in our Nation's history and one that changed the way in which we view equality under the law in our society. More than any other case, Brown sets this Nation on a path of ensuring freedom and equality in America.

The United States is a nation that symbolizes the essence of freedom, equality, and democracy. These principles are embedded in the documents that established this country. Yet as a young nation, America had not yet bestowed these ideals upon African Americans who resided in this country. Though progress was made after the Civil War, America had yet to realize her true potential as a nation built on freedom and equality for all. It was not until the landmark Supreme Court decision of Brown was rendered that our country was ushered into a symbol of freedom and democracy of what Dr. King did so eloquently describe as the beloved community.

May 17, 2004, marks the 50th anniversary of the Brown decision which effectively ended school segregation in America. However, the history of desegregation of our public school system started before Brown in such cases as Murray v. Maryland and Sweatt v. Painter. It was the Brown case that caught fire and changed the course of American history in the way in which we view equality in the eyes of the law.

Before Brown, many States in this country held and enforced racially segregated laws which was an atrocious practice. Many individuals cited the 1896 Plessy v. Ferguson case, and I note that while the Court got it right in Brown, the Court has gotten it wrong in the last two. Courts are not infallible institutions. They are made of people such as we are. They make good decisions and they make bad situations. They made a bad decision in Plessy that was the law of the land for 50 years after it—a little more than 50 years. They made a bad decision in the Dred Scott decision—the Fugitive Slave Act that was applicable across the land until, really, the Civil War. They make good decisions and they make bad decisions.

The Plessy case, which was a bad decision, sanctioned the separate but equal doctrine as the grounds for keeping school segregation legal.

During that time, there were court cases that challenged this separate but equal doctrine because the schools for African American children were substandard facilities with out-of-date textbooks and often no basic school supplies. In fact, in Kansas, alone, there were 11 school integration cases dating from 1881 to 1949, prior to Brown.

By 1950, African-American parents began to renew their efforts to challenge State laws that only permitted their children to attend certain schools, and as a result, they organized through the National Association for the Advancement of Colored People the NAACP, an organization founded in 1909 to address the issue of the unequal and discriminatory treatment experienced by African Americans throughout the country.

It was at this time that Rev. Oliver L. Brown, a citizen of Topeka, Kansas became part of the NAACP strategy to file suit against various school boards on behalf of African American parents and their children. This effort was led first by Charles Houston and later by Thurgood Marshall.

On February 28, 1951, Rev. Brown, along with 13 parents and 20 children, filed a lawsuit against the Topeka School Board on behalf of his 7-year-old daughter, Linda.

Like other young African Americans, Linda had to cross a set of railroad tracks and board a bus that took her to the ''colored'' school on the opposite side of the city from where she lived—even though a school for white children was located only a few blocks from her home.

The case was taken to the District Court of Kansas, but the ruling was not beneficial to Rev. Brown and the others. The court admitted that segregated schools gave African American children a feeling of inferiority, but felt that they must uphold the decisions of Plessy vs. Ferguson, which stated that separate but equal is still equal, and subsequently, ruled in favor of the Board of Education.

On October 1, 1951, Rev. Brown's team appealed the case to the Supreme Court, where the Brown case was combined with other NAACP cases from Delaware, South Carolina, Virginia, and Washington, DC, which was later, heard separately. These combined cases became known as Oliver L. Brown et al. v. the Board of Education of Topeka, et al.

There were many notable African Americans who helped to bring these cases to the United States Supreme Court; however, none so famous as Supreme Court Justice Thurgood Marshall, who valiantly defended the rights of not only Linda Brown and the other defendants in the case, but of an entire race of individuals who were treated as second class citizens.

During the course of the trial, Thurgood Marshall used expert witnesses in child psychology and referenced the detrimental impact that segregation in our Nation's School System had on African American children.

He also referenced the cases of Sweatt v. Painter, and McLaurin v. Oklahoma, both of which made a lot of progress in the desegregation of colleges and universities when the court ruled that the restrictions of African Americans actually hinder their learning.

He argued that younger children were equally hindered by segregation, and therefore there was no logical argument that could justify ruling against segregation in higher learning, and uphold the Plessy v. Ferguson case when referring to elementary and secondary schools.

On May 17, 1954, the Supreme Court rendered its decision to rule racial segregation in schools unconstitutional.

Further, the Supreme Court found the ''separate but equal'' doctrine to be in violation of the 14th amendment of the United States Constitution, which states, among other things, that:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.

When the court ruled, in 1954, that school segregation laws were unconstitutional, the Supreme Court demolished the legal foundation on which racial segregation stood. The court's opinion, written and delivered by Chief Justice Earl Warren, also served as a stirring moral indictment of racial segregation, and an eloquent challenge to America to cast off its prejudices and extend its promises of life, liberty, and the pursuit of happiness to all citizens, regardless of race or color.

Today, I am proud to join with my colleagues in the U.S. Senate to honor this magnificent case in our Nation's history.

I am encouraged that with this case, this Nation was able to move one step closer to that ''beloved community'' Dr. King referenced, where redemption through reconciliation can occur. Therefore, the importance of this case does not solely reside in the law, but equally sheds light on our responsibility to humanity and upon our ability to reconcile our differences, with one another and through that process seek redemption, and achieve the creation of the ''beloved community.''

As we celebrate Brown today and next week, we are one step closer to that goal for our country and I invite our Nation to join with us in celebrating this magnificent case that stirred a Nation's consciousness and was the basis for shattering segregation in our society.

I yield the floor.

Celebrating a Landmark Decision in the Civil Rights Movement: the 50th Anniversary of the Brown v. Board of Education Decision

Mr. ROBERTS. Mr. President, from Civil War to the war against racism, Kansas has been a battleground in the fight for equality. Oliver Brown was a soldier in this struggle, as he courageously fought to prove that separate among the people of this great Nation is not equal.

The watershed case that bears his name stands for all time as an important victory in the civil rights movement. On Monday, May 17, 2004, we will celebrate the 50th anniversary of this momentous decision. And in Topeka, KS, we will gather to dedicate Monroe Elementary School as the Brown v. Topeka Board of Education National Historic site. This new addition to the National Park Service will afford us the proper setting to fully reflect on what this decision has meant to our Nation, and will provide future visitors with a more complete understanding of how Linda Brown's struggle changed the course of our Nation's history.

The Monroe Elementary School, purchased in 1877 by the Topeka Board of Education, was one of the four segregated elementary schools for African American children in Topeka. The current building is actually the third Monroe school to stand there, built in 1926.

Monroe was a good school, built by the same architect who built other schools in Topeka, including those reserved for white children. And the teachers were well-trained, many of whom had advanced degrees. This wasn't a case of substandard facilities, or a lack of educational opportunities for Linda Brown and her classmates. This was simply injustice under the law, and the need to right a grievous wrong.

The Brown Foundation, under the leadership of Cheryl Brown Henderson, has worked diligently to preserve the bricks and mortar that were a part of this historic case. Far more than just a building, however, this site represents the genesis of the movement to strike down our Nation's segregationist policy.

Thanks to his daughter Cheryl's efforts, and those of countless others, Monroe Elementary was designated a National Historic Landmark in 1991. I, along with Senator Robert J. Dole and Senator Nancy Landon Kassebaum, am proud to have supported legislation creating the Brown v. Board of Education National Historic site, which was signed into law by President George Bush in 1992.

As stated in the legislation, the purposes of this important site are:

To preserve, protect, and interpret the places that contributed materially to the landmark U.S. Supreme Court decision which ended segregation in public education, to interpret the role of the Brown case in the civil rights movement, and to assist in the preservation and interpretation of related resources within the city of Topeka that further the understanding of the civil rights movement.

That bill challenged us to properly commemorate and interpret this history, and ensure that the story of Linda Brown and the thousands of other children who were denied access to white elementary schools is told. This new site has met every expectation of ours, and pays proper tribute to the struggle for civil rights. As we dedicate the Brown v. Board of Education National Historic site, what was once a building designed to educate a few, now stands ready to educate us all.

The PRESIDING OFFICER. The Senator from Missouri.

IRAQ

Mr. BOND. Madam President, I came to speak on other matters, but I thought it would be helpful to straighten out some things, where maybe those who are watching or who have heard might have a misapprehension as to the position that the Secretary of Defense has taken.

The Secretary of Defense and the Chairman of the Joint Chiefs of Staff are in Baghdad today. I have heard it said that the Secretary defended the rules of engagement for the Abu Ghraib prison, with possibly a misunderstanding that he approved or somehow condoned what went on and what has been revealed in the shocking photos of abuse we have seen.

Let's be clear on one thing. The rules of engagement are very clear, and the rules of engagement do not permit or tolerate the kind of abuses we have seen depicted in the Abu Ghraib prison. This is a real difference between a free, democratic country with respect for human rights observing the Geneva Convention, and those who do not. It has been stated on the Senate floor that we are no better than the Saddam Hussein government that was running the prisons. That is an unnecessary slanderous attack on the men and women of the military who do believe, by and large—99.999 percent—in the standards we set.

The difference in our country is that when we see these evidences of abuse we move to do something about them. Investigations began in January. The first criminal indictments were handed down near the end of March. We are proceeding with the prosecution of those who have been shown to be engaged, and we will follow that up the chain of command if somebody gave orders that were interpreted to permit this kind of behavior. This is a real difference—and I think it is important for Americans and people throughout the world to realize that there is a difference.

It was said earlier this morning that the President took a U-turn away from dealing with terrorism and went into Iraq. Let me remind my colleagues and the people of the United States that, after viewing the intelligence, 77 Senators said we need to do something about Iraq because it is a dangerous country, harboring terrorists. We didn't take a U-turn. We went into Iraq because it was one of the great dangers to the world, in terms of harboring terrorists.

David Kay, who was leading the Iraqi Survey Group, made many inspections over there. He didn't find large caches of weapons of mass destruction. Nobody said we would. What he did say when he came back was the situation in Iraq was far more dangerous than we even knew because terrorist gangs were roaming Iraq. Iraq had produced and used chemical or biological weapons on its own people and on the Iranians, and this was a dangerous territory. We have seen in recent days how dangerous it has become because of al-Zarqawi, a colleague-in-arms of Osama bin Laden, set up 2 to 3 years ago, and Ansar al-Islam, which is the deadly, vicious terrorist organization that beheaded Nicholas Berg.

If the world needs to know the difference, the difference is when there are abuses such as putting a chain around the neck of an Iraqi prisoner, we are going to prosecute people. In Iraq, al-Zarqawi can cut the head off an innocent American hostage and I have

yet to hear any outcry or outrage from the people in that region. There is a real difference.

But we ought to be worried about young people hearing about hostages—innocent hostages—being beheaded. Daniel Pearl of the Wall Street Journal was beheaded.

These are the people we are dealing with. This is why this matter is important. This battle is not won. It is going to be a battle not of months, maybe not even of years, and maybe decades. But the world is going to be safer, and we are going to be safer in the United States if we can continue the battle President Bush has laid out to carry the war on terrorism to those countries that harbor terrorists.

IDEA

Mr. BOND. Madam President, I came here to recognize and commend the great work of Senator GREGG and Senator KENNEDY on crafting an IDEA bill. They produced a solid, thoughtful, bipartisan bill which protects the educational rights of children with special needs while at the same time making IDEA more workable for parents, teachers, school administrators, and school districts.

I think we all agree IDEA was a great idea. It helped open doors for many children with special needs since it was enacted in 1975. Yet there is no question that significant problems exist.

As I traveled through Missouri and talked with educators, teachers, administrators, parents, and school board members, I heard all kinds of problems with IDEA. Over the years, these teachers, principals, and administrators in Missouri have told me IDEA has become a morass of rules, of regulations and litigation that truly limit access and in some instances actually hinder learning—not just for children with disabilities but for all children. That is simply not acceptable.

Educators are struggling under a crushing procedural and paperwork burden imposed by IDEA, contributing to what is becoming a chronic shortage of quality teachers in special education in Missouri and nationwide. Special education teachers are leaving the profession—not out of frustration with the children whom they are there to serve, but out of frustration with the overwhelming and unnecessary paperwork and the regulatory burdens they face. Without a qualified teacher, a child with a disability cannot receive a free, appropriate public education.

Most special educators report they have to spend 20 to 50 percent of their time on paperwork. More time spent on paperwork is less time spent with students or preparing lesson plans for students. It is as simple as that. We cannot continue to let IDEA interfere with the time educators can devote to the children they serve because we all know a misdirected focus on paperwork, on procedures, and on bureaucracy frustrates teachers and fails to give children the education they need.

In addition, over the years IDEA has encouraged and fostered adversarial relationships between school districts, staff, and parents. Time, money, and resources exhausted in costly litigation would be far better spent on instruction for children. Taking limited dollars away from children with disabilities and redirecting them to attorneys to fight long and costly battles is simply counterproductive. It does not help the education of our children—all children, special children and other children in the schools.

These are a few of the concerns I have heard from Missouri educators over the years. But the thing I like about Missouri educators is they don't simply tell me what the problem is; they show me how to fix it. Maybe that is one of the reasons they call Missouri the ''Show Me'' State.

The Missouri School Board Association's Special Education Advocacy Council, working in partnership with the Missouri Council of Administrators of Special Education, developed a list of thoughtful, solid, and detailed recommendations to improve IDEA and inject a little bit of good old-fashioned commonsense reform to IDEA.

In fact, the Missouri Special Education Advocacy Council examined the IDEA statute line by line and told me exactly where and how we improve the statute by refocusing special education on educating children with special needs rather than simply complying with a system of complex regulations and mountains of paperwork and red tape.

I am pleased many of the recommendations made by MSBA's Special Education Advocacy Council have been incorporated in S. 1248. The numerous paperwork and regulatory reforms in the bill will go a long way to free special educators' time to spend with their students and in preparing effective instruction plans. In addition, this bill contains many provisions to reduce litigation and restore trust between parents and school districts.

I thank both Senator GREGG and Senator KENNEDY for including these critical reforms in the Senate bill. This bill will improve and strengthen IDEA and extend the promise of quality education for a new generation of children with special needs.

I urge my colleagues to support this bill.

There is one other thing I want to address. I want to talk a minute about funding IDEA. We heard a lot of talk yesterday about the broken promises. The authorization for IDEA said the Federal Government is going to provide 40 percent of the cost of IDEA. Over 19 years, funding for IDEA has increased from $251,000 in 1977 to $2.3 billion in 1996.

Our side took control of Congress in 1995, and over the course of that time period, the Republican Congress has increased funding for IDEA by 224 percent since 1996. That was done through the appropriations process.

If the President's budget is enacted, it will have increased funding for IDEA by 376 percent. The average per-pupil expenditure has increased from 7 percent to almost 20 percent. If you include the President's budget request for this year, IDEA funding since 2001 will have increased $4.7 billion—75 percent in this President's budget.

In comparison, in the 1980s IDEA was one of the spending appropriations categories that did not increase. In fact, in many of those years the Federal Government covered less than the States' average per-pupil expenditure for children with disabilities than it had the year before. I am proud of our leadership in this Congress which has made steady progress toward finally trying to reach the 40-percent level authorized in 1975. We have made great strides toward fulfilling the commitment. I know the people in education are very appreciative of those increases.

BROWN v. BOARD OF EDUCATION

Mr. BOND. Madam President, let me join with my colleague from Kansas in celebrating and congratulating the educational institutions of this country in implementing the Brown v. Board of Education decision that is now celebrating a major historical birthday.

We have come a long way. I was in school back in those days before Brown v. Board of Education. I can tell you it has not been an easy struggle.

President Dwight Eisenhower called up the military to go into Little Rock to integrate the schools. Battle after battle was fought.

Fifteen years later, I had the honor of serving the chief judge of the Fifth Circuit Court of Appeals in Atlanta, GA, one of President Eisenhower's appointees who fought the battle to carry out the civil rights reforms that had been ordered by the courts and enacted into law.

This has been a long and tortuous journey. We have made great progress. There is still a way to go. But I think we all can take pride in the fact that as a result of Brown v. Board of Education and legislation passed by this body and implemented by the courts, we have made progress that was long overdue and should be warmly welcomed by all Americans of every race, creed, and color.

I thank the Chair. I yield the floor.

Mr. GREGG. Mr. President, what is the regular order?

The PRESIDING OFFICER. There are 5 minutes on the Democrat side and 1 minute on the Republican side in morning business.

Mr. GREGG. I ask unanimous consent that we proceed to the pending legislation.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1248, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1248) to reauthorize the Individuals with Disabilities Education Act, and for other purposes.

Pending:

Gregg (for Santorum) amendment No. 3149, to provide for a paperwork reduction demonstration.

AMENDMENT NO. 3150

Mr. GREGG. Senator KENNEDY and I have a number of technical and conforming amendments that have been cleared on both sides of the aisle and put into a managers' package. Therefore, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for himself and Mr. KENNEDY, proposes an amendment numbered 3150.

Mr. GREGG. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide a manager's amendment)

On page 382, line 21, strike ''or the post-surgical'' and all that follows through page 383, line 2, and insert ''or the replacement of such device.''.

On page 398, line 21, strike ''or the post-surgical'' and all that follows through page 399, line 2, and insert ''or the replacement of such device.''.

On page 408, between lines 11 and 12, insert the following:

''SEC. 610. FREELY ASSOCIATED STATES.

''The Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall continue to be eligible for competitive grants administered by the Secretary under this Act to the extent that such grants continue to be available to States and local educational agencies under this Act.

On page 451, line 19, strike the comma after ''consult''.

On page 453, line 25, strike ''affirmations'' and insert ''affirmation''.

On page 503, line 2, strike ''educational''.

On page 503, line 11, strike ''educational''.

On page 504, line 9, strike ''educational''.

On page 504, line 21, strike ''educational''.

On page 509, line 24, strike ''prereferral''.

On page 515, strike lines 10 through 15, and insert the following:

''(ii) are provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer;''.

On page 553, lines 13 and 14, strike ''*statute of limitations*'' and insert ''*timeline*''.

On page 553, line 14, strike ''statute of limitations'' and insert ''timeline''.

On page 615, line 13, insert ''and supervised'' after ''appropriately trained''.

On page 664, lines 11 and 12, strike ''administrators, principals, and teachers'' and insert ''personnel''.

On page 669, line 10, strike ''and'' after the semicolon.

On page 669, line 17, strike the period and insert ''; and''.

On page 669, between lines 17 and 18, insert the following:

''(C) encourage collaborative and consultative models of providing early intervention, special education, and related services.

On page 671, line 8, strike ''and administrators'' and insert '', administrators, and, in appropriate cases, related services personnel''.

On page 672, line 11, strike ''providing'' and insert ''provide''.

On page 672, line 14, strike ''and'' after the semicolon.

On page 672, line 17, strike the period and insert ''; and''.

On page 672, between lines 17 and 18, insert the following:

''(D) Train early intervention, preschool, and related services providers, and other relevant school personnel, in conducting effective individualized family service plan (IFSP) meetings.

On page 702, line 24, insert ''early childhood providers,'' after ''ability of''.

On page 702, line 25, insert ''related services personnel,'' after ''administrators,''.

On page 720, lines 5 and 6, strike ''alternate'' and insert ''alternative''.

On page 720, lines 22 and 23, strike ''*Students With Significant Disabilities*'' and insert ''*Students Who Are Held to Alternate Achievement Standards*''.

On page 721, strike lines 1 through 3, and insert the following:

''(1) the criteria that States use to determine—

''(A) eligibility for alternate assessments; and

''(B) the number and type of children who take those assessments and are held accountable to alternate achievement standards;

On page 721, strike lines 6 through 8, and insert the following:

''(3) the alignment of alternate assessments and alternative achievement standards to State academic content standards in reading, mathematics, and science; and

On page 753, line 16, insert ''(as appropriate when vocational goals are discussed)'' after ''participation''.

On page 756, line 6, insert ''vocational'' after ''school''.

On page 756, line 7, insert ''vocational'' after ''school''.

On page 764, line 13, strike ''(C)'' and insert ''(A)''.

On page 766, after line 20, insert the following:

SEC. 302. NATIONAL BOARD FOR EDUCATION SCIENCES.

Section 116(c)(9) of the Education Sciences Reform Act of 2002 (20 U.S.C. 9516(c)(9)) is amended by striking the third sentence and inserting the following: ''Meetings of the Board are subject to section 552b of title 5, United States Code (commonly referred to as the Government in the Sunshine Act).''.

SEC. 303. REGIONAL ADVISORY COMMITTEES.

Section 206(d)(3) of the Education Sciences Reform Act of 2002 (20 U.S.C. 9605(d)(3)) is amended by striking ''Academy'' and inserting ''Institute''.

On page 777, after line 15, insert the following:

TITLE ____—MISCELLANEOUS

SEC. ____01. GAO REVIEW OF CHILD MEDICATION USAGE.

(a) REVIEW.—The Comptroller General shall conduct a review of—

(1) the extent to which personnel in schools actively influence parents in pursuing a diagnosis of attention deficit disorder and attention deficit hyperactivity disorder;

(2) the policies and procedures among public schools in allowing school personnel to distribute controlled substances; and

(3) the extent to which school personnel have required a child to obtain a prescription for substances covered by section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) to treat attention deficit disorder, attention deficit hyperactivity disorder, or other attention deficit-related illnesses or disorders, in order to attend school or be evaluated for services under the Individuals with Disabilities Education Act.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to Congress a report that contains the results of the review under subsection (a).

Mr. GREGG. I ask unanimous consent that the Senate consider and agree to amendment No. 3150.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3150) was agreed to.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. A very brief word on the technical amendment, the managers' amendment. We give assurance to all of our colleagues that it is a technical amendment. All the matters that are in that managers' amendment are directly related to provisions in the legislation. I give the assurance to our colleagues that is the nature and description of the managers' amendment, and we appreciate their willingness to accept it.

We have several of our colleagues on their way over who wish to address the Senate on this issue. Then we will hopefully move along to final passage somewhere in the noon area.

Mr. GREGG. Mr. President, for Members' information, we expect to have a vote on final passage around 12:10. In fact, we may have a unanimous consent, although I will withhold that for a moment.

I ask unanimous consent that the time between now and 12:10 be equally divided between the sides.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GREGG. Mr. President, I ask unanimous consent that once Senator SANTORUM's amendment is modified and we agree to it, at 12:10 today the Senate proceed to a vote on passage of H.R. 1350, with all provisions of the original agreement in place, and I ask for the yeas and nays.

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

Is there a sufficient second?
There is a sufficient second.
The yeas and nays were ordered.
Mr. GREGG. I yield the floor.

STAY PUT RULE

Mr. MCCAIN. I would like to commend the bill managers for reaching a bipartisan compromise on this important issue. Recognizing the substantial challenges the current law has posed to many schools and school districts, this bill seeks to strike a very difficult balance between the interests of disabled children and their families and the schools and school districts. However, despite the substantial improvements this legislation makes over current law, issues of concern remain among a number of interested parties, including education groups in Arizona.

I am also concerned about some of the unintended consequences that have arisen as a result of the Federal restrictions placed on school districts concerning the manner in which they are allowed to discipline students with special needs. For example, an Arizona school district recently identified a number of students involved in the sale and distribution of illegal drugs on school property, a very serious incident that placed the other students and the teachers at that school at great risk. All of the students involved in the incident were expelled, with the exception of one student who has a mild disability.

I recognize the Senator from New Hampshire already has worked to include language in this bill to reverse the ''stay put rule,'' which schools, school districts, and the Arizona Superintendent of Education, Tom Horne, have expressed substantial frustration over. I want to commend the sponsor's efforts and hope to work with him to ensure that schools are not prevented from taking action to discipline children as appropriate, including those enrolled in IDEA. I know this issue is also of concern to my colleague from Arizona.

Mr. KYL. I would also like to congratulate the senior Senator from New Hampshire for his success in getting this legislation this far through hard work and bipartisanship. We recognize that securing consensus necessitated compromise on a position we all share: that schools should be able to maintain a single standard for discipline. Like Senator MCCAIN, I am very pleased that this legislation repeals the ''stay-put rule,'' a major priority of Superintendent Horne and other education leaders in our state.

Mr. MCCAIN. I thank the Senator. IDEA is centered on an individualized approach to educating children with special needs. Disciplining those students whose actions endanger other students and faculty also should be done on an individual basis—a one size-fits-all Federal approach to discipline disregards the individual nature of the actions of the students involved, and is not the best approach.

Another issue that concerns schools and administrators in Arizona is Section 616, regarding monitoring, technical assistance, and enforcement. It would allow the Secretary of Education to refer a case to the Department of Justice if the Secretary determines the State has shown a ''significant lack of progress'' or is in ''substantial noncompliance'' or ''egregious noncompliance'' with IDEA. Schools from across Arizona are concerned that the language in this bill is too vague and could lead to excessively burdensome litigation if a State is labeled to be ''significantly noncompliant'' or ''egregiously noncompliant.''

Mr. KYL. I certainly understand the concern that this provision could have unintended consequences. I hope that in conference this language can be clarified to focus on the achievement of outcomes through the development of a sound remedial plan, overseen by the Department of Education. Many of us have expressed concern over the cumbersome litigation sometimes associated with IDEA. This language could make the status quo worse—tying up critical personnel and diverting scarce resources, without ensuring positive outcomes.

Mr. MCCAIN. I have also heard substantial concern from groups in Arizona regarding language that may compel states to pay for lawsuits against State or local education entities. I know these concerns also have been expressed to my colleague from Arizona.

Mr. KYL. The Chairman of the Committee on Health, Education, Labor and Pensions, perhaps drawing on his experience as a Governor, has been eloquent in detailing the burdens this Federal statute has placed on States. I trust that as the final bill language is crafted, he and his colleagues will be striving to ensure that the need to provide parents with appropriate mechanisms for vindicating their due process rights will be balanced appropriately against the imperative not to impose excessive new burdens on state governments.

Mr. GREGG. I understand your concerns and will take them to conference.

Mr. MCCAIN. I thank the sponsor of this important legislation and greatly appreciate his willingness to ensure that these important issues are addressed as this measure continues through the legislative process.

Mrs. LINCOLN. Mr. President, first I commend my colleagues on the Senate Health, Education, Labor, and Pensions Committee for all of your hard work on this important piece of legislation and for bringing a bipartisan bill before the full Senate.

When the Individuals with Disabilities in Education Act, or IDEA, was enacted in 1975 it brought with it the promise that children with disabilities would have access to the same quality education as nondisabled students. Over the last 30 years, IDEA has advanced the inclusion of students with disabilities into general education classrooms and has given nearly 6 million students nationwide access to services that address their special needs.

When Congress passed IDEA nearly 30 years ago, they committed to providing states with 40 percent of the funding necessary to implement this law. Much to my dismay, Congress has failed our schools and the students they serve by providing them with a meager 19 percent of the funding as of fiscal year 2004. It was my hope that this current reauthorization would include mandatory full funding for IDEA because I believe that schools have waited long enough for the Federal Government to fulfill the promise made to them so many years ago.

I was proud to support an amendment proposed by my colleague from Iowa yesterday, which would have provided mandatory full funding of IDEA. Unfortunately, the amendment failed by a small margin. I supported another amendment, however, offered by my colleague from New Hampshire to provide full discretionary funding for IDEA, which passed the Senate. I am proud that the Senate made full funding for IDEA a priority, and I look forward to working with my colleagues throughout the appropriations process to make full funding a reality.

There are several important aspects of this bill, which will improve the educational experience of students, parents, and teachers. I am pleased that this bill will reduce the paperwork burden on teachers. I have heard from many special education teachers in my State of Arkansas that spend an inordinate amount of time on paperwork and this legislation would provide them with welcome relief so that they can focus on student performance.

This bill will also streamline discipline procedures, which I believe will make schools safer and provide school administrators with increased flexibility. Additionally, it will improve parental involvement by creating parent and community information centers with the objective of encouraging parents and schools to work together and resolve disputes in a smooth and efficient way. I am also pleased that this bill provides more resources to schools to better train teachers and parents. This provision is of particular importance to Arkansas where school districts are trying to give financial assistance to teachers for continuing education but are struggling because they face tough budget times.

I would also like to reinforce that every single child's learning experience is impacted by their community and school environment. Let us not forget that children with disabilities contribute an extraordinary amount to that learning environment. Students with disabilities deserve every opportunity to achieve educational success so that they can take on productive jobs and lead independent lives. IDEA is a critical law in ensuring that these opportunities are available, and I believe the bill before the Senate today

will help educators, parents, and students achieve success in the classroom and beyond.

Mr. CRAIG. Mr. President, regulations applying IDEA are complex, and I applaud the work of my colleagues in trying to make these regulations a little easier for students, parents, and schools. This bill is a clear signal that the Senate is concerned about the welfare of our children with special needs.

S. 1248 helps our students by providing early access to services and support while working to reduce the misidentification of nondisabled children. This bill aims to make things easier for parents by allowing parents and schools to make changes to a student's individualized education plan, IEP, without calling an entire IEP meeting. S. 1248 should also help to relieve the burden on schools that are often associated with special education regulations. It includes provisions to improve discipline and school safety, reduce paperwork, and simplify funding for grants to State agencies.

Mr. President, as you know, when IDEA was signed into law, Congress committed to contribute up to 40 percent of the costs associated with special education. We have failed miserably in this. One important provision in this bill is a plan to authorize the Congress to fund its 40 percent portion completely by the year 2011. I am pleased to report our success in the Senate and pledge my commitment to seeing the Federal Government contributes its full share.

Mr. HATCH. Mr. President, I rise today to express my support for S. 1248, the IDEA Reauthorization Act.

A concerned Utah parent called one of the school districts yesterday to ask for help. Her son is being released from a 24-hour mental health facility. He is not ready for a regular class setting, but there isn't room for him to be accommodated in a self-contained setting even though that school district is trying to provide a quality education for all students, including those with special needs.

''We love them, even though sometimes they burn us out,'' said one of our outstanding (and overworked) special education teachers. She is dedicated to these children who are guaranteed an education under IDEA, the Individuals with Disabilities in Education Act.

All students identified for special education present unique challenges. There are students with specific learning disabilities that are mild to moderate. Of these, many will be successfully educated and have futures filled with higher education or specialized technical training, careers, and families. Even many of the students with profound, significant disabilities will become wage earners, thanks to a great nation that understands and upholds the right of all students to an education. Utah is particularly successful with those students because of strong family and community-based support. Though they may never be able to live in complete independence, they realize an excellent measure of accomplishment and contribution.

Of major concern are students such as the young teen who just walked out the front door of the mental health facility. He is among a growing number of students with severe emotional problems. Their disabilities may prevent them from becoming wage earners, good parents, and responsible citizens. Many will end up in prison. Unfortunately, there is a lot of lost potential here. But they will not be lost if we can tap into their potential.

With this important reauthorization, I have had the benefit of input from various groups and individuals, including my own Disability Advisory Committee in Utah, made up of State and local officials and representatives from organizations specializing in disability advocacy. The Utah State Legislature has been in the forefront of the debate about the Federal funding of education as they continue to take the responsibility of providing an education to every child in my State.

Funding special education is an important priority. I believe that the Federal Government's responsibility is to do its utmost, through the appropriations process, to direct funds to the States, who are certainly in the best position to decide how best to utilize these funds. Although appropriations for IDEA part B grants to states have increased significantly over the last 9 years, funding still falls short of the amount that would be necessary to provide maximum grants to all States.

I agree that we need to put IDEA on the path of full funding with the goal of reaching the Federal Government's promise of 40 percent. While funding since 1996 has quadrupled, we are only halfway there. For this reason, I supported Chairman JUDD GREGG's funding amendment, passed by a vote of 96–1 yesterday, that sets increasing discretionary authorizations for special education grants to States so that Congress will be on track to meet 100 percent of the full funding commitment by 2011.

I am heartened that we have the support of the appropriators to reach the commitment. I am satisfied that the President will keep education as one of his highest priorities. Be assured that I will be keeping a watchful eye on this funding as we review it every year. If we fall short, I will be prepared to revisit this issue. It is not fair for States and localities to be saddled with Federal mandates they can ill afford. Congress should live up to its commitment, which I believe we have with passage of the Gregg amendment and assurances of our appropriators.

While I am on the topic of the unwise burdens the Federal Government imposes on States, I would be remiss if I did not emphasize the tremendous costs of overregulation. Paperwork saps valuable time away from educators and diverts their number one focus: educating Utah's students. Senator RICK SANTORUM's amendment will give States the opportunity to reduce paperwork burdens associated with IDEA requirements and increase the resources available for improving results for children with disabilities. That is why I strongly support it.

Indeed, reduction in paperwork is also a priority for the teachers. We need to encourage individuals to become qualified special education teachers. Take for example Utah—which is unquestionably a great place to live. Even there, it is difficult to find teachers to fill these crucial positions. It is even more difficult in rural districts.

I am confident that under IDEA reauthorization, we can address these deficiencies by reducing paperwork, providing resources for recruitment of new teachers and for training, and making classrooms safer.

The IDEA reauthorization, albeit imperfect, provides a pathway to success for our greatest asset: all of America's children.

Mr. DODD. Mr. President, I rise today in support of the legislation before us to reauthorize the Individuals with Disabilities Education Act—IDEA. I want to start by thanking my fellow committee members and their staff for all of their hard work in putting together the bipartisan legislation we are considering today. While we may still have some disagreements about the bill, getting to this point in a bipartisan way is no small achievement, and I know we are all better for it.

Today, nothing pleases me more than to introduce, with my many of my colleagues, the Individuals with Disabilities Education Improvement Act of 2003. This bill will ensure that students with disabilities get the services they are entitled to while providing school systems with a greater degree of flexibility in implementing the law.

The Individuals with Disabilities Education Improvement Act of 2003 emphasizes accountability and improved results, improves monitoring and enforcement of the law, and works to reduce litigation by providing new opportunities for parents and schools to address concerns and disputes. The bill reduces paperwork by streamlining State and local paperwork requirements and clarifying that no information is required in an individualized education plan—IEP—beyond what Federal law requires. Like No Child Left Behind, this bill increases and improves opportunities for parental involvement and supports teachers in becoming ''highly qualified'' to do their jobs.

The Individuals with Disabilities Education Improvement Act provides earlier access to services and supports for infants, toddlers and preschoolers with disabilities. It also properly puts added emphasis on transition services so that special education students leave the system ready to be full productive citizens, whether they choose to go on to college or a job.

These are the things that the Senate bill does. Sadly, there is one glaring provision missing. This bill does not contain a provision to provide mandatory full-funding of IDEA; A provision that my colleagues Senator HARKIN and HAGEL tried to get incorporated into the bill yesterday.

Almost 30 years ago, Congress passed the Individuals with Disabilities Education Act to help States provide all children with disabilities with a free, appropriate public education in the least restrictive environment possible. Since that time, this law has made an incredible difference in the lives of millions of American children and their families.

When we passed the law, we not only promised to bring special education students into the regular school system, we made a commitment to cover 40 percent of the State cost of servicing students with special needs over time. Thirty years later, we have yet to make good on this commitment. Today the Federal Government supports just over 18 percent of the cost of the program. That is not even half of the 40 percent we promised 29 years ago.

In order to rectify this situation, Senators HARKIN and HAGEL put together an amendment mandating full funding of the Individuals with Disabilities Education Act. This amendment failed yesterday 56–41. This saddens and frustrates me. Had it passed, I believe this amendment would have proven to have been the most important provision in this bill.

States and municipalities are bearing more than their share of responsibility for meeting disabled students' needs. In Connecticut, the State typically covers 32 percent of the costs of special education, local school districts cover 61 percent of the costs of special education, and the Federal Government covers only 7 percent.

Certainly States and municipalities are paying more than their share of special education costs. They need our help. Senator HARKIN's and HAGEL's amendment provided an opportunity to give them the help that they need.

Only mandatory full-funding of IDEA would demonstrate this body's commitment to universal access to education for all children, while helping entire communities ease their tax burden. As I have said before, I cannot accept the argument that because our economy is faltering, or we are a Nation at war, we cannot provide our children and their families with the critical educational resources they need. Investment in education is no less important in a weak economy or while our Nation is at war.

Education needs to be viewed as a national priority. In fact, education is the key to a healthy democracy, and absolutely essential to our long-term national and economic security.

Like Senators HARKIN and HAGEL, I support the idea of mandatory full-funding because it is good for students, families, schools, municipalities, states and the average American taxpayer. The funding fight on IDEA has been a long one over the years and I believe that schools have already waited to long.

Fundamentally, this is a good bill—one that will help guarantee the full potential of all our children while assisting school districts in their efforts to deliver special education services in an efficient manner. That is why I will support the underlying bill. Thank you.

• Mr. COLEMAN. Mr. President, I strongly support the Individuals with Disabilities Education Act—IDEA—reauthorization legislation that the Senate is considering today. I want to note for the record that I would have voted for this important legislation but for a death in the family that required me to be home.

First of all, I commend Chairman JUDD GREGG and Senator TED KENNEDY for working in a bipartisan manner to craft this important reform legislation. Children with disabilities ought to have the same access to a quality education as any other student. Since its enactment in 1975, IDEA has helped do this by ensuring that children with disabilities have access to a quality education. S. 1248 will make needed improvements to IDEA by improving services for these children, expanding parental involvement, and providing much needed support for special education teachers.

Under current law, IDEA's complicated regulations have detracted from the success of the program. For too long, IDEA has focused on the process rather than the outcome. That is why I support simplifying the law's burdensome due-process requirements, which have created excessive amounts of paperwork for teachers. This duplicative paperwork has taken teachers' valuable time away from teaching in the classroom, and sometimes has even driven special education teachers out of the classroom. I believe that this legislation will reduce the paperwork burden for teachers and thus allow teachers to do their job—teaching children.

This legislation also helps reduce misidentification of non-disabled children. Misidentification of special education students has fueled growing IDEA cost. S. 1248 provides reform by allowing for the development of new approaches to determine whether students have specific learning disabilities by clarifying that schools are not limited to using IQ-achievement tests and by providing funds for training school personnel to prevent over-identification and misidentification of children.

I am, however, disappointed by the failure to pass an important amendment, which I co-authored. This amendment would have provided for annual increases in IDEA funding of $2.2 billion, allowing the program to reach full federal funding levels by 2011. When IDEA was enacted in 1975, the Federal Government promised to pay 40 percent of the costs of educating children with disabilities. Currently, however, the Federal Government contributes only 19 percent, placing an unfair and serious financial burden on States and local school districts. Due to Congress' failure to fully fund IDEA, school districts, especially those in rural areas, are forced to take funds from their general budgets to operate special education programs. As a result, schools have been forced to cut important educational programs and delay infrastructure improvements. I have met with teachers and students from rural Minnesota and know how tight school budgets there are already. This amendment would have brought much needed fiscal relief to Minnesota schools.

But, I do commend my Republican colleagues and the President for their support of IDEA funding. The most dramatic increases in IDEA funding have all occurred under Republican control of Congress and, in recent years, a Republican White House. Since FY 2001, IDEA funding will have increased by $4.7 billion or 75 percent. The Republican Congress has already increased funding for IDEA by 224 percent since 1996. If the President's FY 05 budget is enacted, it will have increased by 376 percent. I encourage my colleagues to support increased funding so that we keep our promise to fully fund IDEA.•

Ms. MIKULSKI. Mr. President, I will vote for the IDEA Improvement Act to reauthorize special education—even though I am disappointed that the Senate didn't pass the Harkin-Hagel full-funding amendment. This is a down payment. There are some good policy changes in this bill, and I think we should move the reauthorization process forward. But I will continue to fight for full funding of special education. It is the single most important thing we can do for children.

I am going to vote for this bill because it takes some big steps forward, and it is a good compromise. As a member of the HELP Committee, I am proud to say that we reached bipartisan agreements on some very complicated policy issues. It simplifies complicated rules and procedures and makes it easier for schools and parents to navigate—not litigate. And it allows schools to help students who need special attention, but not necessarily special education. I have talked to Marylanders about this. The women of Delta Sigma Theta Sorority see their children being racially sidelined—pushed into special education, when what they really need is special attention. I am so pleased that we are doing something in this bill to stop racial sidelining.

Yet, I have some concerns about the bill. My biggest concern is that this bill doesn't fully fund special education. I have heard from teachers, principals, and school superintendents who want to know where the resources will come from. This year, the Bush budget provides a $1 billion increase for

special ed. That may sound like a lot, but at that pace, we will never reach full funding. The Federal Government is supposed to pay 40 percent of the cost of special education. Yet, it has never paid more than 19 percent. In Maryland, the Federal Government only pays an average of 11 percent. That means local districts must make up the difference by skimping on special ed, by cutting from other education programs, or by raising taxes.

I don't want to force States and local school districts to forage for funds, cut back on teacher training, or delay school repairs because the Federal Government has failed to live up to its commitment to special education. Full funding would free up money in local budgets for hiring more teachers, buying new textbooks and technology, and repairing old school buildings. It would give teachers the training and support they need. It would help students with disabilities and their families by providing enough funding for special education programs so parents can have one less thing to worry about, and students get the opportunities they deserve.

Everywhere I go in Maryland, I hear about special education. I hear about it in urban, rural, and suburban communities; from Democrats and Republicans; and from parents and teachers. They tell me that the Federal Government is not living up to its promise, that special education costs about 18% of the average school budget, that schools are suffering, and that parents are worried.

Parents of children with special needs are under a lot of stress. They are worried about their jobs. They are terrified of losing their healthcare when costs keep ballooning. Many are holding down more than one job just to make ends meet. Or they are trying to find daycare for their kids, and elder care for their own parents. They are racing from carpools to work and back again. The Federal Government shouldn't add to their worries by not living up to its obligations. With the Federal Government not paying its share of special ed, these parents have real questions in their minds: Will my child have a good teacher? Will the classes have up-to-date textbooks? Will they be learning what they need to know?

Parents of disabled children face such a tough burden already. Caring for a child with special needs can be exhausting. School should not be one of the many things they worry about—particularly when the laws are already on the books to guarantee their child a public school education. The bottom line is the Federal Government is shortchanging these parents by not paying its share of special ed costs.

I have heard from parents. They have other concerns, too, besides the money. They are concerned that this bill rolls back the guarantee of a quality education, by getting rid of short-term goals on education plans and scaling back safeguards. I agree that we need to simplify this law to make it easier for schools and parents to navigate. I am glad that this bill makes some crucial improvements. Yet, I want to do what is best for families and schools. Ninety percent of school districts are out of compliance with the Federal law. I know schools and teachers want to do what is best for students with special needs—and if they had the resources, they would. But we need to protect the rights of families to fight for what is best for their children—for the times when the school falls short. Instead of rolling back protections for students, we should provide the resources so that schools can give students the services they need to succeed with their classmates in public schools.

Special education has made such a huge difference in the lives of students with disabilities. I will vote for this bill because it is so important to reauthorize special education. But I will keep fighting for full funding because I don't want special education to be a hollow promise.

Mr. SMITH. Mr. President, I rise today to commend my colleagues on the passage of the Individuals with Disabilities Education Improvement Act, to reauthorize programs under the Individuals with Disability Education Act—IDEA.

In 1975, Congress enacted legislation to help States meet their obligation to provide education to all American children including those with disabilities. Children, regardless of their disability, deserve and ought to receive a quality education. IDEA assists States in meeting this goal by providing important federal funds.

In 2002, approximately 6.5 million children with disabilities benefitted from IDEA. Nevertheless, much work remains for Congress to fulfill its promise of fully funding 40 percent of the estimated implementation costs. With passage of this important legislation, we have advanced yet another step toward meeting the needs of America's children with disabilities.

As I travel across Oregon and talk to school administrators about the challenges they face, they routinely tell me about the financial burden of IDEA. They also tell me of their firm belief in the spirit of this legislation and want to provide the best education possible for their special needs students. This requires adequate Federal funding.

For many years, Congress did not fulfill its promise, with significant consequences to schools and students across the country. IDEA spending was one of the few appropriations that did not grow during the 1980s. In fact, in some cases, the Federal government actually covered less of the States' average per pupil expenditure than the previous year.

What many may not realize is that when we provide funding for students with special needs, we benefit all students. Across the Nation, and particularly in Oregon, States are struggling to provide funding for our schools. When schools are forced to make up the Federal portion of IDEA funds, they are forced to take funding from other important education programs. When we fulfill our cost sharing commitment to IDEA programs, there are more dollars available for teacher training, new books, and computers for all students. In effect, schools are forced to choose some students over others, and it is a choice they should not have to make.

I am proud to report that IDEA funding is back on track—and has increased by almost 225 percent since 1996. If the President's budget is approved this year, funding for IDEA will have increased by almost 400 percent. This clearly demonstrates both Congress' and the President's continued commitment toward full funding.

For children with disabilities, IDEA has opened the door to greater educational opportunities. It has served as the cornerstone for greater participation in our society for people with disabilities. The only way to ensure that our promise to provide every opportunity for students with disabilities, and help them achieve their full potential, is to give our schools the dollars they need. I look forward to President Bush signing this legislation into law.

Mr. DOMENICI. Mr. President, today I rise in support of final passage of the Individuals with Disabilities Education Improvement Act, IDEA. I would like to thank the leadership for their hard work on this issue and for making it a priority. This legislation is critical for children with disabilities.

We have a special responsibility to vulnerable populations such as disabled children. We must ensure that all children, including those with special needs, are given the best education possible. By reauthorizing this law today, educational opportunities and outcomes for children with disabilities have been strengthened greatly. We have established high expectations for real educational results for disabled children.

The purpose of the Individuals with Disabilities Education Act is to ensure that all children with disabilities have available to them a free appropriate public education that includes special education and related services to meet their unique needs. More than two decades ago, when I was just in my first term as a Senator, we said to our schools, ''When it comes to disabled children, exclusion from public education is unacceptable.'' But the Federal Government has never paid its proper share of the cost of the special education mandate it imposed on States and schools.

With the reauthorization of IDEA today, the Senate has reaffirmed its funding commitment to children with disabilities. But more than just increasing the funding for this program, the Senate has ensured better results

for students with special needs, reduced the paperwork burden for teachers and school officials, and maximized parental involvement and choice.

Prior to the passage of IDEA in 1975, many students with disabilities were provided an inadequate education or none at all. Our society has made great advancements in the way that we deal with the disabled. We have finally realized that disabled children need better results, and that parents need better information and options.

The IDEA reauthorization signals another important step for education reform in the United States. This law will undoubtedly improve academic results for children with disabilities, and it is for this reason that I am supporting this legislation. I would also ask that the leadership on both sides continue to work together to get this bill to the President. Unnecessary delay could disrupt the delivery of important legislative gains for children with special needs and the school districts that provide their educational opportunities.

Mr. SCHUMER. Mr. President, I just want to take a few minutes to express my deep disappointment that the Senate has once again failed to keep our promises to adequately fund our schools. The Senate's inability to pass the Harkin-Hagel amendment yesterday is an outrage. The amendment would have put us on a 6-year track to finally fulfill the Federal Government's promise to fully fund the Individuals with Disabilities Act—a promise made to our schoolchildren and our local districts 30 years ago.

The key with the Harkin-Hagel amendment—which I was very proud to cosponsor—was that it made the funding mandatory. It would have finally mandated that within 6 years, the Government fulfill its promise to cover 40 percent of the costs of educating special needs children in this country. Nationally, at current spending levels, the Federal Government only covers about 19 percent of the costs—and in New York, the figures are much lower than that. Some districts in New York spend nearly one-fifth of their overall school budgets providing quality special education programs. Yet for many districts, Federal funding only covers 8 or 9 percent of these costs.

I have talked to school superintendents all over the State about the budget crunches they are in—crunches that are exacerbated by the economy, tight State budgets, and year after year of being shortchanged by the Federal Government. Last month, the Campaign for Fiscal Equity in New York reported that New York State will need $9.5 billion more for education funding over the next 4 years, but it has not yet been revealed where that money will come from. Schools across the State are struggling to balance their budgets—and are often forced to raise local property taxes to fund the Federal mandates we place on them.

The administration's proposal would increase IDEA funding by only $1 billion this year. At that rate of increase, we won't reach full funding until 2028—50 years after we promised it to our districts. Under the administration's budget, New York State will receive approximately $729 million in fiscal year 2005 funding. If we were at full funding, New York would be getting $1.49 billion next year. Under the Harkin-Hagel amendment, New York could expect $807 million in fiscal year 2005, and steady, solid increases in the subsequent 5 years to get the State to the full amount.

My office did an analysis, using data from the Congressional Research Service, the National Education Association, and the Department of Education, comparing the administration's fiscal year 2005 funding proposal to what various regions of the State would be receiving in 2005 under full funding. The shortfalls were shocking:

New York City will be shortchanged $303 million under the administration's budget. Under full funding, they could expect $565 million, but they are only going to get $262 million.

Schools in Western New York, which includes Buffalo, will be shortchanged $58 million. They should be getting $108 million, but will only see $50 million.

In Central New York, the region which includes Syracuse and the surrounding counties, schools will be shortchanged $43 million. They will get $37 million instead of $80 million.

In the Lower Hudson Valley, just north of the city, schools will get $45 million instead of $96 million.

Schools in the Rochester/Finger Lakes region will get $43 million instead of $93 million.

Schools in the Southern Tier of the State will be shortchanged $13 million. They will see $11 million instead of the $24 million they were promised by Congress in 1975.

The Senate had a real opportunity yesterday to make a difference in the lives of the families we are here to protect and represent. But I am ashamed that only 56 of us stepped up to the plate. For all the rhetoric we have heard over the last several years about the importance of making a true commitment to our kids, it is nothing more than schoolyard banter if we don't fund our promises.

We can make no better investment than providing a high-quality education for all of our kids—ensuring they have access to the best teachers, cutting-edge curricula and books, and access to the special services they need to learn, advance and become productive members of society.

Yesterday we had a chance to make it right. Our schools simply asked for the funding they were promised to provide kids with the services they need, and 41 Members of this body said no. We will be back. We will keep coming back, and we will keep fighting the fight until our kids and our schools get what they were promised and what they deserve.

Mr. ENSIGN. Mr. President, I believe that this legislation is the next step toward ensuring that all children with disabilities receive the education and services they deserve. I am pleased to lend my support to the passage of S. 1248, the Individuals with Disabilities Education Improvement Act of 2003. This legislation has been carefully crafted to balance the concerns and wishes of students, parents, teachers, principals, and superintendents.

As a new member to the Health, Education, Labor and Pensions Committee, it has been a pleasure to be involved in this reauthorization from the very beginning. I have worked hard to ensure that the needs of the children, parents, teachers, and administrators in my home State of Nevada have been met. I have heard from Nevadans the problems they face when dealing with the complexities of IDEA and believe this bill addresses many, if not all, of their concerns.

During one of my rural tours, I had the opportunity to stop in Minden, NV, which is located in the Douglas County School District. As part of my time there, I went to a school to meet with parents, teachers, students, and the superintendent of the school district. While many topics and issues were discussed during that time, the one that has stuck out the most in my mind is IDEA. The superintendent told me stories and gave examples of the difficult time he and his staff have had in dealing with the complexities of IDEA, especially the regulations related to discipline. It finally got so bad the Nevada State Department of Education had to put out a handbook to describe the regulations.

Just recently, the superintendent for Washoe County School District was in town, and he shared with me many issues of importance for his schools, including funding for IDEA. He told me that while additional funding for No Child Left Behind programs would be nice, funding for IDEA was much more important to the financial well-being of his district. We talked about the recent press regarding charges that No Child Left Behind is an unfunded mandate, but he replied that there is no greater unfunded mandate and burden on the financial state of districts than IDEA.

It is with these experiences in mind that I come to the floor today to discuss S. 1248, the Individuals with Disabilities Education Improvement Act of 2003. I am particularly pleased to see that this legislation focuses on the goal of improving the academic achievement and long-term goals of these students rather than burdensome administrative checklists. In 1954, the United States Congress made it clear that ''all children'' included racial minorities, and in 1975 we expanded this to include children with disabilities by ensuring that all children receive a free and appropriate public education. This legislation complements the work done with the No Child Left Behind Act, and helps ensure that no child is left behind.

Unfortunately, the focus of IDEA has moved away from providing students with disabilities a quality education and towards ensuring that teachers, schools, and districts are simply in compliance with the law. The current accountability provisions in IDEA focus more on compliance in terms of paperwork and lawsuits, rather than on student performance and outcomes. I believe that S. 1248 changes the direction that IDEA is moving by simplifying the paperwork requirements, giving States greater flexibility, and making the process of disciplining students with individualized education plans, commonly known as IEPs, easier.

Changes contained in S. 1248 will simplify the IEP process for parents and teachers, while maintaining the flexibility both parties need to include additional information, outcomes, and goals for individual students. The IEP process had become a burdensome and time-consuming endeavor for all parties that often produced little for the child involved. Rather than focusing on short-term objectives for every child, the Senate bill requires that IEPs contain only long-term goals and objectives that are focused on the child's academic achievement and functional performance goals for the school year. This change recognizes that not all children will make great strides on the academic side of the equation, but may excel in their functional achievements. I know that some parents in Nevada have expressed concern over this change, but I believe this will be more beneficial to individual children by eliminating a one-size-fits-all approach for IEPs.

Another area of great concern to parents, teachers, and administrators has been the discipline provisions contained in IDEA. The Senate version simplifies the framework for schools to administer IDEA but also ensures the rights and the safety of all children. In Nevada I have heard from numerous school principals, superintendents, and teachers about the difficulties they have when it comes to disciplining a disabled student. They have complained not only about the dual-discipline system created by IDEA but also about the incredibly complex rules and regulations they must follow if a disabled student does violate school rules. The Senate language will allow schools to suspend a child with a disability who violates a code of conduct and withhold services during the suspension. Schools would be allowed to discipline a child with a disability in the same manner as a child without a disability for school code violations so long as the violation was not related to the child's disability. An agreement has also been reached with regards to offenses related to weapons and drugs for children with disabilities. While this language is a great improvement on current law, I still have concerns about the complexity of these provisions and the continued burden faced by teachers and principals in completing paperwork and fighting lawsuits related to discipline.

That said, this legislation also makes great strides in other areas, such as providing special education teachers the initial training they need and the ongoing educational support and assistance required in the classroom every day. Parents will no longer be faced with reams of paper every time they go to a meeting with their child's teacher. Children will be taught by highly qualified teachers and receive the services they need to succeed in school. Students will also be provided with important transition services as they leave high school and enter either the workforce or postsecondary education opportunities.

I have heard from many parents in Nevada who believe their child's teachers and principals are overburdened with paperwork related to their child's education. They also have felt bombarded with notices explaining to them their right to sue school districts if they do not believe their son or daughter has received the services necessary for he or she to succeed. This legislation, I believe, strikes that delicate balance between parents who believe they are getting too much information and those who believe they are not getting enough. I am always careful not to have too great an impact on the important relationship between a parent and a teacher from Washington, DC.

The issue of Federal funding for IDEA has been an issue of huge concern not only to my constituents, but to every school district in the country. Every school district in Nevada has contacted me with a very legitimate concern in that the Federal Government has never lived up to the promise it made in 1975 to provide 40 percent of the excess cost to educate a child with a disability. Currently, the Government is providing funding that pays for about 20 percent of the excess cost to educate children with disabilities. I completely agree that the Federal Government must live up to its promise to provide this crucial funding to our schools. IDEA is truly an unfunded mandate. However, I believe we must continue to fund these programs on the discretionary side of the budget and not move funding to the mandatory side of the budget. Moving funding to the mandatory side of the budget places it in the same category as Medicare and Social Security and above other education programs. I do not believe it is right to make IDEA an entitlement and elevate it above other, equally important, Federal education programs.

Not only would IDEA funding be placed in a higher category than other education programs, but moving funding to the mandatory side of the budget has the potential to increase the deficit. We cannot afford to continue deficit spending and place the burden of our unrestricted spending on the backs of our children. I believe we must work to make IDEA funding a true priority both during the budget process and the appropriations process. We should work to increase funding at large levels every year to reach the 40-percent marker.

In addition, funding for IDEA has substantially increased over the past 4 years. In fact, assuming the President's $1 billion increase for this year is approved, funding has increased by $4.7 billion, or 75 percent, since 2001. Since 1996, when Republican's took over control of Congress, funding for IDEA has increased by 224 percent, yes, 224 percent. If the President's $1 billion increase is approved for this year, funding will have increased by 376 percent in less than 10 years. Nevada has seen funding nearly double in the past 4 years. Since 2001, funding has increased by 84 percent, one of the largest increases in the country. While I recognize we are only at half of our promised level of funding, it is clear that Congress is making great strides to living up to its promise.

I hope we can continue the great progress we have made on this important legislation and appoint conferees to work out our differences with the House-passed legislation. This issue is too important to fall victim to partisan politics. We cannot allow children with disabilities to be held hostage because of the partisan atmosphere of the Senate.

Finally, I thank both Senator GREGG and Senator KENNEDY for their hard work on this legislation and dedication to this important issue. I look forward to working with both of them on future reauthorizations in the HELP Committee this year.

Mr. PRYOR. Mr. President, I rise today to commend my colleagues, the senior Senator from Massachusetts, Mr. KENNEDY, and the senior Senator from New Hampshire, Mr. GREGG, for their work on a very important piece of legislation that is so vital to many parents, teachers, school administrators, and most importantly, children in the State of Arkansas and across this country. It is especially important that on issues such as this we have bipartisan cooperation, and I thank my colleagues for ensuring that cooperation and the quick action we have seen on the Individuals with Disabilities Education Act yesterday and today.

I have heard from many of my constituents about IDEA, and they have expressed a wide range of concerns about various aspects of the legislation, from discipline, to due process, to funding, to individualized education programs. And we all know that no one got everything they wanted from this reauthorization. But that is the nature of compromise. That is the nature of legislating in this body. It is my hope that we can find more opportunities to work in the bipartisan manner that Senator KENNEDY and Senator GREGG demonstrated in managing this bill.

Just to remind my colleagues, though I know they do not need reminding, because so many of them hear

the same concerns I do from their home States, we cannot overstate how important IDEA is to so many and how it touches the lives of our children every day. I would like to relate the comments of one of my constituents, Tracey Smith, of Springdale, AR.

Ms. Smith's son, Kyle, is an 8-year-old who has been the beneficiary of IDEA since 2000. Kyle's family moved from Texas to Arkansas during the middle of a school year, and Ms. Smith called me to talk about how IDEA has helped Kyle and to talk about some of her concerns with the pending reauthorization. She stressed how important yearly IEPs were for her son and how short-term goals were so vital to her son's long-term achievement. It is important that IEPs continue to be revisited on a yearly basis, and I am encouraged that we have managed to ensure this important aspect of special education will remain in the Senate legislation.

Furthermore, Ms. Smith was nervous that people in Washington, who do not experience on a day-to-day basis the trials parents and children have to face, would not understand how changes we make affect their daily lives. IDEA has provided much-needed flexibility for parents, and this legislation continues in that manner. As Ms. Smith told me:

> As a parent I appreciate and value the freedom that IDEA gives parents and educators to address an individual child's needs.

And that is what this is about, individual children and individual parents. It is about addressing their educational needs and concerns, addressing their daily struggles in the hopes that we can make their lives a little more normal, even if it is only for 1 day. I admire parents like Tracey Smith, and I commend her for having the courage to remind us of the effect we have on persons we may not always know.

I know there will be many issues related to civil rights, discipline, due process, and highly qualified teachers to address in the conference with the House of Representatives. I hope they are resolved in the same bipartisan manner in which this bill was crafted in the Senate and with parents and children in mind. We have worked hard to ensure civil rights protections for children and parents, and I hope they are not diminished. We have worked hard to craft discipline provisions that protect all of our children while understanding disabled children have special needs, and I hope we can continue to ensure the safety of our schools. We have worked hard to include protections for due process, and I hope any differences are resolved to ensure parents know and understand their rights under the law without giving unfair advantage to any one party. We have worked hard to make sure our children have proper instruction, and I hope we continue to ensure proper instruction without discouraging individuals from entering the field of special education. Most of all, I hope we have a finished product that all parents, educators, and, most importantly, children can benefit from.

This is a bipartisan bill, and I am pleased with the progress we have made in the past couple of days in regards to funding, ensuring services to our military families and homeless and foster children, and reducing burdensome paperwork for our teachers. I am, however, disappointed that we failed to make full funding mandatory. Senators HARKIN and HAGEL have worked very hard to ensure the Federal Government lives up to the promises we made to our disabled children, parents, and schools almost 30 years ago. I was very pleased to join in that worthy cause, and I will continue to work with my friends on both sides of the aisle until we meet our commitments. As we in this body are all aware, funding is not always the answer, and it is never the only answer. But many times we see that inadequately funding the mandates we force on States and local districts are such a large piece of the puzzle. We cannot honestly say we are doing all we can to advance education for disabled children unless we meet those funding commitments. It doesn't do us any good to educate some and leave others behind. Instead of providing opportunity for many of our children, we are closing doors to them. Instead of educating and instructing future productive citizens, we are, in some cases, neglecting those who will become dependent on Government and those who will live a life of despair.

I believe fully funding IDEA is not just a commitment we have made, but also an investment in our children. By appropriating the necessary funds to fully fund IDEA, we can provide our teachers the tools and resources they need to do what they do best—educate all of our children to the extent that they not only participate in but contribute to society. It is an investment we should and we can afford to make. Several of my colleagues made the point that by making full funding mandatory, Congress would somehow lose the ability to revisit and change the adjustments we have made in this legislation. I disagree. I would ask my colleagues, when has Congress failed to address problematic aspects of any piece of legislation when it was so warranted? When has the Congress given up oversight of any area of responsibility? I would venture to guess that mandatory funding of IDEA would not prevent this body from revisiting IDEA if and when it becomes necessary.

We have made progress toward living up to our commitments in recent years. We should be proud of that progress. In fact, when IDEA was brought into existence in 1975, Congress funded less than 7 percent of the excess costs to schools for special education. In 2004, we funded close to 19 percent of excess costs. We have made progress, no one denies that, but as the Senator from Iowa, Mr. HARKIN, so eloquently pointed out: We should not be concerned with what we have done. We should be concerned with what we will do now to reach our commitments. I commend this body for realizing we need to do more for special education. But if we continue to make piecemeal increases in IDEA, we will never reach full funding under current law. I hope in the coming months and years we can make progress toward fulfilling the 40 percent commitment. We can do better. We can do more. And I commend and thank my colleagues on both sides of the aisle for their leadership and commitment to this issue.

Mr. DURBIN. Mr. President, in 1975, Congress made the historic decision to require all public schools to accept and educate children with disabilities in the least restrictive environment. That law still serves as the basis for the Individuals with Disabilities Education Act.

As part of the original law, Congress acknowledged that the Federal Government would need to contribute 40 percent of the extra costs of educating students with disabilities. Sadly, we do not seem to have a very good track record. Today—30 years after that critically important legislation was enacted—the Federal Government pays less than 20 percent of the additional cost.

I commend my colleagues, Senators HAGEL and HARKIN, for offering the amendment to move the Federal share to 40 percent over 6 years. This amendment is an appropriate and overdue response to our schools who are living up to their end of the bargain, and I was pleased to support it. Unfortunately, the amendment failed by a slim margin.

National organizations—ranging from teachers' groups to the disability rights movement to education advocacy groups—have urged this body to support the Hagel-Harkin amendment. There is broad and deep recognition that mandatory full funding is the right thing to do and that this is the right time to do it. Our schools need this funding.

I got a letter this week from the Superintendent of the Orion Community Unit Schools asking me to support IDEA. He says, ''Please understand that reauthorization is imperative for the financial stability of the public schools in Illinois.'' The Orion school district is in the top 5 percent of Illinois schools academically. It has cut its budget each of the last 2 years by 3.4 percent. And yet Orion has been placed on the financial early warning list.

Two years ago, this Congress enacted the No Child Left Behind Act. The purpose of that law is to close the achievement gap. For too many of our children, especially those who have disabilities, we had become complacent about lowered expectations. I voted for that law because I believe every child, including those with disabilities, can succeed.

But lower teacher ratios, qualified teachers, specialists, tutoring, early

intervention—all of these proven means to improved academic achievement require resources. It is hard for me to understand how we can say that we as a nation expect 100 percent proficiency in basic academic skills, but we can not afford to fully fund No Child Left Behind. We expect all but the most severely cognitively disabled students to meet Adequate Yearly Progress, but we cannot afford to fully fund IDEA. We expect our schools and teachers to work effectively with children who face every adversity, but we can't afford to provide federal education funding at promised levels. Meanwhile we find somehow that we can afford to hand out tax breaks to the wealthiest and most advantaged among us.

Congress meant what it said in 1975 with the enactment of IDEA. Children with disabilities have the right to a free and appropriate education. And we meant what we said in 2001. Every child is expected to learn. Both laws affirm that access to a quality education is a civil right in this country.

I am disappointed that we were not able to pass the Hagel-Harkin amendment. But I strongly support the underlying bill. This reauthorization will do much for students with disabilities, their families, and the schools they learn in. But it is up to the Congress of 2004 to fulfill the promise of the Congress of 1974. It is time for this body to put its money where its mouth is.

Mrs. CLINTON. Mr. President, I am proud to be a cosponsor of S. 1248, and would like to thank Chairman GREGG and Senator KENNEDY for working in such a cooperative and bipartisan way on this important legislation.

I strongly believe in every child's right to a free, appropriate public education, and I appreciate the leadership you both have shown in working to ensure that this reauthorization bill protects that right. I believe the bill before us today is better than the House bill due largely to your commitment.

This bill ensures that children with special needs receive a free, appropriate public education while supporting teachers and other school staff, strengthening monitoring and enforcement, involving parents more thoroughly in the education of their children, resolving disputes equitably, and improving the transition between school and beyond.

I am particularly pleased that this bill includes several provisions that I supported. The first I sponsored with Senator SESSIONS, and it is embodied in S. 1321. This provision will channel $25 million directly to local school districts to help children with emotional and behavioral disabilities. This program will support investments in positive behavioral supports, whole school interventions, and improve the quality of interim alternative educational settings. These funds will help schools invest in professional development, provide for early interventions, and fund whole-school interventions that train school administrators, support staff, and parents to help students with disabilities succeed.

This bill also includes provisions of the Personnel Excellence for Children with Disabilities Act, which I was proud to cosponsor. This act creates two new grant programs to support personnel preparation—one to help schools recruit and retain new special education teachers, and another to better prepare general education teachers to work with children with special needs.

New York faces a major shortage of qualified special education teachers, and I believe it is critical to dedicate resources to recruiting, retaining, and providing ongoing professional development for all teachers—general education and special education. These funds will go a long way to achieving this goal.

In addition, I am pleased that the Senate adopted an amendment that I offered yesterday to include the Department of Education as a key partner in the planning and execution of the National Children's Study. This study will be the most comprehensive examination of children's health ever conducted in this country. It is critical that schools, where children spend more time than anywhere other than their homes, be included in this analysis. By including the Department of Education we will gain valuable insight into the role that environmental factors play in contributing to developmental disabilities.

While I am so pleased with all of the provisions I have mentioned, I am deeply disappointed that Senator HARKIN's amendment to provide mandatory full funding for IDEA failed yesterday. This amendment has strong bi-partisan support, thanks to the leadership of Senator HAGEL on the Republican side, and it represents the only true mechanism to ensure that Congress keeps the promise it made in 1975. Back then, Congress vowed to provide 40 percent of the cost of educating children with special needs. To date, we have never even come close. By relying on discretionary funding we are virtually guaranteeing that we will never achieve the 40 percent threshold. And it is our children and local taxpayers who pay the price. So I will continue to work with Senator HARKIN, Senator HAGEL, Senator KENNEDY and my other colleagues to ensure that one day we achieve the victory we were not able to yesterday.

In one of my first experiences out of school, I was tasked by the Children's Defense Fund with reconciling census data with school enrollment. This project developed out of a realization that many children who were living in a given community were not enrolled in school. As I went door to door and talked to the families, I quickly realized that the children left out were the ones with special needs.

The Individuals with Disabilities Education Act of 1975 fixed that problem. It promised every child—regardless of their needs—a free, appropriate public education. Today, we are strengthening that law and, more importantly, that promise.

As a Senator from New York, I continue to hear stories about how critical IDEA is for children with disabilities. One parent recently came to my office to visit with his son who suffered brain trauma and now has cerebral palsy and other developmental disabilities. Kevin attends elementary school in the Port Washington School District in Long Island. Because of his special needs, he receives daily one-on-one instruction from a licensed teacher's assistant, 10 hours of speech therapy and three sessions of occupational therapy each week. This investment would have been unheard of 30 years ago. But today, Kevin is able to keep up with his courses in a mainstream 5th grade classroom setting. His success is possible because of IDEA and Kevin is on course to successfully pass the 5th grade and graduate into 6th.

Kevin's story should remind us all why this bill is so important. Simply put, it ensures that both teachers and parents have the tools they need to help children with disabilities succeed. So I urge all of my colleagues to join me in supporting S. 1248. And as this bill moves forward I hope my colleagues will continue to maintain the best interest of our children and uphold the spirit and intent of the original law.

Mr. DASCHLE. Mr. President, by reauthorizing IDEA, the Individuals with Disabilities Education Act, today, the Senate reaffirms America's commitment to ensure that every child is given the opportunity to develop his other God-given talents and abilities to their fullest potential.

I commend our colleagues, Senator GREGG and Senator KENNEDY, for their diligence and bipartisan leadership. This bill demonstrates that the Senate can indeed do good and important work when both sides are willing to listen to each other and make principled compromises.

IDEA is more than simply an education program; it is one of our Nation's most important civil rights programs. Because of this law, America now provides real educational opportunities for children who, in an earlier time, might never even have attended a school.

It is not only the children who benefit; all Americans benefit when we develop the potential of every American.

This bill strengthens America's commitment to ensure that every student has access to a free and appropriate education. It holds accountable for helping each child achieve his or her potential at the same time it reduces the paperwork burden on schools and increases local flexibility.

This bill makes it easier for parents to participate in their children's education and improves the process for resolving disputes.

It provides resources to make sure that special education teachers and

other personnel are well trained and well supported.

It strengthens early intervention and preschool services, to make sure that children with disabilities get the best possible start in school. It also creates a stronger bridge between high school and post-secondary education or employment, to help young people with disabilities become full contributing members of American society.

WE know that schools often face challenges in meeting IDEA's requirements. We also know that man parents of children with disabilities consider the law complicated, and they sometimes don't know where to turn for help. It is my hope that improvements in this bill will make the law easier to understand and follow for everyone involved—parents, teachers and school administrators. I also hope that Democrats and Republicans will continue to work together to make additional improvements and changes in the future.

But even the best laws cannot work if they are not funded. I am greatly disappointed that our Republican colleagues have refused to adequately fund this law.

It has been 29 years since the Federal Government promised to provide 40 percent of the cost of special education in America, yet we still provide only 19 percent of those costs. But schools have to provide the services—even if Congress doesn't provide the funds. This places tremendous pressure on local school districts to shortchange other education programs, and can create unnecessary tensions between families of children with special needs, and other families.

The bipartisan Harkin-Hagel amendment would have guaranteed full funding for IDEA. When we first considered that idea, the Republican leadership told us, ''That's a great idea—but first we have to reform the program.'' So we worked with our colleagues to make those reforms. Yet most of our Republican colleagues still refused to support full funding.

Unfortunately, the Republicans' idea of meeting us halfway seems to be to create a program but not fund it—to pass an authorization bill but then refuse to pay for it. They would rather spend the money on more tax breaks for millionaires. I think that is a shame. I urge the President and our Republican colleagues to reconsider their priorities and work with us in good faith to honor the Federal Government's promise to provide 40 percent of all special education funding. As I have said before, real reforms require real resources.

I have spoken with many teachers and parents in South Dakota who tell me that, in an ideal world, every child would have an individual education plan. Every child has strengths and abilities, just as every child faces challenges. And every child benefits when the adults in his or her life work together to develop those strengths and abilities, and help them deal with their challenges. This bill provides a blueprint to make sure that young people in greatest need of such individualized attention and instruction get those opportunities. It is a bipartisan victory for those children, their families, and all Americans.

There are significant differences between the House and Senate bills that will need to be resolved if Congress is to complete action on this legislation. Senator KENNEDY has informed me that he hopes to work out a preconference agreement on several key issues. I will support him in this effort and look forward to working with the majority leader to make progress on this important legislative issue.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 10 minutes.

Today, the Senate moves a large step closer to guaranteeing that children with disabilities can obtain the education they need in order to reach their full potential. Today is a victory for disabled children, a victory for the parents of these children, and a victory for our country. Today we renew our commitment to the education of every child in the nation.

We know that disabled does not mean unable. Children with disabilities have the same dreams as every other child in America—to grow up and lead a happy and productive life. We know that IDEA helps them fulfill that dream.

IDEA says children cannot be cast aside or locked away just because they have a disability. Those days are gone in America—hopefully forever.

Children with disabilities have rights like every other child in America, including the right to join other children in public schools so they can learn and prepare themselves for the future.

This law is about disabled children and their rights. It is about their hope and dream of living independent and productive lives. It is about parents who love their children and fight for them every day against a world that's too often inflexible and unwilling to help them meet their children's needs. It is about teachers who see the potential in a disabled child, but don't have the support or training they need to keep it alive.

That is what this law is about. It is our statement as a nation that these children matter and that we will do our part to help their parents and teachers and communities meet their education goals. That is why the government should make an iron-clad commitment to provide the resources for special education. That is why it is important to develop a solid education plan for each child, to chart the progress, and to hold schools accountable when they fall short. It sounds like No Child Left Behind, and it is—''No Child'' means ''No Disabled Child too.''

Later this month, we observe the 50th anniversary of the Supreme Court's historic decision in Brown v. the Board of Education, which struck down school segregation by race and said that all children have equal access to education under the Constitution. But it was not until the passage of the Education for the Handicapped Act in 1975 that the Brown decision had real meaning for children with disabilities.

Only then did we finally end school segregation by disability, and open the doors of public schools to disabled children. Only then did the nation's four million disabled children begin to have the same opportunities as other children to develop their talents, share their gifts, and lead productive lives.

We must never go back to the days when disabled children were excluded from public education, when few if any preschool children with disabilities received services, and when the disabled were passed off to institutions and substandard schools where they were out of sight and out of mind.

We've made tremendous progress since those dark days. Today, six and a half million children with disabilities receive special education services. Almost all of them—96 percent—are learning alongside their non-disabled peers. The number of young children with early development problems who receive childhood services has tripled since 1975.

The opportunities for further progress are boundless. We know far more about disability today than a quarter century ago. We understand the various disabilities of children, and how to help them all to learn and achieve. We are learning more each day about the enabling power of technology to help disabled children lead independent lives—it lets them communicate, explore the world on the Internet, move in ways we couldn't have imagined 5 years ago, much less in 1975 when the law was first enacted.

This legislation builds on the enormous progress we have already made by recognizing that in several key areas, we must do better.

We must do better in bringing the law's promise to all disabled students in all schools. That means fully enforcing the law in every school district in the country.

A GAO analysis of compliance shows that from educational services to transition support, students are not getting what they are entitled to.

Even when noncompliance is identified, the Federal response is intolerably slow. Some States violated the law for more than a decade before the Department of Education intervened.

This failure has real world consequences for real children struggling to get an education. I have with me today almost 2,000 letters from parents across the Nation whose disabled children have been denied their educational rights under IDEA.

This legislation will improve enforcement of IDEA at every level. It requires a State-Federal partnership to design a better monitoring system to hold States more accountable.

We must also improve services for children nearing graduation, so they can leave school with the skills and continuing support they need to succeed. For persons with disabilities, the adult world offers little help to meet the challenges of daily life.

It is vital for these steps to be taken in school, so that all children with disabilities can be reached before they enter the job market and the confusing maze of adult services.

At best, only a little over half of students leaving special education have jobs or are continuing their education 5 years later. Often, they are transferred into the welfare system, with no recognition of their potential.

Our bill places a major focus on early planning for that all-important transition, and better coordination with other Federal programs such as vocational rehabilitation and our Ticket to Work program, to link students to more options and maximize prospects for their independence. Welfare can't be the only option for students with disabilities when they graduate from school.

Finally, we must do more to help special education teachers—to recruit them, to train them, and to support them in this challenging field. They are the men and women we depend on everyday to stand up and say to our children: You can do it. You can succeed.

We also help special education teachers by reducing the unnecessary paperwork that distracts teachers from focusing on students. It creates better ways for parents, teachers, and school administrators to work together to meet children's needs without resorting to litigation, and provides more flexibility to parents to develop their child's education program by teleconferencing and video conferencing.

The legislation authorizes new funds to improve the quality of alternative placements, and to provide better behavioral supports through whole school interventions.

The legislation provides more flexibility for schools to discipline students, with safeguards so that discipline is not used as an excuse to halt educational services, and is not used to exclude or segregate disabled children because of the failure of the school to provide for the educational needs of the child.

Our ultimate goal should be to support disabled children, not punish them for what they can't control.

I thank the many persons who have brought us successfully to this day.

First and foremost, I commend the thousands of parents who met with Members and staff, sent letters, made a phone call, and participated in other ways in making this legislation possible. They have been citizen leaders at their very best, and have opened our eyes to their cause and let us into their lives, and we are proud of all they have accomplished.

Here in the Senate, I commend Chairman GREGG for his leadership on this legislation over the years, and for all he has done to bring this important reauthorization before the Senate. All of us are grateful to Annie White on his staff as well, for her dedication to making this bipartisan process work—and work, and work, and work.

I commend the majority leader for scheduling the consideration of this legislation as soon as it was ready for action by the full Senate. Because of his willingness to act so quickly, we have a realistic opportunity to enact this important legislation into law this year. I also commend the distinguished minority leader for making consideration of this legislation possible and for his leadership on this and so many other issues of importance to the Nation and giving it the priority he has.

I also commend Senator SESSIONS and John Little with his staff for their bipartisan effort in dealing with the discipline issue, which has needlessly plagued the debate on IDEA for so long.

Senator CLINTON deserves great credit for her work to ensure that new funds are provided to improve the quality of alternative student placements, to provide more effective behavioral supports for students, and to see that all schools are safe schools.

Senator HARKIN is always at the forefront of the movement for equal rights for all persons with disabilities, including children, and he has led the effort for full funding of IDEA.

Mr. President, I yield myself 4 more minutes.

Senator DODD and Senator JEFFORDS worked effectively on this legislation to improve early childhood programs. They have been two pioneers in the development of the legislation since the very beginning, and they have been absolutely tireless in pursuing positive, constructive, responsive changes in these programs. They are both leaders on children's programs in the Senate.

Senator REED improved the training and recruitment of special education teachers. Senator BINGAMAN fought for strong enforcement of civil rights protections for every disabled student. Senator MIKULSKI strengthened support for students making the transition from schools to careers. Senator MURRAY improved the provisions on enforcement and the monitoring of the law and for caring for those children who are moving, who are in transition.

I commend as well, the many members of our staffs, who have worked long and hard and well for the past 2 years. Our thanks go to Bethany Little, formerly with Senator MURRAY's staff; Jamie Fasteau, with Senator MURRAY's staff; Carmel Martin, formerly with Senator BINGAMAN's staff; Michael Yudin, with Senator BINGAMAN; Catherine Brown, with Senator CLINTON; Justin King, with Senator JEFFORDS; Mary Giliberti and Eric Fatemi, with Senator HARKIN; Rebecca Litt, with Senator MIKULSKI; Elyse Wasch, with Senator REED; Maryellen McGuire, with Senator DODD; Denzie McGoire and Bill Lucia, with Senator GREGG; Todd Haiken, with Senator BINGAMAN; and Dennis Borum, with Senator REID.

Our thanks also go out to the hundreds of disability and education advocates across the country who worked so hard on this legislation.

I especially thank Jeremy Buzzell, Michael Dannenberg, Charlotte Burrows, Jim Manley, Jane Oates, Roberto Rodriguez, Kent Mitchell, Danica Petroshius and Michael Myers on my staff for their skillful work and dedication, and above all Connie Garner for all she has done for children with disabilities and their families and for never letting us forget what this debate and this law is really about.

This bill represents our best bipartisan effort, and I look forward to its immediate and imminent passage and strong support from both sides of the aisle. As we move forward today to reconcile our differences with the House of Representatives, I hope we retain that same bipartisan spirit and quickly resolve our differences in this Congress and have this signed into law to benefit the children, the parents, and our country.

Mr. President, I reserve the remainder of the time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, first, I thank the Senator from Massachusetts for his help, assistance, and tireless effort in making sure this bill moved forward, and in an extremely constructive way. We have had considerable success in this committee in passing out of the committee a number of major pieces of legislation that have been bipartisan. Even in this time, as we head into a Presidential election, when there is a bit of tension and some slowdown in legislative activity due to the differences of opinion, which are being highlighted both substantively and politically, we have been able to make progress not only on special education but on other bills, such as the pension bill, which we passed and, hopefully fairly soon, on the bioshield bill, which is a critical piece of legislation. And that is in the last couple months.

The special education bill is one this committee has attended to over the years and has tried to improve. It is a very intense piece of legislation in the sense that the parents and children who are affected by it are immediately impacted by everything we do. Clearly, the school systems, which try to respond to the needs of these children, and often have very complicated and difficult issues to resolve, are also immediately impacted.

Therefore, I am glad we have been able to reach what is clearly a bipartisan and very positive and aggressive bill in moving forward on the issue of giving special needs children adequate education and appropriate education, to which they have a right and which, obviously, we all want to accomplish.

The bill has received strong support from across the board. It is supported

by the Council of Chief State School Officers, the American Association of School Administrators, Great City Schools, the National Association of State Directors of Special Education, the Council for Exceptional Children, the National Center for Learning Disabilities, the Association for the Education and Rehabilitation of the Blind and Visually Impaired.

I think it is important to note those different groups that represent different constituencies because sometimes there is tension between those groups as to how special needs children should be addressed and how they should be educated.

As Senator KENNEDY has so effectively highlighted, the bill creates a number of initiatives with which we are trying to address improvement of the educational system as it reaches out to these children. The first area that is the most fundamental area of change is what the children are learning. Unfortunately, the present law that has evolved over time has become an inputs exercise. In fact, there are something like 819 items which must be checked off in every school district for every child relative to the special needs of that child and how they are educated. We came to the conclusion that this was not getting to the bottom line.

The bottom line is, are these children learning? Is their life improving? Are they being given the tools they need in order to participate in society? The bill moves significantly from being an inputs-tested bill to being an outputs-tested bill, to looking at improvement in academic results as being the primary mode under which we evaluate whether the bill is working relative to the children it is supposed to impact.

Secondly, it is the teacher who is the key player in this effort. Teachers who undertake teaching special needs children are extraordinary people. They are giving of themselves in an immense way. I had the chance, when I headed up a center that dealt with children who had severe disabilities, to constantly be amazed at the commitment of these individuals who are basically, 24 hours a day—at least in our institution—trying to assist the children as they work through their personal problems but also work toward learning more. What we have tried to do is give teachers some new tools and relieve them of some of the bureaucratic burden. That is especially important.

It is estimated that the average special needs teacher may spend as much as a day and a half each week just doing paperwork. We tried to reduce that and give the teachers the professional support they need and the assistance to make sure they are qualified to deal with these children who have very complex and difficult issues.

Thirdly, we attempt to facilitate a better relationship between parents and the schools. Unfortunately, there is a natural tension. It has developed over time. Sometimes it becomes quite aggravated. It not only goes to the schools, it goes to the parents of other children in the school and the property-tax payers in the community. There is no reason a parent of a special needs child should find themselves in a confrontational situation as they try to get what is the appropriate education for their children. We have developed a whole series of initiatives to try to, for better or worse, create dispute resolution in a more comfortable manner rather than a confrontational and litigious manner. This is important to the parent and to the school system. It will mean resources, instead of being focused on hiring attorneys and confrontation in the courtroom or confrontation in a formal legal setting, can be focused on actually educating the child in the classroom. That is the bottom line.

Fourth, the bill gives schools the tools they need to ensure that all the children are safe. As Senator KENNEDY mentioned, discipline has always been a very difficult issue relative to IDEA, relative to special needs children. Disruption in the classroom is one of the primary concerns you hear when talking with teachers and faculty in relation to how special needs children are handled and dealt with in the classroom. In this bill we try to address that. We have made significant progress.

I need to especially point out the work of Senator SESSIONS who focused on this issue, and in a very constructive way moved the process forward, so we have an excellent piece of legislation in this area.

Lastly, we do have, as part of the amendments which passed yesterday, a glide path to full funding under the discretionary accounts, which is the proper way it should be done. In the history of dramatic increases in funding in this account, as was mentioned by Senator BOND, a 376-percent increase is the fastest growing funding increase of any spending item in the Federal budget on a percentage basis over the last few years. The commitment is there and now the authorization is locked in to get us to full funding in 6 to 7 years.

This is a good piece of legislation. I expect it to receive very strong support. It didn't come about through luck and just out of the blue. It came about because a lot of people spent a lot of time over a significant period in constructing it and listening and bringing the people who were involved to the table to discuss it.

I especially thank some of those folks because most of this work is done by our staff, and they do an extraordinary job. Let me mention a couple. Senator KENNEDY has mentioned them also on his side of the aisle.

Specifically with Senator SESSIONS, there was John Little of his staff who worked so hard on the discipline issue. Senator ALEXANDER and his staff; Kristin Bannerman, worked very hard on providing State and school districts greater flexibility. Of course, from Senator KENNEDY and his staff there is Michael Myers, who is staff director, and Connie Garner, who was already mentioned, who has been a major player. And Jeremy Buzzell, we very much appreciate his effort.

On my staff, I have some extraordinary people who have done incredible work and deserve a great amount of accolades for this bill getting to this point: Annie White, who is truly a specialist in this area; Denzel McGuire, an extraordinary leader on all educational issues; and Bill Lucia, who is equally strong on these issues. I have had the very good fortune to have an exceptional staff—and, of course, my staff director Sharon Soderstrom, who does an exceptional job on all issues. We are very lucky to have these folks working for us.

As a result of their efforts, we have been able to produce what I believe is an exceptional and a positive work product which is consistent with the efforts of this committee generally, as I mentioned.

I thought I might read some of the things we have been able to pass out of this committee this year, this Congress, to reflect on how constructive we have been, even in a time of some considerable partisanship. We have done the genetics nondiscrimination bill; the generics drug bill, which reduces the cost of generics; special education; the community services block grant; the Workforce Investment Act, if we can get that to conference; we have the trauma care bill; the medical devices bill; the child abuse prevention and treatment bill; the childcare block grant; the Smallpox Emergency Personnel Protection Act; pediatric drug research authority; Organ Donation and Recovery Act; and the Birth Defects Act. That is just a few of the pieces of legislation we have been able to produce out of this committee in a bipartisan effort.

I certainly appreciate the assistance of Senator KENNEDY undertaking and accomplishing this very strong record.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 16 minutes.

Mr. KENNEDY. Mr. President, I yield myself 3 minutes. We have other speakers coming, but I want to read into the RECORD what difference this law has made, which really tells the story.

This is a letter from Lyssa Bookman from Galloway, OH. This is a letter we received, actually, a few weeks ago. I pointed out earlier that we have over 3,000 letters on this legislation, very thoughtful letters, enormously compelling, extremely moving; in many instances, inspiring. I will just read from this letter:

IDEA is necessary for all children. My personal experience started long before my daughter was of school age. She was diagnosed with Leukemia at nine months old.

Due to her treatments she has long-term cognitive side effects. I have had to beg to get any services for her. I have never had to hire an attorney but have had to tell the building principal and superintendent of schools that they left me with no choice but to file suit against the district of the IDEA laws. As soon as I mentioned it I had what I was after. All my daughter needs is extra time to complete tests and assignments. If the law was not in place, I would not have a leg to stand on and my daughter would have been miserable in school. Homeschooling would have been my only option. She is now a fifth grade student in a gifted class with a 504 plan giving the slight modification of extra time. Without IDEA, she would not be able to handle the pressures placed on a gifted student. Learning disabilities and giftedness can go hand in hand and with IDEA the giftedness can shine and the disability overcome. IDEA gives the disabled child that chance to shine and takes one worry out of the parents' minds. Thank you for your efforts for the kids. They are the future.

I have another letter from Cathie Davis of Tennessee. She writes:

We moved to Monroe County, Tennessee where we will remain until Angel graduates high school. Angel was the first hearing impaired special needs student to enter their school system and they have gone above and beyond to see to it that Angel receives the best education possible. They provided her with an interpreter, Joyce Boyles who has been with her since the second grade. Mrs. Boyles put together a group they call singing hands as a way of teaching the other students how to communicate with Angel as opposed to only teaching Angel to communicate with them. These students (all hearing) along with Angel have been invited to perform at many events throughout the State of Tennessee, signing the words to songs such as ''I'm Proud to be an American'' by Lee Greenwood. Angel has made all ''A's'' and ''B's'' on the sliding grade scale and as of this year, without the aid of any Special Ed classes and on a regular grading scale, she has maintained a ''C'' average.

Mr. President, this is the kind of mail we have received. There are others, obviously, who have not had as much success under the old bill. We tried to address those issues in the current legislation.

Here is another parent who wrote. Her name is Denice Cronin, from Houston, TX. She wrote:

IDEA gave me the rights to ask for testing outside of the school by an unbiased professional, paid for by the school. Based on these findings, the school adjusted their style of teaching and Bonnie again excelled. I still had to seek outside teachings to ensure her success. The Texas Reading Institute of Texas saved my daughter's sanity, as well as my son's.

Today, she is a healthy 7th grade A–B student, still classified as learning disabled. She attends, completes and excels in the ''normal'' classroom. She even passes the TAKs instead of taking the ''alternative testing.'' Should she run into a setback, we have the rights and laws in place, due to IDEA, to protect and ensure she continues to receive a ''fair and complete education''.

In the past, these children were stored away in back rooms, even if they were lucky enough to get into the school some years ago. We mentioned several who have been able to benefit from the bill. We are convinced that with the changes we have made in the legislation, many more families will be able to do so as well.

Mr. President, I withhold the remainder of my time and suggest the absence of a quorum, and I ask unanimous consent that the time during the quorum call be equally divided.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Mr. President, I understand the Senator from Pennsylvania is expected momentarily. Let me read a hopeful letter from Carolyn Wright, from Spokane, WA, which we received earlier this year:

My son, Aaron, attends his neighborhood elementary school. He is in the same first-grade class as the boy who lives next door. Sometimes after school Aaron and the neighbor boy play together. They play Nintendo, sometimes ''boxing,'' or they play catch.

None of that is unusual except that Aaron has Down Syndrome. If it weren't for the Individuals with Disabilities Education Act (IDEA) Aaron would not be in class with his neighbor. He would not get his chance to hold the flag during the Pledge of Allegiance. He would not have the opportunity to tell his friends that he has a cat or to learn that ''Joey'' has a dog. IDEA has helped Aaron be a part of his school community.

Math is a difficult subject for Aaron so he has a different curriculum than other first graders and he is taught in the special education classroom along with other students who struggle with math. However, Aaron likes to read so he joins the first-grade reading group to improve his reading skills. Each area of Aaron's curriculum has been addressed so that he is in the least restrictive environment possible that will facilitate his learning.

Whenever Aaron's Individualized Education Plan (IEP) needs revision, my husband and I are included in the discussion with the multi-disciplinary team. Placement options are discussed along with specific skill areas that need to be addressed, keeping in mind Aaron's position as a member of the community as well as his place in school. As part of the IEP team we determine what curriculum will best meet Aaron's needs.

We are very grateful to have IDEA. Because of IDEA Aaron is a member of his neighborhood community and he is learning the skills he needs to be independent. He may never be able to live entirely independently but he will have a job and he will contribute to society.

That is what this legislation is all about, Mr. President. We wish Aaron great luck. We believe there are many other ''Aarons'' in the country who will continue to benefit. We hope to do it in a better way.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3149, AS MODIFIED

Mr. SANTORUM. Mr. President, I send a modification to amendment No. 3149 to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 3149), as modified, is as follows:

Amend section 609 of the Individuals with Disabilities Education Act, as amended by section 101 of the bill, to read as follows:

''SEC. 609. PAPERWORK REDUCTION.

''(a) REPORT TO CONGRESS.—The Comptroller General shall conduct a review of Federal, State, and local requirements relating to the education of children with disabilities to determine which requirements result in excessive paperwork completion burdens for teachers, related services providers, and school administrators, and shall report to Congress not later than 18 months after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2003 regarding such review along with strategic proposals for reducing the paperwork burdens on teachers.

''(b) PAPERWORK REDUCTION DEMONSTRATION.—

''(1) PILOT PROGRAM.—

''(A) PURPOSE.—The purpose of this subsection is to provide an opportunity for States to identify ways to reduce paperwork burdens and other administrative duties that are directly associated with the requirements of this Act, in order to increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities.

''(B) AUTHORIZATION.—

''(i) IN GENERAL.—In order to carry out the purpose of this subsection, the Secretary is authorized to grant waivers of statutory requirements of, or regulatory requirements relating to, this part for a period of time not to exceed 4 years with respect to not more than 15 States based on proposals submitted by States to reduce excessive paperwork and noninstructional time burdens that do not assist in improving educational and functional results for children with disabilities.

''(ii) EXCEPTION.—The Secretary shall not waive any statutory requirements of, or regulatory requirements relating to, applicable civil rights requirements.

''(iii) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

''(I) affect the right of a child with a disability to receive a free appropriate public education under this part; and

''(II) permit a State or local educational agency to waive procedural safeguards under section 615.

''(C) PROPOSAL.—

''(i) IN GENERAL.—A State desiring to participate in the program under this subsection shall submit a proposal to the Secretary at such time and in such manner as the Secretary may reasonably require.

''(ii) CONTENT.—The proposal shall include—

''(I) a list of any statutory requirements of, or regulatory requirements relating to, this part that the State desires the Secretary to waive or change, in whole or in part; and

''(II) a list of any State requirements that the State proposes to waive or change, in whole or in part, to carry out a waiver granted to the State by the Secretary.

''(D) TERMINATION OF WAIVER.—The Secretary shall terminate a State's waiver under this subsection if the Secretary determines that the State—

''(i) has failed to make satisfactory progress in meeting the indicators described in section 616; or

''(ii) has failed to appropriately implement its waiver.

''(2) REPORT.—Beginning 2 years after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2003, the Secretary shall include in the annual report to Congress submitted pursuant to section 426 of the Department of Education Organization Act information related to the effectiveness of waivers granted under paragraph (1), including any specific recommendations for broader implementation of such waivers, in—

''(A) reducing—

''(i) the paperwork burden on teachers, principals, administrators, and related service providers; and

''(ii) noninstructional time spent by teachers in complying with this part;

''(B) enhancing longer-term educational planning;

''(C) improving positive outcomes for children with disabilities;

''(D) promoting collaboration between IEP Team members; and

''(E) ensuring satisfaction of family members.

Mr. SANTORUM. I thank the Chair.

I ask unanimous consent that Senator THOMAS be added as a cosponsor to my amendment.

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

Mr. SANTORUM. Mr. President, I first and foremost thank Senator GREGG and Senator KENNEDY for their willingness to work with me on this amendment. This is an amendment that comes from the many visits I had in public schools across Pennsylvania where I heard from special education teachers, in particular, and administrators about the enormous amount of paperwork that special education teachers have to deal with and how it is a point of great dissatisfaction among those teachers, as well as a factor in what they believe is limiting their time and limiting the quality of the education children who are covered under IDEA receive. As a result, I wanted to create an opportunity for States to, through a pilot, do some innovation and, working with the Department of Education, try to reduce the amount of paperwork our teachers have to go through.

This is a serious problem in trying to recruit and retain special education teachers. In fact, the most recent figure I have is that in the 1999–2000 school year, there were 12,000 special education openings. The principal reason for that was the enormous paperwork burden, the frustration that comes with having to deal with the ''bureaucracy'' and ''redtape,'' as it has been put to me on more than one occasion. These positions, for the most part, were left vacant or filled by substitutes who did not have the qualifications necessary to teach these students who have special needs.

I suggest we are trying to address a problem that is out there, not trying to limit the quality of the education of children with special needs, but actually getting more qualified teachers into the classrooms to deal with this population that does have extraordinary needs, in some cases, but without the extraordinary amount of paperwork that comes with meeting those needs.

We have worked closely with the NEA. In fact, the NEA has endorsed this amendment. They say:

> Paperwork reduction in IDEA is one of the highest priorities of our members. We commend you for your acknowledgment that excessive paperwork not only takes valuable instruction time away from students, but is a critical component of the retention crisis we face in the field of special education.

This is an important issue for teachers and should be an important issue for those parents and children in the special education system.

This is a way to keep qualified teachers, to have them spend more quality time and better time with children in the classroom. What we have done is set up a pilot program. The pilot program, under the modification I just sent to the desk, is for 15 States. The goal is to increase instructional time and to improve the results of children with special needs.

Again, the idea here is to create an opportunity for innovation, an opportunity for States to not waive any provisions of this act. Particularly I know the concern Senator KENNEDY and many have that the Secretary of Education cannot waive in a request from the States any applicable civil rights requirements. I had some parents meet with me last week, and they were very concerned about this amendment and how it would affect their child and their ability to get what was entitled to them as far as education under IDEA.

Let me make it clear: Nothing in this demonstration can create a waiver of any applicable civil rights requirements, and nothing in this demonstration will affect the right of a child with a disability to receive free appropriate public education. That, to me, is something at the heart, something I know the parents want and, obviously, the NEA should be concerned about it, as I am sure they are. I want to make it clear that what we are talking about is things that do not really add to the bottom line: quality of kids' education.

I am excited that Senator KENNEDY and Senator GREGG have agreed. I understand the House has a similar amendment to this amendment that has a 10-State demonstration project. We have talked with the House, with Senator KENNEDY, and Senator GREGG. I think we have an agreement that this 15-State demonstration is a good number and is a number we can all agree will stay in conference.

This program will be part of this new authorization and will create an opportunity for States—I am certainly hopeful that Pennsylvania will be one of the States that will be participating in this demonstration—to be innovative to improve the quality of education for children with disabilities and be a plus for them as well as teachers and school districts as a whole.

I yield the floor.

Mr. GREGG. Mr. President, reducing the paperwork burdens within IDEA is one of the Senate's top priorities in reauthorizing this important law.

We want to empower teachers to spend more time with their students in the classroom, rather than spending endless hours filling out forms that do not lead to a better education for students.

This bill already contains a number of excellent provisions aimed at cutting down on unnecessary paperwork for both teachers and parents. For instance, S. 1248 streamlines state and local requirements to ensure that paperwork focuses on improved educational and functional results for children with disabilities.

It clarifies that no information is required in an IEP beyond what Federal law requires.

It eliminates the requirements that IEPs must include benchmarks and short-term objectives that generate more paperwork, but requires a description of how progress is measured, including quarterly reports to parents.

It reduces the number of times that procedural safeguards notices must be sent out to parents to once per year, unless their parent registers a complaint or requests a copy.

It ensures that State regulations are consistent with IDEA and that any state-imposed requirements or paperwork reporting are clearly identified to local educational agencies.

And it requires the Secretary to develop model forms, review paperwork requirements and provide Congress with proposals to reduce the paperwork burden on teachers.

This is a great start on reducing paperwork for teachers, parents, and administrators.

However, we need to do more.

The amount of paperwork special education teachers are required to complete is burdensome, takes valuable time away from the classroom, and undermines the goal of providing the best quality education possible to all children.

Let me give you some statistics to illustrate this problem.

According to a recent study by the Council for Exceptional Children, a majority of special educators estimate that they spend a day or more each week on paperwork, and 83 percent report spending half to one and a half days per week in IEP-related meetings.

Special education teachers spend an average of 5 hours per week on paperwork, compared to general education teachers who spend an average of 2 hours per week on paperwork. The average length of an individualized education program, or IEP, one of the biggest sources of paperwork, is between 8 and 16 pages. Fifty-three percent of special education teachers report that, to a great extent, their routine duties and paperwork interfere with their interaction with their students.

Special educators spend more time on paperwork than grading papers, communicating with parents, sharing expertise with colleagues, supervising paraprofessionals and attending individualized education program meetings combined.

While special educators spend the majority of their time on paperwork filling out compliance and documentation-related paperwork, general educators spend most of their time completing instructionally relevant paperwork such as tracking students' academic progress across the curriculum.

With these overwhelming paperwork burdens on teachers, we need to ask ourselves what kind of effect they are having on our special education system.

Special education teachers feel excessive paperwork interferes with their ability to serve children with disabilities more effectively. The study of personnel needs in special education, SPENSE, sponsored by OSEP reveals that special education teachers often cite required forms and administrative paperwork as an area of dissatisfaction with their working conditions.

The excessive amount of paperwork currently inherent in the process overwhelms and burdens teachers, robbing them of time to educate their students. It also makes it more difficult for school districts to retain and recruit highly qualified special education teachers.

Studies from the Department of Education show that the nation is facing a significant shortage of special education teachers, and many special educators leaving the field cite the burden of unnecessary paperwork as one of the primary reasons for their departure.

Simply put, teachers, schools, local educational agencies, and States should be relieved of irrelevant and unnecessary paperwork burdens that do not lead to improved educational outcomes for children with disabilities.

Therefore, I support the amendment of the Senator from Pennsylvania, which authorizes a pilot program allowing States to demonstrate innovative and creative measures to reduce the paperwork burden.

The Secretary of Education would be authorized to grant waivers of paperwork requirements to 15 States based on proposals submitted by States for reducing paperwork.

The goal is to increase instructional time and resources and improve results for students with disabilities.

This pilot program is not meant to decrease any of the rights children have under the Act, but is intended to allow those States who choose to participate to think creatively and innovatively about how to best meet the demands of the Act while reducing the paperwork burden so school personnel can focus on educating children with disabilities.

In fact, we clearly state that the Secretary of Education may not waive any applicable civil rights requirements or procedural safeguards under Section 615, and nothing in the demo will affect the right of a child with a disability to receive a free appropriate public education, FAPE.

The amendment also includes a rigorous reporting requirement to ensure that the Secretary reports to Congress about the success of this program in reducing unnecessary paperwork while preserving the rights of children served under the Act.

The National Education Association, made up of 2.7 million teachers, supports this amendment. The NEA says that paperwork reduction in IDEA is one of the highest priorities of its members.

I urge my colleagues to pass this amendment, so that our Nation's teachers can spend more time on providing high quality education services to our Nation's children with disabilities—rather than on filling out mounds of unnecessary paperwork.

Mr. BINGAMAN. Mr. President, I am very pleased that Senator SANTORUM and I were able to reach agreement on this amendment. The Paperwork Reduction Demo would provide up to 15 States with the opportunity to develop innovative methods of reducing burdensome paperwork so that teachers can spend more time teaching and improving educational and functional outcomes for children with disabilities. At the same time, it protects a child's right to a free appropriate public education, and the procedural safeguards necessary to ensure this right.

IDEA is sometimes seen as a controversial piece of legislation. It is a unique blend of civil rights law and State grant program, and as a result, often pits the constitutional rights of children with disabilities to a free appropriate public education against the flexibility teachers need to teach. I believe this amendment strikes a good, fair balance.

As we reauthorize IDEA, it is important to note that next week, this country will be celebrating 50 years of public school desegregation. In the landmark decision of Brown v. Board of Education, Chief Justice Warren wrote that ''in the field of public education, the doctrine of 'separate but equal' has no place.'' This decision literally opened the doors of our public schools to all children, regardless of race.

The doors to a public education, however, did not open quite so quickly for children with disabilities. Twenty years after the decision in Brown, children with disabilities were still being segregated.

In the 1970s schools in America educated only one in five students with disabilities. More than 1 million students were excluded from public schools, and another 3.5 million did not receive appropriate services. Many States had laws excluding certain students, including those who were blind, deaf, or labeled. ''emotionally disturbed'' or ''mentally retarded.'' The likelihood of exclusive was significantly greater for children with disabilities living in low-income, ethnic and racial minority, or rural communities.

Parents, however, began asserting their children's rights to attend public schools, using the same equal protection arguments used on behalf of the African American children in Brown: the 14th amendment of the U.S. Constitution guarantees their children and equal protection under the law. Congress responded, and in 1975, enacted the Education for All Handicapped Children Act, now known as IDEA.

Recognizing the Constitution's guarantee of equal protection under the law, Congress created the statutory right to a free appropriate public education in the least restrictive environment.

I believe we all recognize the challenges of providing teachers with enough flexibility so they can do their job while ensuring that the constitutional protections afforded to children with disabilities remain intact.

We also must continue to hold our States accountable for educational outcomes of our children. I think this amendment meets that challenge, and I am pleased to support it.

I think the underlying bill, S. 1248, also achieves the goal of balancing the interests of our teachers and schools with the interests of improving achievement for and protecting the right of children with disabilities and their families.

This bill makes it simpler for teachers and schools to teach children with disabilities in many ways. For example, the bill: simplifies the discipline provisions and makes it easier for schools to administer the law; provides new opportunities for schools and parents to resolve disputes equitably; substantially reduces paperwork in many ways, including, of course, by allowing a number of States to waive paperwork burdens in accordance with this amendment; increases local flexibility and control of resources by allowing school districts that are in compliance with the law to use from 8 percent up to 25 percent of their Federal funds for local priorities; and authorizes local school districts to use up to 15 percent of their Federal IDEA funds to support students without disabilities in grades K–12 who require additional academic and behavioral supports to succeed in the general education curriculum.

The bill also makes significant improvements for children and their families. For example, it; emphasizes the goal of improving academic achievement and functional performance within a child's IEP; ensures that children with disabilities are included in the accountability requirements of No Child Left Behind provides the Secretary of Education and the States with greater authority and tools to implement, monitor, and enforce the law; provides resources to States to support teacher

preparation and professional development program; improves parental involvement; improves transition services to help students begin planning for life after high school; provides earlier access to services; improves early intervention and preschool programs; and ensures positive behavioral interventions and supports are in place for a child whose behavior impedes the child's ability to learn.

We must ensure that children with disabilities have access to, and succeed in, the general education curriculum. I am disappointed that this body did not approve full funding of IDEA, but I believe this bill goes a long way in providing the tools, resources, and the flexibility to achieve this goal. I am pleased to support this bill and this amendment.

Mr. KENNEDY. Mr. President, I rise today in support of this amendment because it will give States the flexibility they need to reduce special education paperwork.

We have heard from many teachers that they must take too much time out of their busy days to complete IDEA paperwork requirements. Teachers would rather spend that time in the classroom teaching their students.

We have heard these concerns loud and clear, and we have responded with changes to make things easier for both parents and teachers. This bill reduces paperwork and meetings by: Streamlining educational planning and procedural requirements; simplifying the Federal application process; encouraging the use of technology; clarifying that no paperwork is required beyond what is in the Federal law; and requiring the Department of Education to develop model forms.

These changes will go a long way to simplifying the work of special education teachers and giving them more time to do what they do best—teach children. These changes will also make it possible for more parents to participate in their child's education.

This amendment will give a limited number of States the opportunity to do even more to address paperwork by giving them flexibility to waive paperwork requirements. But today the Senate needs to make it absolutely clear that this flexibility does not include waiving Civil Rights protections for disabled students.

Civil Rights are the very heart of the IDEA. The right to go to a public school, the right to learn alongside one's peers, the right to an appropriate education, and the right to due process, are fundamental to this law and we cannot allow waivers to trade these rights in exchange for less paperwork.

In July 2002, President Bush's Commission on Excellence in Special Education gave Congress and the President its recommendations for improving results for disabled students. This commission offered many suggestions for reducing paperwork in special education and allowing these waivers was one of them.

But the chair of the President's commission was absolutely clear that paperwork reduction should not threaten civil rights. Listen to what the chair, Governor Terry Branstad of Iowa, had to say when he testified before the House on the IDEA and the commission's report:

'' . . . [A]s we are trying to reduce the paperwork, streamline it, and make it more efficient, we . . . want to . . . protect their civil rights.''

We must ensure that States live up to the full intent of the commission's recommendation—to balance paperwork reduction with civil rights protections.

The chair of the President's commission is not alone in his concern for protecting civil rights while reducing paperwork. The National Council on Disability—the Federal agency responsible for advising President and Congress on issues affecting the disabled—says that, if not done carefully, waivers may have unintended consequences. According to the National Council on Disability:

Waivers threaten educational quality because instruction and achievement are measured by documenting progress.

Waivers threaten civil rights because compliance with the law must be documented.

Let me first speak to the issue of paperwork and educational quality. Ask any teacher how he or she begins the day before the students arrive. They begin by reviewing a lesson plan that sets the goals for the day and describes how those goals will be reached. They develop tests for their students to see if they are meeting those goals. These lesson plans, goals, and tests are based on a thoughtful and comprehensive curriculum. This is all paperwork—paperwork that is necessary to ensure quality instruction for every student.

Quality instruction for disabled students is no different. Special education paperwork ensures that schools think carefully about how best to educate a disabled student, then document their plan, and then document progress. Does any of that paperwork sound unnecessary?

If States interpret these waivers as a license to set aside these important pieces of a disabled child's education, we have completely undermined the focus on academic and functional achievement in this bill.

Just like the National Council on Disability, I also have expressed my great concern about protecting civil rights if States are given too much flexibility. In my opening statement, I addressed the issue of noncompliance with this law. All across this country, nearly 30 years after this law was first passed, many disabled children still are denied their right to a public education. Year after year, the majority of States fail to implement the IDEA and are found out of compliance with its most basic requirements.

Reports from the Department of Education show just how rampant noncompliance with the IDEA is. From 2000 to 2003: 76 percent of States did not appropriately resolve complaints; 71 percent of States lacked effective systems to monitor and enforce the law; 71 percent of States did not educated disabled children with their peers; and 65 percent of States did not appropriately prepare students for post-school employment and independent living.

These States already blatantly disregard the requirements of the IDEA. Imagine what would happen if these States are given waivers without the clear limitations set forth in this amendment, if they could feel free to waive any requirement in the name of paperwork reduction. The impact of unlimited paperwork waivers on disabled students in States like these could be devastating.

Even with detailed requirements for education plans and other paperwork under current law, look at what is happening to disabled children all across the nation.

The Richer family from Oregon writes that their school made the decision to shorten their son's school day by 3 hours—without asking the parents first. The same school district completed their son's education plan and assigned him to a classroom without including his parents in the decision.

The Johnson family from new Jersey writes that it took 18 months to get an appropriate educational plan written for their child, and the school still will not provide the speech therapy and counseling services written on that plan.

These are true stories, just like the hundreds of other true stories that parents have sent to me. This is why it must be made absolutely clear that these waivers are not a free pass out of accountability or a way to erode individualized education plans that are the cornerstone of the IDEA.

Look at any other field—the legal field, the medical field, or business. In these fields, if it wasn't documented, it wasn't done. Insurers don't pay doctors when they don't document the care they provided. Clients don't pay lawyers if they do not document the hours spent on a case. And businesses don't provide their services without a contract. In every part of life, documentation is the way we guarantee that people did what they promised to do. It is not too much to ask that schools do the same so we can be sure they are complying with the law and giving every disabled child an appropriate education.

I know that we demand a lot of our teachers. We ask them to not only educate our children to become productive citizens, but also to be counselors, mentors, and role models. And, yes, we ask them to do paperwork on top of that.

Should the Senate do everything it can to make it easier for special education teachers to focus on the needs of students instead of focusing on paperwork? Absolutely—but not at the cost of educational accountability and civil

rights for students with disabilities. Not if it undermines the foundations of the IDEA. Without the limitations set forth in this amendment, waivers may have the unintended consequence of allowing States to experiment with the civil rights of millions of disabled students for years to come.

I do not object to giving States the chance to creatively address the issue of paperwork. This amendment offers States an exciting opportunity to make sure that teachers have more time to plan, take professional development courses, or provide extra help to students. Giving teachers more time means giving them a chance to do what they love most: focus on the needs of students.

But the needs of disabled students cannot be met without first guaranteeing that they have the full protection of the law. This amendment provides that guarantee, while still encouraging paperwork reduction, and I urge my colleagues to support it.

Mr. President, I thank the Senator from Pennsylvania for offering the amendment that will reduce the paperwork for teachers and also ensure the protection of the rights of disabled children.

This amendment draws a clear line between unnecessary paperwork about the process and necessary documentation and ensuring every disabled child's right to a free and appropriate public education.

The Senator from Pennsylvania has made it clear that States will not be allowed to waive the civil rights of disabled students or waive procedural safeguards guaranteed under law.

This is a good amendment. It balances the needs of both the teachers and students. I thank him for his work on this amendment and also for his accommodation and willingness to work this out. It has been very helpful.

I will wait for my colleague, the chairman, before urging the adoption of the amendment, but I expect it will be done momentarily.

I suggest the absence of a quorum, with the time to be evenly divided.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SANTORUM. Mr. President, I have been informed by Senator GREGG's staff that he does not seek any time.

Mr. President, I urge the adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3149, as modified.

The amendment (No. 3149), as modified, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. There is 6 minutes 6 seconds on the majority side and 5 minutes on the minority side.

Mr. KENNEDY. I will be glad to yield the 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

Mr. DAYTON. Mr. President, I thank the Senator from Massachusetts. He has been such a dedicated champion for the needs of special education throughout the country for all these years. I wish his dedication was reflected fully in this legislation on which we are going to be voting shortly.

In an era when we are talking so much about accountability in education, the teachers, administrators, and local school boards throughout our country who are supposed to be accountable for results, for ''making acceptable progress'' and improving student test scores, we, too, in the Senate have a role and responsibility to aid and assist them in making that progress.

I regrettably believe this legislation falls seriously short of our responsibility to them and to the students they are helping and supporting and without our full involvement and aid are less likely to succeed.

In this important area of special education, we in the Senate, the Congress, and the Federal Government have very special responsibilities because it was Congress who established these rights for every American child to a quality public education a quarter century ago and mandated every school district with the responsibility to provide it.

I was not here when that legislation passed, but its language implied that schools would be reluctant, perhaps even resistant, to assume their responsibilities. That was over a quarter century ago.

I speak from my personal knowledge about Minnesota, and I assume it is true throughout our country, our public schools, our teachers, administrators, support personnel, and policymakers are the legislation's allies. In Minnesota, our educators are fully committed and deeply dedicated to providing the best possible special education to every student with special needs and in fact every student who comes through their doors. They are doing so, as I have personally witnessed in hundreds of special education classes throughout Minnesota, with amazing skills, heart-warming personal devotion and often extraordinary success. They are doing so increasingly in spite of, not because of, the Senate.

This legislation fails our responsibility to the students of this Nation with special needs, to their dedication and to their cause, which is our cause. Yesterday an amendment failed which would have fulfilled in 6 years a promise the U.S. Congress made over a quarter century ago when it passed the initial legislation to fund 40 percent of the costs of special education.

In the year 2001, when we had all of these surpluses we were told would exist throughout the decade, the Senate did pass such an amendment, but the House of Representatives and the administration refused to accept it and so it was not put into that law.

I have tried 5 times in the last 3 years, with amendments, to have us realize our long-broken promise in 1 year, in a succeeding fiscal year, and those amendments have failed.

I was shocked and appalled that this body rejected Senator HARKIN's amendment to bring us up to that promised 40-percent level in 6 years. Today it is less than half of that promise. That cost Minnesota schools $250 million a year. That is money that is badly needed to fulfill their responsibilities to children with special needs and it is money then that often has to be taken out of regular school programs because they have a legal responsibility and liability to provide those special education services. So it means all of the students in Minnesota get shortchanged because this Senate will not keep its promise. The majority decided to provide an additional $39 billion over the next 10 years in tax advantages to companies for their foreign operations, tax preferences to expand their foreign businesses and take more jobs away from the United States and put them overseas. That was deemed worthy of $39 billion.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DAYTON. I ask unanimous consent for an additional 2 minutes to conclude my remarks.

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

Mr. DAYTON. Mr. President, at that same time, where there is $39 billion around somewhere for giant corporations and wealthy investors who do not need it, there is not a willingness to provide even in 6 years the promised 40-percent level for students with special needs. It is not that we do not have the money; we do not have the right priorities; we do not have the will. It is terribly unfair for us to be telling the school districts they have to run tests every year and include children with special needs and be measured and publicized and in some cases publicly embarrassed because they are not making acceptable progress toward goals that have been established when we do not provide the money to enable them to do it. Shame on us, not them. It is irresponsible and it is inexcusable. This money is badly needed in Minnesota, and I assume elsewhere in the country.

In terms of reform, the paperwork that burdens the reporting requirements is driving Minnesota teachers out of special education and out of the classroom entirely. Those who remain spend less than half of their time actually working with students because

they are so busy filling out the forms the Federal Government has imposed on them, as well as some by the State and the school districts for sure. I commend Senator SANTORUM for offering a pilot program for 15 States, but it is the job of the Senate to determine those reforms. I have heard for over 3 years the reason we are not providing money for special education is because we have to ''reform it first''. So now we are passing a bill that has minimal reforms and a pilot program and no additional money.

I think it is a terrible disservice to No Child Left Behind, which is being proven once again to be a nice phrase but with no real meaning or commitment behind it. I think we will regret that.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GREGG. Mr. President, I yield back the balance of our time and I ask unanimous consent that we proceed to the bill.

The PRESIDING OFFICER. All time having been yielded back, under the previous order the committee substitute amendment, as amended, is agreed to.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the Committee on Health, Education, Labor and Pensions is discharged from further consideration of H.R. 1350 and the Senate will proceed to its consideration.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1350) to reauthorize the Individuals with Disabilities Education Act, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken and the text of S. 1248, as amended, is inserted in lieu thereof.

The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. Under the previous order, the question is, Shall the bill, H.R. 1350, as amended, pass?

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Minnesota (Mr. COLEMAN) is necessarily absent.

Mr. REID, I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 3, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—95

Akaka	Dodd	Lott
Alexander	Dole	Lugar
Allard	Domenici	McCain
Allen	Dorgan	McConnell
Baucus	Durbin	Mikulski
Bayh	Edwards	Miller
Bennett	Ensign	Murkowski
Biden	Enzi	Murray
Bingaman	Feingold	Nelson (FL)
Bond	Feinstein	Nelson (NE)
Boxer	Fitzgerald	Nickles
Breaux	Frist	Pryor
Brownback	Graham (FL)	Reed
Bunning	Graham (SC)	Reid
Burns	Grassley	Roberts
Byrd	Gregg	Rockefeller
Campbell	Hagel	Santorum
Cantwell	Harkin	Sarbanes
Carper	Hatch	Schumer
Chafee	Hollings	Sessions
Chambliss	Hutchison	Shelby
Clinton	Inhofe	Smith
Cochran	Inouye	Snowe
Collins	Johnson	Specter
Conrad	Kennedy	Stevens
Cornyn	Kohl	Sununu
Corzine	Kyl	Talent
Craig	Landrieu	Thomas
Crapo	Lautenberg	Voinovich
Daschle	Levin	Warner
Dayton	Lieberman	Wyden
DeWine	Lincoln	

NAYS—3

Jeffords	Leahy	Stabenow

NOT VOTING—2

Coleman	Kerry

The bill H.R. 1350, as amended, was passed, as follows:

H.R. 1350

Resolved, That the bill from the House of Representatives (H.R. 1350) entitled ''An Act to reauthorize the Individuals with Disabilities Education Act, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Individuals with Disabilities Education Improvement Act of 2004''.

SEC. 2. ORGANIZATION OF THE ACT.

This Act is organized into the following titles:

TITLE I—AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

TITLE II—AMENDMENTS TO THE REHABILITATION ACT OF 1973

TITLE III—NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH

TITLE IV—COMMISSION ON UNIVERSAL DESIGN AND THE ACCESSIBILITY OF CURRICULUM AND INSTRUCTIONAL MATERIALS

TITLE V—MISCELLANEOUS

TITLE I—AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

SEC. 101. AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

Parts A through D of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) are amended to read as follows:

''PART A—GENERAL PROVISIONS

''SEC. 601. SHORT TITLE; TABLE OF CONTENTS; FINDINGS; PURPOSES.

''(a) SHORT TITLE.—This Act may be cited as the 'Individuals with Disabilities Education Act'.

''(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

''PART A—GENERAL PROVISIONS

''Sec. 601. Short title; table of contents; findings; purposes.
''Sec. 602. Definitions.
''Sec. 603. Office of Special Education Programs.
''Sec. 604. Abrogation of State sovereign immunity.
''Sec. 605. Acquisition of equipment; construction or alteration of facilities.
''Sec. 606. Employment of individuals with disabilities.
''Sec. 607. Requirements for prescribing regulations.
''Sec. 608. State administration.
''Sec. 609. Paperwork reduction.
''Sec. 610. Freely associated States.

''PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

''Sec. 611. Authorization; allotment; use of funds; authorization of appropriations.
''Sec. 612. State eligibility.
''Sec. 613. Local educational agency eligibility.
''Sec. 614. Evaluations, eligibility determinations, individualized education programs, and educational placements.
''Sec. 615. Procedural safeguards.
''Sec. 616. Monitoring, technical assistance, and enforcement.
''Sec. 617. Administration.
''Sec. 618. Program information.
''Sec. 619. Preschool grants.

''PART C—INFANTS AND TODDLERS WITH DISABILITIES

''Sec. 631. Findings and policy.
''Sec. 632. Definitions.
''Sec. 633. General authority.
''Sec. 634. Eligibility.
''Sec. 635. Requirements for statewide system.
''Sec. 636. Individualized family service plan.
''Sec. 637. State application and assurances.
''Sec. 638. Uses of funds.
''Sec. 639. Procedural safeguards.
''Sec. 640. Payor of last resort.
''Sec. 641. State Interagency Coordinating Council.
''Sec. 642. Federal administration.
''Sec. 643. Allocation of funds.
''Sec. 644. Authorization of appropriations.

''PART D—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES

''Sec. 650. Findings.

''SUBPART 1—STATE PERSONNEL PREPARATION AND PROFESSIONAL DEVELOPMENT GRANTS

''Sec. 651. Purpose; definition; program authority.

''Sec. 652. Eligibility and collaborative process.

''Sec. 653. Applications.

''Sec. 654. Use of funds.

''Sec. 655. Authorization of appropriations.

''SUBPART 2—SCIENTIFICALLY BASED RESEARCH, TECHNICAL ASSISTANCE, MODEL DEMONSTRATION PROJECTS, AND DISSEMINATION OF INFORMATION

''Sec. 660. Purpose.

''Sec. 661. Administrative provisions.

''Sec. 662. Research coordination to improve results for children with disabilities.

''Sec. 663. Technical assistance, demonstration projects, dissemination of information, and implementation of scientifically based research.

''Sec. 664. Personnel development to improve services and results for children with disabilities.

''Sec. 665. Studies and evaluations.

''SUBPART 3—SUPPORTS TO IMPROVE RESULTS FOR CHILDREN WITH DISABILITIES

''Sec. 670. Purposes.

''Sec. 671. Parent training and information centers.

''Sec. 672. Community parent resource centers.

''Sec. 673. Technical assistance for parent training and information centers.

''Sec. 674. Technology development, demonstration, and utilization; and media services.

''Sec. 675. Accessibility of instructional materials.

''Sec. 676. Authorization of appropriations.

''SUBPART 4—INTERIM ALTERNATIVE EDUCATIONAL SETTINGS, BEHAVIORAL SUPPORTS, AND WHOLE SCHOOL INTERVENTIONS

''Sec. 681. Purpose.

''Sec. 682. Definition of eligible entity.

''Sec. 683. Program authorized.

''Sec. 684. Program evaluations.

''Sec. 685. Authorization of appropriations.

''(c) FINDINGS.—Congress finds the following:

''(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

''(2) Before the date of the enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94–142), the educational needs of millions of children with disabilities were not being fully met because—

''(A) the children did not receive appropriate educational services;

''(B) the children were excluded entirely from the public school system and from being educated with their peers;

''(C) undiagnosed disabilities prevented the children from having a successful educational experience; or

''(D) a lack of adequate resources within the public school system forced families to find services outside the public school system.

''(3) Since the enactment and implementation of the Education for All Handicapped Children Act of 1975, this Act has been successful in ensuring children with disabilities and the families of such children access to a free appropriate public education and in improving educational results for children with disabilities.

''(4) However, the implementation of this Act has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities.

''(5) Over 25 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by—

''(A) having high expectations for such children and ensuring their access to the general education curriculum in the regular classroom to the maximum extent possible in order to—

''(i) meet developmental goals and, to the maximum extent possible, the challenging expectations that have been established for all children; and

''(ii) be prepared to lead productive and independent adult lives, to the maximum extent possible;

''(B) strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home;

''(C) coordinating this Act with other local, educational service agency, State, and Federal school improvement efforts, including improvement efforts under the Elementary and Secondary Education Act of 1965, in order to ensure that such children benefit from such efforts and that special education can become a service for such children rather than a place where they are sent;

''(D) providing appropriate special education and related services, and aids and supports in the regular classroom, to such children, whenever appropriate;

''(E) supporting high-quality, intensive preservice preparation and professional development for all personnel who work with children with disabilities in order to ensure that such personnel have the skills and knowledge necessary to improve the academic achievement and functional performance of children with disabilities, including the use of scientifically based instructional practices, to the maximum extent possible;

''(F) providing incentives for whole-school approaches, scientifically based early reading programs, positive behavioral interventions and supports, and prereferral interventions to reduce the need to label children as disabled in order to address their learning and behavioral needs;

''(G) focusing resources on teaching and learning while reducing paperwork and requirements that do not assist in improving educational results; and

''(H) supporting the development and use of technology, including assistive technology devices and assistive technology services, to maximize accessibility for children with disabilities.

''(6) While States, local educational agencies, and educational service agencies are primarily responsible for providing an education for all children with disabilities, it is in the national interest that the Federal Government have a supporting role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law.

''(7) A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

''(8) Parents and schools should be given expanded opportunities to resolve their disagreements in positive and constructive ways.

''(9) Teachers, schools, local educational agencies, and States should be relieved of irrelevant and unnecessary paperwork burdens that do not lead to improved educational outcomes.

''(10)(A) The Federal Government must be responsive to the growing needs of an increasingly more diverse society.

''(B) America's ethnic profile is rapidly changing. In the year 2000, 1 of every 3 persons in the United States was a member of a minority group or was limited English proficient.

''(C) Minority children comprise an increasing percentage of public school students.

''(D) With such changing demographics, recruitment efforts for special education personnel should focus on increasing the participation of minorities in the teaching profession.

''(11)(A) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation.

''(B) Studies have documented apparent discrepancies in the levels of referral and placement of limited English proficient children in special education.

''(C) This poses a special challenge for special education in the referral of, assessment of, and services for, our Nation's students from non-English language backgrounds.

''(12)(A) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.

''(B) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

''(C) African-American children are identified as having mental retardation and emotional disturbance at rates greater than their white counterparts.

''(D) In the 1998–1999 school year, African-American children represented just 14.8 percent of the population aged 6 through 21, but comprised 20.2 percent of all children with disabilities.

''(E) Studies have found that schools with predominately Caucasian students and teachers have placed disproportionately high numbers of their minority students into special education.

''(13)(A) As the number of minority students in special education increases, the number of minority teachers and related services personnel produced in colleges and universities continues to decrease.

''(B) The opportunity for minority individuals, organizations, and Historically Black Colleges and Universities to participate fully in awards for grants and contracts, boards of organizations receiving funds under this Act, and peer review panels, and in the training of professionals in the area of special education is essential if we are to obtain greater success in the education of minority children with disabilities.

''(14) As the graduation rates for children with disabilities continue to climb, providing effective transition services to promote successful post-school employment or education is an important measure of accountability for children with disabilities.

''(d) PURPOSES.—The purposes of this title are—

''(1)(A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment, further education, and independent living;

''(B) to ensure that the rights of children with disabilities and parents of such children are protected; and

''(C) to assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities;

''(2) to assist States in the implementation of a Statewide, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;

''(3) to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting systemic-change activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and

''(4) to assess, and ensure the effectiveness of, efforts to educate children with disabilities.

''SEC. 602. DEFINITIONS.

''Except as otherwise provided, as used in this Act:

''(1) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the repalcement of such device.

''(2) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

''(A) the evaluation of the needs of such child, including a functional evaluation of the child in the child's customary environment;

''(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by such child;

''(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

''(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

''(E) training or technical assistance for such child, or, where appropriate, the family of such child; and

''(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of such child.

''(3) CHILD WITH A DISABILITY.—

''(A) IN GENERAL.—The term 'child with a disability' means a child—

''(i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (hereinafter referred to as 'emotional disturbance'), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

''(ii) who, by reason thereof, needs special education and related services.

''(B) CHILD AGED 3 THROUGH 9.—The term 'child with a disability' for a child aged 3 through 9 (or any subset of that age range, including ages 3 through 5), may, at the discretion of the State and the local educational agency, include a child—

''(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in 1 or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

''(ii) who, by reason thereof, needs special education and related services.

''(4) CORE ACADEMIC SUBJECT.—The term 'core academic subject' has the meaning given the term in section 9101(11) of the Elementary and Secondary Education Act of 1965.

''(5) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency'—

''(A) means a regional public multiservice agency—

''(i) authorized by State law to develop, manage, and provide services or programs to local educational agencies; and

''(ii) recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the State; and

''(B) includes any other public institution or agency having administrative control and direction over a public elementary school or secondary school.

''(6) ELEMENTARY SCHOOL.—The term 'elementary school' means a nonprofit institutional day or residential school that provides elementary education, as determined under State law.

''(7) EQUIPMENT.—The term 'equipment' includes—

''(A) machinery, utilities, and built-in equipment, and any necessary enclosures or structures to house such machinery, utilities, or equipment; and

''(B) all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published, and audiovisual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

''(8) EXCESS COSTS.—The term 'excess costs' means those costs that are in excess of the average annual per-student expenditure in a local educational agency during the preceding school year for an elementary school or secondary school student, as may be appropriate, and which shall be computed after deducting—

''(A) amounts received—

''(i) under part B of this title;

''(ii) under part A of title I of the Elementary and Secondary Education Act of 1965; and

''(iii) under parts A and B of title III of that Act; and

''(B) any State or local funds expended for programs that would qualify for assistance under any of those parts.

''(9) FREE APPROPRIATE PUBLIC EDUCATION.—The term 'free appropriate public education' means special education and related services that—

''(A) have been provided at public expense, under public supervision and direction, and without charge;

''(B) meet the standards of the State educational agency;

''(C) include an appropriate preschool, elementary school, or secondary school education in the State involved; and

''(D) are provided in conformity with the individualized education program required under section 614(d).

''(10) HIGHLY QUALIFIED.—The term 'highly qualified' means the following:

''(A) ALL SPECIAL EDUCATION TEACHERS.—When used with respect to any public elementary school or secondary school special education teacher teaching in a State, means that the teacher holds at least a bachelor's degree and that—

''(i) the teacher has obtained full State certification as a special education teacher through a State-approved special education teacher preparation program (including certification obtained through alternative routes to certification) or other comparably rigorous methods, or passed the State teacher special education licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law;

''(ii) the teacher has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

''(iii) the teacher demonstrates knowledge of special education and the teaching skills necessary to teach children with disabilities.

''(B) NEW ELEMENTARY SCHOOL SPECIAL EDUCATION TEACHERS.—When used with respect to a special education elementary school teacher who is new to the profession, means that the teacher demonstrated, by passing a rigorous State test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum (which may consist of passing a State-required certification or licensing test or tests in reading, writing, mathematics, and other areas of the basic elementary school curriculum).

''(C) NEW MIDDLE SCHOOL AND SECONDARY SCHOOL SPECIAL EDUCATION TEACHERS.—When used with respect to a special education middle school or secondary school teacher who is new to the profession, means that the teacher has demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by—

''(i) passing a rigorous State academic subject test in each of the academic subjects in which the teacher teaches (which may consist of a passing level of performance on a State-required certification or licensing test or tests in each of the academic subjects in which the teacher teaches); or

''(ii) successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing.

''(D) VETERAN SPECIAL EDUCATION TEACHERS.—When used with respect to an elementary school, middle school, or secondary school special education teacher who is not new to the profession, means that the teacher has—

''(i) met the applicable standard in subparagraph (B) or (C), which includes an option for a test; or

''(ii) has demonstrated competence in all the academic subjects in which the teacher teaches based on a high objective uniform State standard of evaluation for special education teachers that—

''(I) is set by the State for both grade-appropriate academic subject matter knowledge and special education teaching skills;

''(II) is aligned with challenging State academic content and student academic achievement standards and developed in consultation with special education teachers, core content specialists, teachers, principals, and school administrators;

''(III) provides objective, coherent information about the teachers' attainment of knowledge of core content knowledge in the academic subjects in which a teacher teaches;

''(IV) is applied uniformly to all special education teachers who teach in the same academic subject and the same grade level throughout the State;

''(V) takes into consideration, but is not based primarily on, the time the teacher has been teaching in the academic subject;

''(VI) is made available to the public on request; and

''(VII) may involve multiple objective measures of teacher competency.

''(E) TEACHERS PROVIDING CONSULTATIVE SERVICES.—

''(i) IN GENERAL.—Notwithstanding subparagraphs (B) through (D), when used with respect to a special education teacher who provides only consultative services to a highly qualified regular education teacher (as the term highly qualified is defined in section 9101(23) of the Elementary and Secondary Education Act of 1965), means that the teacher meets the requirements of subparagraph (A).

''(ii) CONSULTATIVE SERVICES.—As used in clause (i), the term 'consultative services' means services that adjust the learning environment, modify instructional methods, adapt curricula, use positive behavior supports and interventions, and select and implement appropriate accommodations to meet the needs of individual children.

''(F) EXCEPTION.—Notwithstanding subparagraphs (B) through (D), when used with respect to a special education teacher who teaches more than 1 subject, primarily to middle school and secondary school-aged children with significant cognitive disabilities, means that the teacher

has demonstrated subject knowledge and teaching skills in reading, mathematics, and other areas of the basic elementary school curriculum by—

''(i) passing a rigorous State test (which may consist of passing a State-required certification or licensing test or tests in those areas); or

''(ii) demonstrating competency in all the academic subjects in which the teacher teaches, based on a high objective uniform State standard as described in subparagraph (D)(ii).

''(11) INDIAN.—The term 'Indian' means an individual who is a member of an Indian tribe.

''(12) INDIAN TRIBE.—The term 'Indian tribe' means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act).

''(13) INDIVIDUALIZED EDUCATION PROGRAM.—The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with section 614(d).

''(14) INDIVIDUALIZED FAMILY SERVICE PLAN.—The term 'individualized family service plan' has the meaning given such term in section 636.

''(15) INFANT OR TODDLER WITH A DISABILITY.—The term 'infant or toddler with a disability' has the meaning given such term in section 632.

''(16) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education'—

''(A) has the meaning given such term in section 101 (a) and (b) of the Higher Education Act of 1965; and

''(B) also includes any community college receiving funding from the Secretary of the Interior under the Tribally Controlled College or University Assistance Act of 1978.

''(17) LIMITED ENGLISH PROFICIENT.—The term 'limited English proficient' has the meaning given the term in section 9101(25) of the Elementary and Secondary Education Act of 1965.

''(18) LOCAL EDUCATIONAL AGENCY.—

''(A) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools.

''(B) The term includes—

''(i) an educational service agency, as defined in paragraph (5); and

''(ii) any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

''(C) The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs, but only to the extent that such inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

''(19) NATIVE LANGUAGE.—The term 'native language', when used with respect to an individual of limited English proficiency, means the language normally used by the individual, or in the case of a child, the language normally used by the parents of the child.

''(20) NONPROFIT.—The term 'nonprofit', as applied to a school, agency, organization, or institution, means a school, agency, organization, or institution owned and operated by 1 or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

''(21) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(22) PARENT.—

''(A) IN GENERAL.—The term 'parent'—

''(i) means—

''(I) a natural or adoptive parent of a child;

''(II) a guardian (but not the State if the child is a ward of the State);

''(III) an individual acting in the place of a natural or adoptive parent, including a grandparent, stepparent, or other relative with whom the child lives or an individual who is legally responsible for the child's welfare; or

''(IV) except as used in sections 615(b)(2) and 639(a)(5), an individual assigned under either of those sections to be a surrogate parent; and

''(ii) in the case of a homeless child who is not in the physical custody of a parent or guardian, includes a related or unrelated adult with whom the child is living or other adult jointly designated by the child and the local educational agency liaison for homeless children and youths (designated pursuant to section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act), in addition to other individuals permitted by law.

''(B) FOSTER PARENT.—Unless State law prohibits a foster parent from acting as a parent, the term 'parent' includes a foster parent if—

''(i) the natural or adoptive parents' authority to make educational decisions on the child's behalf has been extinguished under State law; and

''(ii) the foster parent—

''(I) has an ongoing, long-term parental relationship with the child;

''(II) is willing to make the educational decisions required of parents under this Act; and

''(III) has no interest that would conflict with the interests of the child.

''(23) PARENT ORGANIZATION.—The term 'parent organization' has the meaning given such term in section 671(g).

''(24) PARENT TRAINING AND INFORMATION CENTER.—The term 'parent training and information center' means a center assisted under section 671 or 672.

''(25) RELATED SERVICES.—The term 'related services' means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school health services, counseling services, including rehabilitation counseling, orientation and mobility services, travel training instruction, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children. The term does not include a medical device that is surgically implanted, or the replacement of such device.

''(26) SECONDARY SCHOOL.—The term 'secondary school' means a nonprofit institutional day or residential school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12.

''(27) SECRETARY.—The term 'Secretary' means the Secretary of Education.

''(28) SPECIAL EDUCATION.—The term 'special education' means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including—

''(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

''(B) instruction in physical education.

''(29) SPECIFIC LEARNING DISABILITY.—

''(A) IN GENERAL.—The term 'specific learning disability' means a disorder in 1 or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations.

''(B) DISORDERS INCLUDED.—Such term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

''(C) DISORDERS NOT INCLUDED.—Such term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

''(30) STATE.—The term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

''(31) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

''(32) SUPPLEMENTARY AIDS AND SERVICES.—The term 'supplementary aids and services' means aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with section 612(a)(5).

''(33) TRANSITION SERVICES.—The term 'transition services' means a coordinated set of activities for a child with a disability (as defined in paragraph (3)(A)) that—

''(A) is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

''(B) is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and

''(C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

''(34) CHILD WITH A DISABILITY IN A MILITARY FAMILY.—The term 'child with a disability in a military family' means a child with a disability who has a parent who is a member of the Armed Forces, including a member of the National Guard or Reserves.

''(35) HOMELESS CHILDREN.—The term 'homeless children' has the meaning given the term 'homeless children and youths' in section 725 of the McKinney-Vento Homeless Assistance Act.

''(36) WARD OF THE STATE.—The term 'ward of the State' means a child who, as defined by the State where the child resides, is a foster child, a ward of the State or is in the custody of a public child welfare agency.

"SEC. 603. OFFICE OF SPECIAL EDUCATION PROGRAMS.

''(a) ESTABLISHMENT.—There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs, which shall be the principal agency in such Department for administering and carrying out this Act and other programs and activities concerning the education of children with disabilities.

''(b) DIRECTOR.—The Office established under subsection (a) shall be headed by a Director who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services.

''(c) VOLUNTARY AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Secretary is authorized to accept voluntary and uncompensated services in furtherance of the purposes of this Act.

''SEC. 604. ABROGATION OF STATE SOVEREIGN IMMUNITY.

''(a) IN GENERAL.—A State shall not be immune under the 11th amendment to the Constitution of the United States from suit in Federal court for a violation of this Act.

''(b) REMEDIES.—In a suit against a State for a violation of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as those remedies are available for such a violation in the suit against any public entity other than a State.

''(c) EFFECTIVE DATE.—Subsections (a) and (b) apply with respect to violations that occur in whole or part after the date of enactment of the Education of the Handicapped Act Amendments of 1990.

''SEC. 605. ACQUISITION OF EQUIPMENT; CONSTRUCTION OR ALTERATION OF FACILITIES.

''(a) IN GENERAL.—If the Secretary determines that a program authorized under this Act will be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes.

''(b) COMPLIANCE WITH CERTAIN REGULATIONS.—Any construction of new facilities or alteration of existing facilities under subsection (a) shall comply with the requirements of—

''(1) appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the 'Americans with Disabilities Accessibility Guidelines for Buildings and Facilities'); or

''(2) appendix A of subpart 101–19.6 of title 41, Code of Federal Regulations (commonly known as the 'Uniform Federal Accessibility Standards').

''SEC. 606. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.

''The Secretary shall ensure that each recipient of assistance under this Act makes positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under this Act.

''SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULATIONS.

''(a) IN GENERAL.—In carrying out the provisions of this Act, the Secretary shall issue regulations under this Act only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements of this Act.

''(b) PROTECTIONS PROVIDED TO CHILDREN.—The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this Act that—

''(1) violates or contradicts any provision of this Act; and

''(2) procedurally or substantively lessens the protections provided to children with disabilities under this Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections related to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation.

''(c) PUBLIC COMMENT PERIOD.—The Secretary shall provide a public comment period of not more than 90 days on any regulation proposed under part B or part C of this Act on which an opportunity for public comment is otherwise required by law.

''(d) POLICY LETTERS AND STATEMENTS.—The Secretary may not issue policy letters or other statements (including letters or statements regarding issues of national significance) that—

''(1) violate or contradict any provision of this Act; or

''(2) establish a rule that is required for compliance with, and eligibility under, this Act without following the requirements of section 553 of title 5, United States Code.

''(e) EXPLANATION AND ASSURANCES.—Any written response by the Secretary under subsection (d) regarding a policy, question, or interpretation under part B of this Act shall include an explanation in the written response that—

''(1) such response is provided as informal guidance and is not legally binding;

''(2) when required, such response is issued in compliance with the requirements of section 553 of title 5, United States Code; and

''(3) such response represents the interpretation by the Department of Education of the applicable statutory or regulatory requirements in the context of the specific facts presented.

''(f) CORRESPONDENCE FROM DEPARTMENT OF EDUCATION DESCRIBING INTERPRETATIONS OF THIS ACT.—

''(1) IN GENERAL.—The Secretary shall, on a quarterly basis, publish in the Federal Register, and widely disseminate to interested entities through various additional forms of communication, a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of this Act or the regulations implemented pursuant to this Act.

''(2) ADDITIONAL INFORMATION.—For each item of correspondence published in a list under paragraph (1), the Secretary shall—

''(A) identify the topic addressed by the correspondence and shall include such other summary information as the Secretary determines to be appropriate; and

''(B) ensure that all such correspondence is issued, where applicable, in compliance with the requirements of section 553 of title 5, United States Code.

''SEC. 608. STATE ADMINISTRATION.

''(a) RULEMAKING.—Each State that receives funds under this Act shall—

''(1) ensure that any State rules, regulations, and policies relating to this Act conform to the purposes of this Act; and

''(2) identify in writing to its local educational agencies and the Secretary any such rule, regulation, or policy as a State-imposed requirement that is not required by this Act and Federal regulations.

''(b) SUPPORT AND FACILITATION.—State rules, regulations, and policies under this Act shall support and facilitate local educational agency and school-level systemic reform designed to enable children with disabilities to meet the challenging State student academic achievement standards.

''SEC. 609. PAPERWORK REDUCTION.

''(a) REPORT TO CONGRESS.—The Comptroller General shall conduct a review of Federal, State, and local requirements relating to the education of children with disabilities to determine which requirements result in excessive paperwork completion burdens for teachers, related services providers, and school administrators, and shall report to Congress not later than 18 months after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2003 regarding such review along with strategic proposals for reducing the paperwork burdens on teachers.

''(b) PAPERWORK REDUCTION DEMONSTRATION.—

''(1) PILOT PROGRAM.—

''(A) PURPOSE.—The purpose of this subsection is to provide an opportunity for States to identify ways to reduce paperwork burdens and other administrative duties that are directly associated with the requirements of this Act, in order to increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities.

''(B) AUTHORIZATION.—

''(i) IN GENERAL.—In order to carry out the purpose of this subsection, the Secretary is authorized to grant waivers of statutory requirements of, or regulatory requirements relating to, this part for a period of time not to exceed 4 years with respect to not more than 15 States based on proposals submitted by States to reduce excessive paperwork and noninstructional time burdens that do not assist in improving educational and functional results for children with disabilities.

''(ii) EXCEPTION.—The Secretary shall not waive any statutory requirements of, or regulatory requirements relating to, applicable civil rights requirements.

''(iii) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

''(I) affect the right of a child with a disability to receive a free appropriate public education under this part; and

''(II) permit a State or local educational agency to waive procedural safeguards under section 615.

''(C) PROPOSAL.—

''(i) IN GENERAL.—A State desiring to participate in the program under this subsection shall submit a proposal to the Secretary at such time and in such manner as the Secretary may reasonably require.

''(ii) CONTENT.—The proposal shall include—

''(I) a list of any statutory requirements of, or regulatory requirements relating to, this part that the State desires the Secretary to waive or change, in whole or in part; and

''(II) a list of any State requirements that the State proposes to waive or change, in whole or in part, to carry out a waiver granted to the State by the Secretary.

''(D) TERMINATION OF WAIVER.—The Secretary shall terminate a State's waiver under this subsection if the Secretary determines that the State—

''(i) has failed to make satisfactory progress in meeting the indicators described in section 616; or

''(ii) has failed to appropriately implement its waiver.

''(2) REPORT.—Beginning 2 years after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2003, the Secretary shall include in the annual report to Congress submitted pursuant to section 426 of the Department of Education Organization Act information related to the effectiveness of waivers granted under paragraph (1), including any specific recommendations for broader implementation of such waivers, in—

''(A) reducing—

''(i) the paperwork burden on teachers, principals, administrators, and related service providers; and

''(ii) noninstructional time spent by teachers in complying with this part;

''(B) enhancing longer-term educational planning;

''(C) improving positive outcomes for children with disabilities;

''(D) promoting collaboration between IEP Team members; and

''(E) ensuring satisfaction of family members.

''SEC. 610. FREELY ASSOCIATED STATES.

''The Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall continue to be eligible for competitive grants administered by the Secretary under this Act to the extent that such grants continue to be available to States and local educational agencies under this Act.

''PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

''SEC. 611. AUTHORIZATION; ALLOTMENT; USE OF FUNDS; AUTHORIZATION OF APPROPRIATIONS.

''(a) GRANTS TO STATES.—

''(1) PURPOSE OF GRANTS.—The Secretary shall make grants to States and the outlying areas, and provide funds to the Secretary of the Interior, to assist them to provide special education and related services to children with disabilities in accordance with this part.

''(2) MAXIMUM AMOUNT.—The maximum amount available for awarding grants under this section for any fiscal year is—

''(A) the total number of children with disabilities in the 2002–2003 school year in the States who received special education and related services and who were—

''(i) aged 3 through 5, if the State was eligible for a grant under section 619; and

''(ii) aged 6 through 21; multiplied by

''(B) 40 percent of the average per-pupil expenditure in public elementary schools and secondary schools in the United States; adjusted by;

''(C) the rate of change in the sum of—

''(i) 85 percent of the change in the nationwide total of the population described in subsection (d)(3)(A)(i)(II); and

''(ii) 15 percent of the change in the nationwide total of the population described in subsection (d)(3)(A)(i)(III).

''(b) OUTLYING AREAS AND FREELY ASSOCIATED STATES.—

''(1) FUNDS RESERVED.—From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve not more than 1 percent, which shall be used—

''(A) to provide assistance to the outlying areas in accordance with their respective populations of individuals aged 3 through 21; and

''(B) to provide each freely associated State a grant in the amount that such freely associated State received for fiscal year 2003 under this part, but only if the freely associated State meets the applicable requirements of this part, as well as the requirements of section 611(b)(2)(C) as such section was in effect on the day before the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004.

''(2) SPECIAL RULE.—The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to the outlying areas or the freely associated States under this section.

''(3) DEFINITION.—As used in this subsection, the term 'freely associated States' means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(c) SECRETARY OF THE INTERIOR.—From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve 1.226 percent to provide assistance to the Secretary of the Interior in accordance with subsection (i).

''(d) ALLOCATIONS TO STATES.—

''(1) IN GENERAL.—After reserving funds for studies and evaluations under section 665, and for payments to the outlying areas, the freely associated States, and the Secretary of the Interior under subsections (b) and (c) for a fiscal year, the Secretary shall allocate the remaining amount among the States in accordance with this subsection.

''(2) SPECIAL RULE FOR USE OF FISCAL YEAR 1999 AMOUNT.—If a State received any funds under this section for fiscal year 1999 on the basis of children aged 3 through 5, but does not make a free appropriate public education available to all children with disabilities aged 3 through 5 in the State in any subsequent fiscal year, the Secretary shall compute the State's amount for fiscal year 1999, solely for the purpose of calculating the State's allocation in that subsequent year under paragraph (3) or (4), by subtracting the amount allocated to the State for fiscal year 1999 on the basis of those children.

''(3) INCREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) for a fiscal year is equal to or greater than the amount allocated to the States under this paragraph for the preceding fiscal year, those allocations shall be calculated as follows:

''(A) ALLOCATION OF INCREASE.—

''(i) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall allocate for the fiscal year—

''(I) to each State the amount the State received under this section for fiscal year 1999;

''(II) 85 percent of any remaining funds to States on the basis of the States' relative populations of children aged 3 through 21 who are of the same age as children with disabilities for whom the State ensures the availability of a free appropriate public education under this part; and

''(III) 15 percent of those remaining funds to States on the basis of the States' relative populations of children described in subclause (II) who are living in poverty.

''(ii) DATA.—For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

''(B) LIMITATIONS.—Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

''(i) PRECEDING YEAR ALLOCATION.—No State's allocation shall be less than its allocation under this section for the preceding fiscal year.

''(ii) MINIMUM.—No State's allocation shall be less than the greatest of—

''(I) the sum of—

''(aa) the amount the State received under this section for fiscal year 1999; and

''(bb) ⅓ of 1 percent of the amount by which the amount appropriated under subsection (i) for the fiscal year exceeds the amount appropriated for this section for fiscal year 1999;

''(II) the sum of—

''(aa) the amount the State received under this section for the preceding fiscal year; and

''(bb) that amount multiplied by the percentage by which the increase in the funds appropriated for this section from the preceding fiscal year exceeds 1.5 percent; or

''(III) the sum of—

''(aa) the amount the State received under this section for the preceding fiscal year; and

''(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated for this section from the preceding fiscal year.

''(iii) MAXIMUM.—Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

''(I) the amount the State received under this section for the preceding fiscal year; and

''(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated under this section from the preceding fiscal year.

''(C) RATABLE REDUCTION.—If the amount available for allocations under this paragraph is insufficient to pay those allocations in full, those allocations shall be ratably reduced, subject to subparagraph (B)(i).

''(4) DECREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) for a fiscal year is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

''(A) AMOUNTS GREATER THAN FISCAL YEAR 1999 ALLOCATIONS.—If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1999, each State shall be allocated the sum of—

''(i) the amount the State received under this section for fiscal year 1999; and

''(ii) an amount that bears the same relation to any remaining funds as the increase the State received under this section for the preceding fiscal year over fiscal year 1999 bears to the total of all such increases for all States.

''(B) AMOUNTS EQUAL TO OR LESS THAN FISCAL YEAR 1999 ALLOCATIONS.—

''(i) IN GENERAL.—If the amount available for allocations under this paragraph is equal to or less than the amount allocated to the States for fiscal year 1999, each State shall be allocated the amount the State received for fiscal year 1999.

''(ii) RATABLE REDUCTION.—If the amount available for allocations under this paragraph is insufficient to make the allocations described in clause (i), those allocations shall be ratably reduced.

''(e) STATE-LEVEL ACTIVITIES.—

''(1) STATE ADMINISTRATION.—

''(A) IN GENERAL.—For the purpose of administering this part, including paragraph (3), section 619, and the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities—

''(i) each State may reserve not more than the maximum amount the State was eligible to reserve for State administration for fiscal year 2003 or $800,000 (adjusted by the cumulative rate of inflation since fiscal year 2003 as measured by the percentage increase, if any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor), whichever is greater; and

''(ii) each outlying area may reserve not more than 5 percent of the amount the outlying area receives under subsection (b) for any fiscal year or $35,000, whichever is greater.

''(B) PART C.—Funds reserved under subparagraph (A) may be used for the administration of part C, if the State educational agency is the lead agency for the State under that part.

''(C) CERTIFICATION.—Prior to expenditure of funds under this paragraph, the State shall certify to the Secretary that the arrangements to establish responsibility for services pursuant to section 612(a)(12)(A) are current as of the date of submission of the certification.

''(2) OTHER STATE-LEVEL ACTIVITIES.—

''(A) STATE-LEVEL ACTIVITIES.—

''(i) IN GENERAL.—For the purpose of carrying out State-level activities, each State may reserve for each of the fiscal years 2004 and 2005, not more than 10 percent of the amount that remains after subtracting the amount reserved under paragraph (1) from the amount of the State's allocation under subsection (d) for fiscal years 2004 and 2005, respectively. For fiscal years 2006, 2007, 2008, and 2009, the State may reserve the maximum amount the State was eligible to reserve under the preceding sentence for fiscal year 2005 (adjusted by the cumulative rate of inflation since fiscal year 2005 as measured by the percentage increase, if any, in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor).

''(ii) SMALL STATE ADJUSTMENT.—Notwithstanding clause (i), in the case of a State for which the maximum amount reserved for State administration under paragraph (1) is not greater than $800,000 (as adjusted pursuant to paragraph (1)(A)(i)), the State may reserve for the purpose of carrying out State-level activities for each of the fiscal years 2004 and 2005, not more than 12 percent of the amount that remains after subtracting the amount reserved under paragraph (1) from the amount of the State's allocation under subsection (d) for fiscal years 2004 and 2005, respectively. For each of the fiscal years 2006, 2007, 2008, and 2009, each such State may reserve for such purpose the maximum amount the State was eligible to reserve under the preceding sentence for fiscal year 2005 (adjusted by the cumulative rate of inflation since fiscal year 2005 as measured by the percentage increase, if any, in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor).

''(B) REQUIRED ACTIVITIES.—Funds reserved under subparagraph (A) shall be used to carry out the following activities:

''(i) For monitoring, enforcement and complaint investigation.

''(ii) To establish and implement the mediation, processes required by section 615(e)(1), including providing for the costs of mediators and support personnel;

''(iii) To support the State protection and advocacy system to advise and assist parents in the areas of—

''(I) dispute resolution and due process;

''(II) voluntary mediation; and

''(III) the opportunity to resolve complaints.

''(C) AUTHORIZED ACTIVITIES.—Funds reserved under subparagraph (A) may be used to carry out the following activities:

''(i) For support and direct services, including technical assistance, personnel preparation, and professional development and training.

''(ii) To support paperwork reduction activities, including expanding the use of technology in the IEP process.

''(iii) To assist local educational agencies in providing positive behavioral interventions and supports and mental health services for children with disabilities.

''(iv) To improve the use of technology in the classroom by children with disabilities to enhance learning.

''(v) To support the development and use of technology, including universally designed technologies and assistive technology devices, to maximize accessibility to the general curriculum for children with disabilities.

''(vi) Development and implementation of transition programs, including coordination of services with agencies involved in supporting the transition of students with disabilities to post-secondary activities.

''(vii) To assist local educational agencies in meeting personnel shortages.

''(viii) To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.

''(ix) Alternative programming for children who have been expelled from school, and services for children in correctional facilities, children enrolled in State-operated or State-supported schools, and children in charter schools.

''(x) To support the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are valid and reliable for assessing the performance of children with disabilities, in accordance with sections 1111(b) and 6111 of the Elementary and Secondary Education Act of 1965.

''(3) LOCAL EDUCATIONAL AGENCY RISK POOL.—

''(A) IN GENERAL.—For the purpose of assisting local educational agencies (and charter schools that are local educational agencies) in addressing the needs of high-need children and the unanticipated enrollment of other children eligible for services under this part, each State shall reserve for each of the fiscal years 2004 through 2009, 2 percent of the amount that remains after subtracting the amount reserved under paragraph (1) from the amount of the State's allocation under subsection (d) for each of the fiscal years 2004 through 2009, respectively, to—

''(i) establish a high-cost fund; and

''(ii) make disbursements from the high-cost fund to local educational agencies in accordance with this paragraph.

''(B) REQUIRED DISBURSEMENTS FROM THE FUND.—

''(i) IN GENERAL.—Each State educational agency shall make disbursements from the fund established under subparagraph (A) to local educational agencies to pay the percentage, described in subparagraph (D), of the costs of providing a free appropriate public education to high-need children.

''(ii) SPECIAL RULE.—If funds reserved for a fiscal year under subparagraph (A) are insufficient to pay the percentage described in subparagraph (D) to assist all the local educational agencies having applications approved under subparagraph (C), then the State educational agency shall ratably reduce the amount paid to each local educational agency that receives a disbursement for that fiscal year.

''(C) APPLICATION.—A local educational agency that desires a disbursement under this subsection shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require. Such application shall include assurances that funds provided under this paragraph shall not be used to pay costs that otherwise would be reimbursable as medical assistance for a child with a disability under the State medicaid program under title XIX of the Social Security Act.

''(D) DISBURSEMENTS.—

''(i) IN GENERAL.—A State educational agency shall make a disbursement to a local educational agency that submits an application under subparagraph (C) in an amount that is equal to 75 percent of the costs that are in excess of 4 times the average per-pupil expenditure in the United States or in the State where the child resides (whichever average per-pupil expenditure is lower) associated with educating each high need child served by such local educational agency in a fiscal year for whom such agency desires a disbursement.

''(ii) APPROPRIATE COSTS.—The costs associated with educating a high need child under clause (i) are only those costs associated with providing direct special education and related services to such child that are identified in such child's appropriately developed IEP.

''(E) LEGAL FEES.—The disbursements under subparagraph (D) shall not support legal fees, court costs, or other costs associated with a cause of action brought on behalf of such child to ensure a free appropriate public education for such child.

''(F) PERMISSIBLE DISBURSEMENTS FROM REMAINING FUNDS.—A State educational agency may make disbursements to local educational agencies from any funds that are remaining in the high cost fund after making the required disbursements under subparagraph (D) for a fiscal year for the following purposes:

''(i) To pay the costs associated with serving children with disabilities who moved into the areas served by such local agencies after the budget for the following school year had been finalized to assist the local educational agencies in providing a free appropriate public education for such children in such year.

''(ii) To compensate local educational agencies for extraordinary costs, as determined by the State, of any children eligible for services under this part due to—

''(I) unexpected enrollment or placement of children eligible for services under this part; or

''(II) a significant underestimate of the average cost of providing services to children eligible for services under this part.

''(G) REMAINING FUNDS.—Funds reserved under subparagraph (A) in any fiscal year but not expended in that fiscal year pursuant to subparagraph (D) or subparagraph (F) shall—

''(i) be allocated to local educational agencies pursuant to subparagraphs (D) or (F) for the next fiscal year; or

''(ii) be allocated to local educational agencies in the same manner as funds are allocated to local educational agencies under subsection (f).

''(H) ASSURANCE OF A FREE APPROPRIATE PUBLIC EDUCATION.—Nothing in this section shall be construed—

''(i) to limit or condition the right of a child with a disability who is assisted under this part to receive a free appropriate public education pursuant to section 612(a)(1) in a least restrictive environment pursuant to section 612(a)(5); or

''(ii) to authorize a State educational agency or local educational agency to indicate a limit on what is expected to be spent on the education of a child with a disability.

''(I) MEDICAID SERVICES NOT AFFECTED.—Disbursements provided under this subsection shall not be used to pay costs that otherwise would be reimbursable as medical assistance for a child with a disability under the State medicaid program under title XIX of the Social Security Act.

''(J) DEFINITIONS.—In this paragraph:

''(i) AVERAGE PER-PUPIL EXPENDITURE.—The term 'average per-pupil expenditure' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965.

''(ii) HIGH-NEED CHILD.—The term 'high-need', when used with respect to a child with a disability, means a child with a disability for whom a free appropriate public education in a fiscal year costs more than 4 times the average per-pupil expenditure for such fiscal year.

''(K) SPECIAL RULE FOR RISK POOL AND HIGH-NEED ASSISTANCE PROGRAMS IN EFFECT AS OF JANUARY 1, 2003.—Notwithstanding the provisions of subparagraphs (A) through (J), a State may use funds reserved pursuant to this paragraph for administering and implementing a placement-neutral cost-sharing and reimbursement program of high-need, low-incidence, emergency, catastrophic, or extraordinary aid to local educational agencies that provides services to students eligible under this part based on eligibility criteria for such programs that were operative on January 1, 2003.

''(4) INAPPLICABILITY OF CERTAIN PROHIBITIONS.—A State may use funds the State reserves under paragraphs (1), (2), and (3) without regard to—

''(A) the prohibition on commingling of funds in section 612(a)(17)(B); and

''(B) the prohibition on supplanting other funds in section 612(a)(17)(C).

''(5) REPORT ON USE OF FUNDS.—As part of the information required to be submitted to the Secretary under section 612, each State shall annually describe how amounts under this section—

''(A) will be used to meet the requirements of this Act; and

''(B) will be allocated among the activities described in this section to meet State priorities based on input from local educational agencies.

''(6) FLEXIBILITY IN USING FUNDS FOR PART C.—Any State eligible to receive a grant under section 619 may use funds made available under paragraph (1)(A), subsection (f)(3), or section 619(f)(5) to develop and implement a State policy jointly with the lead agency under part C and the State educational agency to provide early intervention services (which shall include an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills) in accordance with part C to children with disabilities who are eligible for services under section 619 and who previously received services under part C until such children enter, or are eligible under State law to enter, kindergarten.

''(f) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(1) SUBGRANTS REQUIRED.—Each State that receives a grant under this section for any fiscal year shall distribute any funds the State does not reserve under subsection (e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under section 613 for use in accordance with this part.

''(2) PROCEDURE FOR ALLOCATIONS TO LOCAL EDUCATIONAL AGENCIES.—

''(A) PROCEDURE.—For each fiscal year for which funds are allocated to States under subsection (d), each State shall allocate funds under paragraph (1) as follows:

''(i) BASE PAYMENTS.—The State shall first award each local educational agency described in paragraph (1) the amount the local educational agency would have received under this section for fiscal year 1999, if the State had distributed 75 percent of its grant for that year under section 611(d) as section 611(d) was then in effect.

''(ii) ALLOCATION OF REMAINING FUNDS.—After making allocations under clause (i), the State shall—

''(I) allocate 85 percent of any remaining funds to those local educational agencies on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the local educational agency's jurisdiction; and

''(II) allocate 15 percent of those remaining funds to those local educational agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

''(3) REALLOCATION OF FUNDS.—If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by that local educational agency with State and local funds, the State educational agency may reallocate any portion of the funds under this part that are not needed by that local educational agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas served by those other local educational agencies.

''(g) DEFINITIONS.—For the purpose of this section—

''(1) the term 'average per-pupil expenditure in public elementary schools and secondary schools in the United States' means—

''(A) without regard to the source of funds—

''(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the 50 States and the District of Columbia; plus

''(ii) any direct expenditures by the State for the operation of those local educational agencies; divided by

''(B) the aggregate number of children in average daily attendance to whom those local educational agencies provided free public education during that preceding year; and

''(2) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(h) USE OF AMOUNTS BY SECRETARY OF THE INTERIOR.—

''(1) PROVISION OF AMOUNTS FOR ASSISTANCE.—

''(A) IN GENERAL.—The Secretary of Education shall provide amounts to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5 through 21 who are enrolled in elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior. The amount of such payment for any fiscal year shall be equal to 80 percent of the amount allotted under subsection (c) for that fiscal year.

''(B) CALCULATION OF NUMBER OF CHILDREN.—In the case of Indian students aged 3 through 5 who are enrolled in programs affiliated with the Bureau of Indian Affairs (hereafter in this subsection referred to as 'BIA') schools, and that are required by the States in which such schools are located to attain or maintain State accreditation, and which schools had such accreditation prior to the date of enactment of the Individuals with Disabilities Education Act Amendments of 1991, the school shall be allowed to count those children for the purpose of distribution of the funds provided under this paragraph to the Secretary of the Interior. The Secretary of the Interior shall be responsible for meeting all of the requirements of this part for these children, in accordance with paragraph (2).

''(C) ADDITIONAL REQUIREMENT.—With respect to all other children aged 3 through 21 on reservations, the State educational agency shall be responsible for ensuring that all of the requirements of this part are implemented.

''(2) SUBMISSION OF INFORMATION.—The Secretary of Education may provide the Secretary of the Interior amounts under paragraph (1) for a fiscal year only if the Secretary of the Interior submits to the Secretary of Education information that—

''(A) demonstrates that the Department of the Interior meets the appropriate requirements, as determined by the Secretary of Education, of sections 612 (including monitoring and evaluation activities) and 613;

''(B) includes a description of how the Secretary of the Interior will coordinate the provision of services under this part with local educational agencies, tribes and tribal organizations, and other private and Federal service providers;

''(C) includes an assurance that there are public hearings, adequate notice of such hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and affected local school boards before the adoption of the policies, programs, and procedures described in subparagraph (A);

''(D) includes an assurance that the Secretary of the Interior will provide such information as the Secretary of Education may require to comply with section 618;

''(E) includes an assurance that the Secretary of the Interior and the Secretary of Health and Human Services have entered into a memorandum of agreement, to be provided to the Secretary of Education, for the coordination of services, resources, and personnel between their respective Federal, State, and local offices and with State and local educational agencies and other entities to facilitate the provision of services to Indian children with disabilities residing on or near reservations (such agreement shall provide for the apportionment of responsibilities and costs including, but not limited to, child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipment and medical or personal supplies as needed for a child to remain in school or a program); and

''(F) includes an assurance that the Department of the Interior will cooperate with the Department of Education in its exercise of monitoring and oversight of this application, and any agreements entered into between the Secretary of the Interior and other entities under this part, and will fulfill its duties under this part.

''(3) APPLICABILITY.—Section 616(a) shall apply to the information described in this paragraph.

''(4) PAYMENTS FOR EDUCATION AND SERVICES FOR INDIAN CHILDREN WITH DISABILITIES AGED 3 THROUGH 5.—

''(A) IN GENERAL.—With funds appropriated under subsection (i), the Secretary of Education shall make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act) or consortia of the above to provide for the coordination of assistance for special education and related services for children with disabilities aged 3 through 5 on reservations served by elementary schools and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payments under subparagraph (B) for any fiscal year shall be equal to 20 percent of the amount allotted under subsection (c).

''(B) DISTRIBUTION OF FUNDS.—The Secretary of the Interior shall distribute the total amount of the payment under subparagraph (A) by allocating to each tribe or tribal organization an amount based on the number of children with disabilities ages 3 through 5 residing on reservations as reported annually, divided by the total of those children served by all tribes or tribal organizations.

''(C) SUBMISSION OF INFORMATION.—To receive a payment under this paragraph, the tribe or tribal organization shall submit such figures to the Secretary of the Interior as required to determine the amounts to be allocated under subparagraph (B). This information shall be compiled and submitted to the Secretary of Education.

''(D) USE OF FUNDS.—The funds received by a tribe or tribal organization shall be used to assist in child find, screening, and other procedures for the early identification of children aged 3 through 5, parent training, and the provision of direct services. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe or tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

''(E) BIENNIAL REPORT.—To be eligible to receive a grant pursuant to subparagraph (A), the tribe or tribal organization shall provide to the Secretary of the Interior a biennial report of activities undertaken under this paragraph, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the 2 years following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis in the report to the Secretary of Education required under this subsection. The Secretary of Education may require any additional information from the Secretary of the Interior.

''(F) PROHIBITIONS.—None of the funds allocated under this paragraph may be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance.

''(5) PLAN FOR COORDINATION OF SERVICES.—The Secretary of the Interior shall develop and implement a plan for the coordination of services for all Indian children with disabilities residing on reservations covered under this Act. Such plan shall provide for the coordination of services benefiting these children from whatever source, including tribes, the Indian Health Service, other BIA divisions, and other Federal agencies. In developing the plan, the Secretary of the Interior shall consult with all interested and involved parties. The plan shall be based on the needs of the children and the system best suited for meeting those needs, and may involve the establishment of cooperative agreements between the BIA, other Federal agencies, and other entities. The plan shall also be distributed upon request to States, State and local educational agencies, and other agencies providing services to infants, toddlers, and children with disabilities, to tribes, and to other interested parties.

''(6) ESTABLISHMENT OF ADVISORY BOARD.—To meet the requirements of section 612(a)(20), the Secretary of the Interior shall establish, under the BIA, an advisory board composed of individuals involved in or concerned with the education and provision of services to Indian infants, toddlers, children, and youth with disabilities, including Indians with disabilities, Indian parents or guardians of such children, teachers, service providers, State and local educational officials, representatives of tribes or tribal organizations, representatives from State Interagency Coordinating Councils under section 641 in States having reservations, and other members representing the various divisions and entities of the BIA. The chairperson shall be selected by the Secretary of the Interior. The advisory board shall—

''(A) assist in the coordination of services within the BIA and with other local, State, and Federal agencies in the provision of education for infants, toddlers, and children with disabilities;

''(B) advise and assist the Secretary of the Interior in the performance of the Secretary's responsibilities described in this subsection;

''(C) develop and recommend policies concerning effective inter- and intra-agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities;

''(D) provide assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved educational programming for Indian infants, toddlers, and children with disabilities; and

''(E) provide assistance in the preparation of information required under paragraph (2)(D).

''(7) ANNUAL REPORTS.—

''(A) IN GENERAL.—The advisory board established under paragraph (6) shall prepare and submit to the Secretary of the Interior and to Congress an annual report containing a description of the activities of the advisory board for the preceding year.

''(B) AVAILABILITY.—The Secretary of the Interior shall make available to the Secretary of Education the report described in subparagraph (A).

''(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, other than section 619, there are authorized to be appropriated—

''(1) $12,358,376,571 for fiscal year 2005;

''(2) $14,648,647,143 for fiscal year 2006;

''(3) $16,938,917,714 for fiscal year 2007;

''(4) $19,229,188,286 for fiscal year 2008;

''(5) $21,519,458,857 for fiscal year 2009;

''(6) $23,809,729,429 for fiscal year 2010;

''(7) $26,100,000,000 for fiscal year 2011; and

''(8) such sums as may be necessary for fiscal year 2012 and each succeeding fiscal year.

"SEC. 612. STATE ELIGIBILITY.

''(a) IN GENERAL.—A State is eligible for assistance under this part for a fiscal year if the State submits a plan that provides assurances to the Secretary that the State has in effect policies and procedures to ensure that the State meets each of the following conditions:

''(1) FREE APPROPRIATE PUBLIC EDUCATION.—

''(A) IN GENERAL.—A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.

''(B) LIMITATION.—The obligation to make a free appropriate public education available to all children with disabilities does not apply with respect to children—

''(i) aged 3 through 5 and 18 through 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children in those age ranges; and

''(ii) aged 18 through 21 to the extent that State law does not require that special education and related services under this part be provided to children with disabilities who, in the educational placement prior to their incarceration in an adult correctional facility—

''(I) were not actually identified as being a child with a disability under section 602(3); or

''(II) did not have an individualized education program under this part.

''(C) STATE FLEXIBILITY.—A State that provides early intervention services in accordance with part C to a child who is eligible for services under section 619, is not required to provide such child with a free appropriate public education.

''(2) FULL EDUCATIONAL OPPORTUNITY GOAL.—The State has established a goal of providing full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal.

''(3) CHILD FIND.—

''(A) IN GENERAL.—All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

''(B) CONSTRUCTION.—Nothing in this Act requires that children be classified by their disability so long as each child who has a disability listed in section 602 and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under this part.

''(4) INDIVIDUALIZED EDUCATION PROGRAM.—An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with section 614(d).

''(5) LEAST RESTRICTIVE ENVIRONMENT.—

''(A) IN GENERAL.—To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

''(B) ADDITIONAL REQUIREMENT.—

''(i) IN GENERAL.—A State funding mechanism shall not result in placements that violate the requirements of subparagraph (A), and a State shall not use a funding mechanism by which the State distributes funds on the basis of the type of setting in which a child is served that will result in the failure to provide a child with a disability a free appropriate public education according to the unique needs of the child as described in the child's IEP.

''(ii) ASSURANCE.—If the State does not have policies and procedures to ensure compliance with clause (i), the State shall provide the Secretary an assurance that the State will revise the funding mechanism as soon as feasible to ensure that such mechanism does not result in such placements.

''(6) PROCEDURAL SAFEGUARDS.—

''(A) IN GENERAL.—Children with disabilities and their parents are afforded the procedural safeguards required by section 615.

''(B) ADDITIONAL PROCEDURAL SAFEGUARDS.—Procedures to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

''(7) EVALUATION.—Children with disabilities are evaluated in accordance with subsections (a) and (b) of section 614.

''(8) CONFIDENTIALITY.—Agencies in the State comply with section 617(c) (relating to the confidentiality of records and information).

''(9) TRANSITION FROM PART C TO PRESCHOOL PROGRAMS.—Children participating in early-intervention programs assisted under part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(8). By the third birthday of such a child, an individualized education program or, if consistent with sections 614(d)(2)(B) and 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10).

''(10) CHILDREN IN PRIVATE SCHOOLS.—

''(A) CHILDREN ENROLLED IN PRIVATE SCHOOLS BY THEIR PARENTS.—

''(i) IN GENERAL.—To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the following requirements, unless the Secretary has arranged for services to those children under subsection (f):

''(I) Amounts to be expended for the provision of those services (including direct services to parentally placed children) by the local educational agency shall be equal to a proportionate amount of Federal funds made available under this part.

''(II) Such services may be provided to children with disabilities on the premises of private, including religious, schools, to the extent consistent with law.

''(III) Each local educational agency shall maintain in its records and provide to the State educational agency the number of children evaluated under this paragraph, the number of children determined to be children with disabilities, and the number of children served under this subsection.

''(ii) CHILD-FIND REQUIREMENT.—

''(I) IN GENERAL.—The requirements of paragraph (3) of this subsection (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private, including religious, elementary schools and secondary schools. Such child find process shall be conducted in a comparable time period as for other students attending public schools in the local educational agency.

''(II) EQUITABLE PARTICIPATION.—The child find process shall be designed to ensure the equitable participation of parentally placed private school children and an accurate count of such children.

''(III) ACTIVITIES.—In carrying out this clause, the local educational agency, or where applicable, the State educational agency, shall undertake activities similar to those activities undertaken for its public school children.

''(IV) COST.—The cost of carrying out this clause, including individual evaluations, may not be considered in determining whether a local education agency has met its obligations under clause (i).

''(iii) CONSULTATION.—To ensure timely and meaningful consultation, a local educational agency, or where appropriate, a State educational agency, shall consult with representatives of children with disabilities who are parentally placed in private schools, during the design and development of special education and related services for these children, including consultation regarding—

''(I) the child find process and how parentally placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;

''(II) the determination of the proportionate share of Federal funds available to serve parentally placed private school children with disabilities under this paragraph, including the determination of how the proportionate share of those funds were calculated;

''(III) the consultation process among the school district, private school officials, and parents of parentally placed private school children with disabilities, including how such process

will operate throughout the school year to ensure that parentally placed children with disabilities identified through the child find process can meaningfully participate in special education and related services;

''(IV) how, where, and by whom special education and related services will be provided for parentally placed private school children, including a discussion of alternate service delivery mechanisms, how such services will be apportioned if funds are insufficient to serve all children, and how and when these decisions will be made; and

''(V) how, if the local educational agency disagrees with the views of the private school officials on the provision of services through a contract, the local educational agency shall provide to the private school officials a written explanation of the reasons why the local educational agency chose not to provide services through a contract.

''(iv) WRITTEN AFFIRMATION.—When timely and meaningful consultation as required by this section has occurred, the local educational agency shall obtain a written affirmation signed by the representatives of participating private schools, and if such officials do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation of the consultation process to the State educational agency.

''(v) COMPLIANCE.—

''(I) IN GENERAL.—A private school official shall have the right to complain to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official.

''(II) PROCEDURE.—If the private school official wishes to complain, the official shall provide the basis of the noncompliance with this section by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency. If the private school official is dissatisfied with the decision of the State educational agency, such official may complain to the Secretary by providing the basis of the noncompliance with this section by the local educational agency to the Secretary, and the State educational agency shall forward the appropriate documentation to the Secretary.

''(vi) PROVISION OF EQUITABLE SERVICES.—

''(I) DIRECT SERVICES.—To the extent practicable, the local educational agency shall provide direct services to children with disabilities parentally placed in private schools.

''(II) DIRECTLY OR THROUGH CONTRACTS.—A public agency may provide special education and related services directly or through contracts with public and private agencies, organizations, and institutions.

''(III) SECULAR, NEUTRAL, NONIDEOLOGICAL.—Special education and related services provided to children with disabilities attending private schools, including materials and equipment, shall be secular, neutral, and nonideological.

''(vii) PUBLIC CONTROL OF FUNDS.—The control of funds used to provide special education and related services under this section, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this Act, and a public agency shall administer the funds and property.

''(B) CHILDREN PLACED IN, OR REFERRED TO, PRIVATE SCHOOLS BY PUBLIC AGENCIES.—

''(i) IN GENERAL.—Children with disabilities in private schools and facilities are provided special education and related services, in accordance with an individualized education program, at no cost to their parents, if such children are placed in, or referred to, such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to all children with disabilities within such State.

''(ii) STANDARDS.—In all cases described in clause (i), the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights the children would have if served by such agencies.

''(C) PAYMENT FOR EDUCATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS WITHOUT CONSENT OF OR REFERRAL BY THE PUBLIC AGENCY.—

''(i) IN GENERAL.—Subject to subparagraph (A), this part does not require a local educational agency to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made a free appropriate public education available to the child and the parents elected to place the child in such private school or facility.

''(ii) REIMBURSEMENT FOR PRIVATE SCHOOL PLACEMENT.—If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private elementary school or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education available to the child in a timely manner prior to that enrollment.

''(iii) LIMITATION ON REIMBURSEMENT.—The cost of reimbursement described in clause (ii) may be reduced or denied—

''(I) if—

''(aa) at the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or

''(bb) 10 business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in division (aa);

''(II) if, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in section 615(b)(3), of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for such evaluation; or

''(III) upon a judicial finding of unreasonableness with respect to actions taken by the parents.

''(iv) EXCEPTION.—Notwithstanding the notice requirement in clause (iii)(I), the cost of reimbursement—

''(I) shall not be reduced or denied for failure to provide such notice if—

''(aa) the school prevented the parent from providing such notice; or

''(bb) the parents had not received notice, pursuant to section 615, of the notice requirement in clause (iii)(I); and

''(II) may, in the discretion of a court or a hearing officer, not be reduced or denied for failure to provide such notice if—

''(aa) the parent is illiterate and cannot write in English; or

''(bb) compliance with clause (iii)(I) would likely have resulted in physical or serious emotional harm to the child.

''(11) STATE EDUCATIONAL AGENCY RESPONSIBLE FOR GENERAL SUPERVISION.—

''(A) IN GENERAL.—The State educational agency is responsible for ensuring that—

''(i) the requirements of this part are met; and

''(ii) all educational programs for children with disabilities in the State, including all such programs administered by any other State or local agency—

''(I) are under the general supervision of individuals in the State who are responsible for educational programs for children with disabilities; and

''(II) meet the educational standards of the State educational agency.

''(B) LIMITATION.—Subparagraph (A) shall not limit the responsibility of agencies in the State other than the State educational agency to provide, or pay for some or all of the costs of, a free appropriate public education for any child with a disability in the State.

''(C) EXCEPTION.—Notwithstanding subparagraphs (A) and (B), the Governor (or another individual pursuant to State law), consistent with State law, may assign to any public agency in the State the responsibility of ensuring that the requirements of this part are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons.

''(12) OBLIGATIONS RELATED TO AND METHODS OF ENSURING SERVICES.—

''(A) ESTABLISHING RESPONSIBILITY FOR SERVICES.—The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (B) and the State educational agency, in order to ensure that all services described in subparagraph (B)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under clause (iii). Such agreement or mechanism shall include the following:

''(i) AGENCY FINANCIAL RESPONSIBILITY.—An identification of, or a method for defining, the financial responsibility of each agency for providing services described in subparagraph (B)(i) to ensure a free appropriate public education to children with disabilities, provided that the financial responsibility of each public agency described in subparagraph (B), including the State Medicaid agency and other public insurers of children with disabilities, shall precede the financial responsibility of the local educational agency (or the State agency responsible for developing the child's IEP).

''(ii) CONDITIONS AND TERMS OF REIMBURSEMENT.—The conditions, terms, and procedures under which a local educational agency shall be reimbursed by other agencies.

''(iii) INTERAGENCY DISPUTES.—Procedures for resolving interagency disputes (including procedures under which local educational agencies may initiate proceedings) under the agreement or other mechanism to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism.

''(iv) COORDINATION OF SERVICES PROCEDURES.—Policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services described in subparagraph (B)(i).

''(B) OBLIGATION OF PUBLIC AGENCY.—

''(i) IN GENERAL.—If any public agency other than an educational agency is otherwise obligated under Federal or State law, or assigned responsibility under State policy pursuant to subparagraph (A), to provide or pay for any services that are also considered special education or related services (such as, but not limited to, services described in section 602(1) relating to assistive technology devices, 602(2) relating to assistive technology services, 602(25) relating to related services, 602(32) relating to supplementary aids and services, and 602(33) relating to transition services) that are necessary for ensuring a free appropriate public education to

children with disabilities within the State, such public agency shall fulfill that obligation or responsibility, either directly or through contract or other arrangement pursuant to subparagraph (A) or an agreement pursuant to subparagraph (C).

''(ii) REIMBURSEMENT FOR SERVICES BY PUBLIC AGENCY.—If a public agency other than an educational agency fails to provide or pay for special education and related services described in clause (i), the local educational agency (or State agency responsible for developing the child's IEP) shall provide or pay for such services to the child. Such local educational agency or State agency is authorized to claim reimbursement for the services from the public agency that failed to provide or pay for such services and such public agency shall reimburse the local educational agency or State agency pursuant to the terms of the interagency agreement or other mechanism described in subparagraph (A)(i) according to the procedures established in such agreement pursuant to subparagraph (A)(ii).

''(C) SPECIAL RULE.—The requirements of subparagraph (A) may be met through—

''(i) State statute or regulation;

''(ii) signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or

''(iii) other appropriate written methods as determined by the Chief Executive Officer of the State or designee of the officer and approved by the Secretary.

''(13) PROCEDURAL REQUIREMENTS RELATING TO LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing.

''(14) PERSONNEL STANDARDS.—

''(A) IN GENERAL.—The State educational agency has established and maintains standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.

''(B) RELATED SERVICES PERSONNEL AND PARAPROFESSIONALS.—The standards under subparagraph (A) include standards for related services personnel and paraprofessionals that—

''(i) are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services;

''(ii) ensure that related services personnel who deliver services in their discipline or profession meet the requirements of clause (i) and have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

''(iii) allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services under this part to children with disabilities.

''(C) STANDARDS FOR SPECIAL EDUCATION TEACHERS.—

''(i) IN GENERAL.—The standards described in subparagraph (A) shall ensure that each person employed as a special education teacher in the State who teaches in an elementary, middle, or secondary school is highly qualified not later than the end of the 2006–2007 school year.

''(ii) COMPLIANCE.—Notwithstanding paragraphs (2) and (3) of section 1119(a) of the Elementary and Secondary Education Act of 1965, for purposes of determining compliance with such paragraphs—

''(I) the Secretary, the State educational agency, and local educational agencies shall apply the definition of highly qualified in section 602(10) to special education teachers; and

''(II) the State shall ensure that all special education teachers teaching in core academic subjects within the State are highly qualified (as defined in section 602(10)) not later than the end of the 2006–2007 school year.

''(iii) PARENTS' RIGHT TO KNOW.—In carrying out section 1111(h)(6) of the Elementary and Secondary Education Act of 1965 with respect to special education teachers, a local educational agency shall—

''(I) include in a response to a request under such section any additional information needed to demonstrate that the teacher meets the applicable requirements of section 602(10) relating to certification or licensure as a special education teacher; and

''(II) apply the definition of highly qualified in section 602(10) in carrying out section 1111(h)(6)(B)(ii).

''(D) POLICY.—In implementing this section, a State shall adopt a policy that includes a requirement that local educational agencies in the State take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services under this part to children with disabilities.

''(E) RULE OF CONSTRUCTION.—Notwithstanding any other individual right of action that a parent or student may maintain under this part, nothing in this subsection shall be construed to create a right of action on behalf of an individual student for the failure of a particular State educational agency or local educational agency staff person to be highly qualified, or to prevent a parent from filing a complaint about staff qualifications with the State educational agency as provided for under this part.

''(15) PERFORMANCE GOALS AND INDICATORS.—The State—

''(A) has established goals for the performance of children with disabilities in the State that—

''(i) promote the purposes of this Act, as stated in section 601(d);

''(ii) are the same as the State's definition of adequate yearly progress, including the State's objectives for progress by children with disabilities, under section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965;

''(iii) address graduation rates and drop out rates, as well as such other factors as the State may determine; and

''(iv) are consistent, to the extent appropriate, with any other goals and standards for children established by the State;

''(B) has established performance indicators the State will use to assess progress toward achieving the goals described in subparagraph (A), including measurable annual objectives for progress by children with disabilities under section 1111(b)(2)(C)(v)(II)(cc) of the Elementary and Secondary Education Act of 1965; and

''(C) will annually report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under subparagraph (A).

''(16) PARTICIPATION IN ASSESSMENTS.—

''(A) IN GENERAL.— All children with disabilities are included in all general State and districtwide assessment programs and accountability systems, including assessments and accountability systems described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations, alternate assessments where necessary, and as indicated in their respective individualized education programs.

''(B) ACCOMMODATION GUIDELINES.—The State (or, in the case of a districtwide assessment, the local educational agency) has developed guidelines for the provision of appropriate accommodations.

''(C) ALTERNATE ASSESSMENTS.—

''(i) IN GENERAL.—The State (or, in the case of a districtwide assessment, the local educational agency) has developed and implemented guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments under subparagraph (B) as indicated in their respective individualized education programs.

''(ii) REQUIREMENTS FOR ALTERNATE ASSESSMENTS.—The guidelines under clause (i) shall provide for alternate assessments that—

''(I) are aligned with the State's challenging academic content and academic achievement standards; and

''(II) if the State has adopted alternate academic achievement standards permitted under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, measure the achievement of children with disabilities against those standards.

''(iii) CONDUCT OF ALTERNATIVE ASSESSMENTS.—The State conducts the alternate assessments described in this subparagraph.

''(D) REPORTS.—The State educational agency (or, in the case of a districtwide assessment, the local educational agency) makes available to the public, and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

''(i) The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations in order to participate in those assessments.

''(ii) The number of children with disabilities participating in alternate assessments described in subparagraph (C)(ii)(I).

''(iii) The number of children with disabilities participating in alternate assessments described in subparagraph (C)(ii)(II).

''(iv) The performance of children with disabilities on regular assessments and on alternate assessments (if the number of children with disabilities participating in those assessments is sufficient to yield statistically reliable information and reporting that information will not reveal personally identifiable information about an individual student), compared with the achievement of all children, including children with disabilities, on those assessments.

''(E) UNIVERSAL DESIGN.—The State educational agency (or, in the case of a districtwide assessment, the local educational agency) shall, to the extent feasible, use universal design principles in developing and administering any assessments under this paragraph.

''(17) SUPPLEMENTATION OF STATE, LOCAL, AND OTHER FEDERAL FUNDS.—

''(A) EXPENDITURES.—Funds paid to a State under this part will be expended in accordance with all the provisions of this part.

''(B) PROHIBITION AGAINST COMMINGLING.—Funds paid to a State under this part will not be commingled with State funds.

''(C) PROHIBITION AGAINST SUPPLANTATION AND CONDITIONS FOR WAIVER BY SECRETARY.—Except as provided in section 613, funds paid to a State under this part will be used to supplement the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to children with disabilities under this part and in no case to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all children with disabilities have available to them a free appropriate public education, the Secretary may waive, in whole or in part, the requirements of this subparagraph if the Secretary concurs with the evidence provided by the State.

''(18) MAINTENANCE OF STATE FINANCIAL SUPPORT.—

''(A) IN GENERAL.—The State does not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.

''(B) REDUCTION OF FUNDS FOR FAILURE TO MAINTAIN SUPPORT.—The Secretary shall reduce the allocation of funds under section 611 for any fiscal year following the fiscal year in which the State fails to comply with the requirement of subparagraph (A) by the same amount by which the State fails to meet the requirement.

''(C) WAIVERS FOR EXCEPTIONAL OR UNCONTROLLABLE CIRCUMSTANCES.—The Secretary may waive the requirement of subparagraph (A) for a State, for 1 fiscal year at a time, if the Secretary determines that—

''(i) granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State; or

''(ii) the State meets the standard in paragraph (17)(C) for a waiver of the requirement to supplement, and not to supplant, funds received under this part.

''(D) SUBSEQUENT YEARS.—If, for any year, a State fails to meet the requirement of subparagraph (A), including any year for which the State is granted a waiver under subparagraph (C), the financial support required of the State in future years under subparagraph (A) shall be the amount that would have been required in the absence of that failure and not the reduced level of the State's support.

''(19) PUBLIC PARTICIPATION.—Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.

''(20) STATE ADVISORY PANEL.—

''(A) IN GENERAL.—The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State.

''(B) MEMBERSHIP.—Such advisory panel shall consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, that is representative of the State population and that is composed of individuals involved in, or concerned with, the education of children with disabilities, including—

''(i) parents of children with disabilities ages birth through 26, including not less than 1 foster parent of a child with disabilities who is a ward of the State, not less than 1 grandparent or other relative who is acting in the place of a natural or adoptive parent, and not less than 1 representative of children with disabilities in military families;

''(ii) individuals with disabilities;

''(iii) teachers;

''(iv) representatives of institutions of higher education that prepare special education and related services personnel;

''(v) State and local education officials, including officials who carry out activities under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act;

''(vi) administrators of programs for children with disabilities;

''(vii) representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;

''(viii) representatives of private schools and public charter schools;

''(ix) at least 1 representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; and

''(x) representatives from the State juvenile and adult corrections agencies.

''(xi) representatives from the State child welfare agency; and

''(xii) a representative of wards of the State who are in foster care, such as an attorney for children in foster care, a guardian ad litem, a court appointed special advocate, or a judge.

''(C) SPECIAL RULE.—A majority of the members of the panel shall be individuals with disabilities ages birth through 26 or parents of such individuals.

''(D) DUTIES.—The advisory panel shall—

''(i) advise the State educational agency of unmet needs within the State in the education of children with disabilities;

''(ii) comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities;

''(iii) advise the State educational agency in developing evaluations and reporting on data to the Secretary under section 618;

''(iv) advise the State educational agency in developing corrective action plans to address findings identified in Federal monitoring reports under this part; and

''(v) advise the State educational agency in developing and implementing policies relating to the coordination of services for children with disabilities.

''(21) SUSPENSION AND EXPULSION RATES.—

''(A) IN GENERAL.—The State educational agency examines data to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities—

''(i) among local educational agencies in the State; or

''(ii) compared to such rates for nondisabled children within such agencies.

''(B) REVIEW AND REVISION OF POLICIES.—If such discrepancies are occurring, the State educational agency reviews and, if appropriate, revises (or requires the affected State or local educational agency to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of behavioral interventions, and procedural safeguards, to ensure that such policies, procedures, and practices comply with this Act.

''(22) ACCESS TO INSTRUCTIONAL MATERIALS.—

''(A) IN GENERAL.—The State adopts the national Instructional Materials Accessibility Standard described in section 675(a) for the purposes of providing instructional materials to blind persons or other persons with print disabilities in a timely manner after the publication of the standard in the Federal Register.

''(B) PREPARATION AND DELIVERY OF FILES.—Not later than 2 years after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004, a State educational agency, as part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, enters into a written contract with the publisher of the print instructional materials to—

''(i) prepare, and on or before delivery of the print instructional materials, provide to the National Instructional Materials Access Center, established pursuant to section 675(b), electronic files containing the contents of the print instructional materials using the Instructional Materials Accessibility Standard; or

''(ii) purchase instructional materials from a publisher that are produced in or may be rendered in the specialized formats described in section 675(a)(4)(C).

''(C) ASSISTIVE TECHNOLOGY.—In carrying out subparagraph (B), the State educational agency, to the maximum extent possible, shall work collaboratively with the State agency responsible for assistive technology programs.

''(b) STATE EDUCATIONAL AGENCY AS PROVIDER OF FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT SERVICES.—If the State educational agency provides free appropriate public education to children with disabilities, or provides direct services to such children, such agency—

''(1) shall comply with any additional requirements of section 613(a), as if such agency were a local educational agency; and

''(2) may use amounts that are otherwise available to such agency under this part to serve those children without regard to section 613(a)(2)(A)(i) (relating to excess costs).

''(c) EXCEPTION FOR PRIOR STATE PLANS.—

''(1) IN GENERAL.—If a State has on file with the Secretary policies and procedures that demonstrate that such State meets any requirement of subsection (a), including any policies and procedures filed under this part as in effect before the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the Secretary shall consider such State to have met such requirement for purposes of receiving a grant under this part.

''(2) MODIFICATIONS MADE BY STATE.—Subject to paragraph (3), an application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State determines necessary. This section shall apply to a modification to an application to the same extent and in the same manner as this section applies to the original plan.

''(3) MODIFICATIONS REQUIRED BY THE SECRETARY.—If, after the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the provisions of this Act are amended (or the regulations developed to carry out this Act are amended), there is a new interpretation of this Act by a Federal court or a State's highest court, or there is an official finding of noncompliance with Federal law or regulations, then the Secretary may require a State to modify its application only to the extent necessary to ensure the State's compliance with this part.

''(d) APPROVAL BY THE SECRETARY.—

''(1) IN GENERAL.—If the Secretary determines that a State is eligible to receive a grant under this part, the Secretary shall notify the State of that determination.

''(2) NOTICE AND HEARING.—The Secretary shall not make a final determination that a State is not eligible to receive a grant under this part until after providing the State—

''(A) with reasonable notice; and

''(B) with an opportunity for a hearing.

''(e) ASSISTANCE UNDER OTHER FEDERAL PROGRAMS.—Nothing in this title permits a State to reduce medical and other assistance available, or to alter eligibility, under titles V and XIX of the Social Security Act with respect to the provision of a free appropriate public education for children with disabilities in the State.

''(f) BY-PASS FOR CHILDREN IN PRIVATE SCHOOLS.—

''(1) IN GENERAL.—If, on the date of enactment of the Education of the Handicapped Act Amendments of 1983, a State educational agency was prohibited by law from providing for the equitable participation in special programs of children with disabilities enrolled in private elementary schools and secondary schools as required by subsection (a)(10)(A), or if the Secretary determines that a State educational agency, local educational agency, or other entity has substantially failed or is unwilling to provide for such equitable participation, then the Secretary shall, notwithstanding such provision of law, arrange for the provision of services to such children through arrangements which shall be subject to the requirements of such subsection.

''(2) PAYMENTS.—

''(A) DETERMINATION OF AMOUNTS.—If the Secretary arranges for services pursuant to this subsection, the Secretary, after consultation with the appropriate public and private school officials, shall pay to the provider of such services for a fiscal year an amount per child that does not exceed the amount determined by dividing—

''(i) the total amount received by the State under this part for such fiscal year; by

''(ii) the number of children with disabilities served in the prior year, as reported to the Secretary by the State under section 618.

''(B) WITHHOLDING OF CERTAIN AMOUNTS.—Pending final resolution of any investigation or complaint that may result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State

educational agency the amount the Secretary estimates will be necessary to pay the cost of services described in subparagraph (A).

''(C) PERIOD OF PAYMENTS.—The period under which payments are made under subparagraph (A) shall continue until the Secretary determines that there will no longer be any failure or inability on the part of the State educational agency to meet the requirements of subsection (a)(10)(A).

''(3) NOTICE AND HEARING.—

''(A) IN GENERAL.—The Secretary shall not take any final action under this subsection until the State educational agency affected by such action has had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why such action should not be taken.

''(B) REVIEW OF ACTION.—If a State educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A), such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the Secretary's action, as provided in section 2112 of title 28, United States Code.

''(C) REVIEW OF FINDINGS OF FACT.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

''(D) JURISDICTION OF COURT OF APPEALS; REVIEW BY UNITED STATES SUPREME COURT.—Upon the filing of a petition under subparagraph (B), the United States court of appeals shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SEC. 613. LOCAL EDUCATIONAL AGENCY ELIGIBILITY.

''(a) IN GENERAL.—A local educational agency is eligible for assistance under this part for a fiscal year if such agency submits a plan that provides assurances to the State educational agency that the local educational agency meets each of the following conditions:

''(1) CONSISTENCY WITH STATE POLICIES.—The local educational agency, in providing for the education of children with disabilities within its jurisdiction, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under section 612.

''(2) USE OF AMOUNTS.—

''(A) IN GENERAL.—Amounts provided to the local educational agency under this part shall be expended in accordance with the applicable provisions of this part and—

''(i) shall be used only to pay the excess costs of providing special education and related services to children with disabilities;

''(ii) shall be used to supplement State, local, and other Federal funds and not to supplant such funds; and

''(iii) shall not be used, except as provided in subparagraphs (B) and (C), to reduce the level of expenditures for the education of children with disabilities made by the local educational agency from local funds below the level of those expenditures for the preceding fiscal year.

''(B) EXCEPTION.—Notwithstanding the restriction in subparagraph (A)(iii), a local educational agency may reduce the level of expenditures where such reduction is attributable to—

''(i) the voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel;

''(ii) a decrease in the enrollment of children with disabilities;

''(iii) the termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the State educational agency, because the child—

''(I) has left the jurisdiction of the agency;

''(II) has reached the age at which the obligation of the agency to provide a free appropriate public education to the child has terminated; or

''(III) no longer needs such program of special education; or

''(iv) the termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

''(C) TREATMENT OF FEDERAL FUNDS IN CERTAIN FISCAL YEARS.—

''(i) 8 PERCENT RULE.—Notwithstanding clauses (ii) and (iii) of subparagraph (A), a local educational agency may treat as local funds, for the purposes of such clauses, not more than 8 percent of the amount of funds the local educational agency receives under this part.

''(ii) 40 PERCENT RULE.—Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which States are allocated the maximum amount of grants pursuant to section 611(a)(2), a local educational agency may treat as local funds, for the purposes of such clauses, not more than 40 percent of the amount of funds the local educational agency receives under this part, subject to clause (iv).

''(iii) EARLY INTERVENING SERVICES.—

''(I) 8 PERCENT RULE.—If a local educational agency exercises authority pursuant to clause (i), the 8 percent funds shall be counted toward the percentage and amount of funds that may be used to provide early intervening educational services pursuant to subsection (f).

''(II) 40 PERCENT RULE.—If a local educational agency exercises authority pursuant to clause (ii), the local educational agency shall use an amount of the 40 percent funds from clause (ii) that represents 15 percent of the total amount of funds the local educational agency receives under this part, to provide early intervening educational services pursuant to subsection (f).

''(iv) SPECIAL RULE.—Funds treated as local funds pursuant to clause (i) or (ii) may be considered non-Federal or local funds for the purposes of—

''(I) clauses (ii) and (iii) of subparagraph (A); and

''(II) the provision of the local share of costs for title XIX of the Social Security Act.

''(v) REPORT.—For each fiscal year in which a local educational agency exercises its authority pursuant to this subparagraph and treats Federal funds as local funds, the local educational agency shall report to the State educational agency the amount of funds so treated and the activities that were funded with such funds.

''(D) SCHOOLWIDE PROGRAMS UNDER TITLE I OF THE ESEA.—Notwithstanding subparagraph (A) or any other provision of this part, a local educational agency may use funds received under this part for any fiscal year to carry out a schoolwide program under section 1114 of the Elementary and Secondary Education Act of 1965, except that the amount so used in any such program shall not exceed—

''(i) the number of children with disabilities participating in the schoolwide program; multiplied by

''(ii)(I) the amount received by the local educational agency under this part for that fiscal year; divided by

''(II) the number of children with disabilities in the jurisdiction of that agency.

''(3) PERSONNEL DEVELOPMENT.—The local educational agency shall ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, consistent with the requirements of section 612(a)(14) of this Act and section 2122 of the Elementary and Secondary Education Act of 1965.

''(4) PERMISSIVE USE OF FUNDS.—

''(A) USES.—Notwithstanding paragraph (2)(A) or section 612(a)(17)(B) (relating to commingled funds), funds provided to the local educational agency under this part may be used for the following activities:

''(i) SERVICES AND AIDS THAT ALSO BENEFIT NONDISABLED CHILDREN.—For the costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to a child with a disability in accordance with the individualized education program of the child, even if 1 or more nondisabled children benefit from such services.

''(ii) EARLY INTERVENING SERVICES.—To develop and implement coordinated, early intervening educational services in accordance with subsection (f).

''(B) ADMINISTRATIVE CASE MANAGEMENT.—A local educational agency may use funds received under this part to purchase appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the individualized education program of children with disabilities, that is needed for the implementation of such case management activities.

''(5) TREATMENT OF CHARTER SCHOOLS AND THEIR STUDENTS.—In carrying out this part with respect to charter schools that are public schools of the local educational agency, the local educational agency—

''(A) serves children with disabilities attending those charter schools in the same manner as the local educational agency serves children with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the local educational agency has a policy or practice of providing such services on the site to its other public schools; and

''(B) provides funds under this part to those charter schools on the same basis, including proportional distribution based on relative enrollment of children with disabilities, and at the same time, as the local educational agency distributes State, local, or a combination of State and local, funds to those charter schools under the State's charter school law.

''(6) PURCHASE OF INSTRUCTIONAL MATERIALS.—Not later than 2 years after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004, a local educational agency, when purchasing print instructional materials, acquires these instructional materials in the same manner as a State educational agency described in section 612(a)(22).

''(7) INFORMATION FOR STATE EDUCATIONAL AGENCY.—The local educational agency shall provide the State educational agency with information necessary to enable the State educational agency to carry out its duties under this part, including, with respect to paragraphs (15) and (16) of section 612(a), information relating to the performance of children with disabilities participating in programs carried out under this part.

''(8) PUBLIC INFORMATION.—The local educational agency shall make available to parents of children with disabilities and to the general public all documents relating to the eligibility of such agency under this part.

''(9) RECORDS REGARDING MIGRATORY CHILDREN WITH DISABILITIES.—The local educational agency shall cooperate in the Secretary's efforts under section 1308 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6398) to ensure the linkage of records pertaining to migratory children with a disability for the purpose of electronically exchanging, among the

States, health and educational information regarding such children.

''(b) EXCEPTION FOR PRIOR LOCAL PLANS.—

''(1) IN GENERAL.—If a local educational agency or State agency has on file with the State educational agency policies and procedures that demonstrate that such local educational agency, or such State agency, as the case may be, meets any requirement of subsection (a), including any policies and procedures filed under this part as in effect before the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the State educational agency shall consider such local educational agency or State agency, as the case may be, to have met such requirement for purposes of receiving assistance under this part.

''(2) MODIFICATION MADE BY LOCAL EDUCATIONAL AGENCY.—Subject to paragraph (3), an application submitted by a local educational agency in accordance with this section shall remain in effect until the local educational agency submits to the State educational agency such modifications as the local educational agency determines necessary.

''(3) MODIFICATIONS REQUIRED BY STATE EDUCATIONAL AGENCY.—If, after the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the provisions of this Act are amended (or the regulations developed to carry out this Act are amended), there is a new interpretation of this Act by Federal or State courts, or there is an official finding of noncompliance with Federal or State law or regulations, then the State educational agency may require a local educational agency to modify its application only to the extent necessary to ensure the local educational agency's compliance with this part or State law.

''(c) NOTIFICATION OF LOCAL EDUCATIONAL AGENCY OR STATE AGENCY IN CASE OF INELIGIBILITY.—If the State educational agency determines that a local educational agency or State agency is not eligible under this section, then the State educational agency shall notify the local educational agency or State agency, as the case may be, of that determination and shall provide such local educational agency or State agency with reasonable notice and an opportunity for a hearing.

''(d) LOCAL EDUCATIONAL AGENCY COMPLIANCE.—

''(1) IN GENERAL.—If the State educational agency, after reasonable notice and an opportunity for a hearing, finds that a local educational agency or State agency that has been determined to be eligible under this section is failing to comply with any requirement described in subsection (a), the State educational agency shall reduce or shall not provide any further payments to the local educational agency or State agency until the State educational agency is satisfied that the local educational agency or State agency, as the case may be, is complying with that requirement.

''(2) ADDITIONAL REQUIREMENT.—Any State agency or local educational agency in receipt of a notice described in paragraph (1) shall, by means of public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency.

''(3) CONSIDERATION.—In carrying out its responsibilities under paragraph (1), the State educational agency shall consider any decision made in a hearing held under section 615 that is adverse to the local educational agency or State agency involved in that decision.

''(e) JOINT ESTABLISHMENT OF ELIGIBILITY.—

''(1) JOINT ESTABLISHMENT.—

''(A) IN GENERAL.—A State educational agency may require a local educational agency to establish its eligibility jointly with another local educational agency if the State educational agency determines that the local educational agency will be ineligible under this section because the local educational agency will not be able to establish and maintain programs of sufficient size and scope to effectively meet the needs of children with disabilities.

''(B) CHARTER SCHOOL EXCEPTION.—A State educational agency may not require a charter school that is a local educational agency to jointly establish its eligibility under subparagraph (A) unless the charter school is explicitly permitted to do so under the State's charter school law.

''(2) AMOUNT OF PAYMENTS.—If a State educational agency requires the joint establishment of eligibility under paragraph (1), the total amount of funds made available to the affected local educational agencies shall be equal to the sum of the payments that each such local educational agency would have received under section 611(f) if such agencies were eligible for such payments.

''(3) REQUIREMENTS.—Local educational agencies that establish joint eligibility under this subsection shall—

''(A) adopt policies and procedures that are consistent with the State's policies and procedures under section 612(a); and

''(B) be jointly responsible for implementing programs that receive assistance under this part.

''(4) REQUIREMENTS FOR EDUCATIONAL SERVICE AGENCIES.—

''(A) IN GENERAL.—If an educational service agency is required by State law to carry out programs under this part, the joint responsibilities given to local educational agencies under this subsection shall—

''(i) not apply to the administration and disbursement of any payments received by that educational service agency; and

''(ii) be carried out only by that educational service agency.

''(B) ADDITIONAL REQUIREMENT.—Notwithstanding any other provision of this subsection, an educational service agency shall provide for the education of children with disabilities in the least restrictive environment, as required by section 612(a)(5).

''(f) EARLY INTERVENING SERVICES.—

''(1) IN GENERAL.—A local educational agency may not use more than 15 percent of the amount such agency receives under this part for any fiscal year, less any amount treated as local funds pursuant to subsection (a)(2)(C), if any, in combination with other amounts (which may include amounts other than education funds), to develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade 3) who do not meet the definition of a child with a disability under section 602(3) but who need additional academic and behavioral support to succeed in a general education environment.

''(2) ACTIVITIES.—In implementing coordinated, early intervening services under this subsection, a local educational agency may carry out activities that include—

''(A) professional development (which may be provided by entities other than local educational agencies) for teachers and other school staff to enable such personnel to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software;

''(B) providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction; and

''(C) developing and implementing interagency financing structures for the provision of such services and supports.

''(3) CONSTRUCTION.—Nothing in this subsection shall be construed to either limit or create a right to a free appropriate public education under this part.

''(4) REPORTING.—Each local educational agency that develops and maintains coordinated, early intervening services with funds made available for this subsection, shall annually report to the State educational agency on—

''(A) the number of children served under this subsection; and

''(B) the number of children served under this subsection who are subsequently referred to special education.

''(5) COORDINATION WITH CERTAIN PROJECTS UNDER ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Funds made available to carry out this subsection may be used to carry out coordinated, early intervening services aligned with activities funded by, and carried out under, the Elementary and Secondary Education Act of 1965 if such funds are used to supplement, and not supplant, funds made available under the Elementary and Secondary Education Act of 1965 for the activities and services assisted under this subsection.

''(6) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004, the Comptroller General shall conduct a study on the types of services provided to children served under this subsection, and shall submit a report to Congress regarding the study.

''(g) DIRECT SERVICES BY THE STATE EDUCATIONAL AGENCY.—

''(1) IN GENERAL.—A State educational agency shall use the payments that would otherwise have been available to a local educational agency or to a State agency to provide special education and related services directly to children with disabilities residing in the area served by that local educational agency, or for whom that State agency is responsible, if the State educational agency determines that the local educational agency or State agency, as the case may be—

''(A) has not provided the information needed to establish the eligibility of such agency under this section;

''(B) is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a);

''(C) is unable or unwilling to be consolidated with 1 or more local educational agencies in order to establish and maintain such programs; or

''(D) has 1 or more children with disabilities who can best be served by a regional or State program or service delivery system designed to meet the needs of such children.

''(2) MANNER AND LOCATION OF EDUCATION AND SERVICES.—The State educational agency may provide special education and related services under paragraph (1) in such manner and at such locations (including regional or State centers) as the State agency considers appropriate. Such education and services shall be provided in accordance with this part.

''(h) STATE AGENCY ELIGIBILITY.—Any State agency that desires to receive a subgrant for any fiscal year under section 611(f) shall demonstrate to the satisfaction of the State educational agency that—

''(1) all children with disabilities who are participating in programs and projects funded under this part receive a free appropriate public education, and that those children and their parents are provided all the rights and procedural safeguards described in this part; and

''(2) the agency meets such other conditions of this section as the Secretary determines to be appropriate.

''(i) DISCIPLINARY INFORMATION.—The State may require that a local educational agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit such statement to the same extent that such disciplinary information is included in, and transmitted with, the student records of nondisabled children. The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action

taken, and any other information that is relevant to the safety of the child and other individuals involved with the child. If the State adopts such a policy, and the child transfers from 1 school to another, the transmission of any of the child's records shall include both the child's current individualized education program and any such statement of current or previous disciplinary action that has been taken against the child.

''(j) STATE AGENCY FLEXIBILITY.—

''(1) TREATMENT OF FEDERAL FUNDS IN CERTAIN FISCAL YEARS.—If a State educational agency pays or reimburses local educational agencies within the State for not less than 80 percent of the non-Federal share of the costs of special education and related services, or the State is the sole provider of free appropriate public education or direct services pursuant to section 612(b), then the State educational agency, notwithstanding sections 612(a) (17) and (18) and 612(b), may treat funds allocated pursuant to section 611 as general funds available to support the educational purposes described in paragraph (2) (A) and (B).

''(2) CONDITIONS.—A State educational agency may use funds in accordance with paragraph (1) subject to the following conditions:

''(A) 8 PERCENT RULE.—A State educational agency may treat not more than 8 percent of the funds the State educational agency receives under this part as general funds to support any educational purpose described in the Elementary and Secondary Education Act of 1965, needs-based student or teacher higher education programs, or the non-Federal share of costs of title XIX of the Social Security Act.

''(B) 40 PERCENT RULE.—For any fiscal year for which States are allocated the maximum amount of grants pursuant to section 611(a)(2), a State educational agency may treat not more than 40 percent of the amount of funds the State educational agency receives under this part as general funds to support any educational purpose described in the Elementary and Secondary Education Act of 1965, needs-based student or teacher higher education programs, or the non-Federal share of costs of title XIX of the Social Security Act, subject to subparagraph (C).

''(C) REQUIREMENT.—A State educational agency may exercise its authority pursuant to subparagraph (B) only if the State educational agency uses an amount of the 40 percent funds from subparagraph (B) that represents 15 percent of the total amount of funds the State educational agency receives under this part, to provide, or to pay or reimburse local educational agencies for providing, early intervening services pursuant to subsection (f).

''(2) PROHIBITION.—Notwithstanding subsection (a), if the Secretary determines that a State educational agency is unable to establish, maintain, or oversee programs of free appropriate public education that meet the requirements of this part, then the Secretary shall prohibit the State educational agency from treating funds allocated under this part as general funds pursuant to paragraph (1).

''(3) REPORT.—For each fiscal year for which a State educational agency exercises its authority pursuant to paragraph (1) and treats Federal funds as general funds, the State educational agency shall report to the Secretary the amount of funds so treated and the activities that were funded with such funds.

"SEC. 614. EVALUATIONS, ELIGIBILITY DETERMINATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS.

''(a) EVALUATIONS AND REEVALUATIONS.—

''(1) INITIAL EVALUATIONS.—

''(A) IN GENERAL.—A State educational agency, other State agency, or local educational agency shall conduct a full and individual initial evaluation in accordance with this paragraph and subsection (b), before the initial provision of special education and related services to a child with a disability under this part.

''(B) REQUEST FOR INITIAL EVALUATION.—Consistent with subparagraph (D), either a parent of a child, or a State educational agency, other State agency, or local educational agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.

''(C) PROCEDURES.—Such initial evaluation shall consist of procedures—

''(i) to determine whether a child is a child with a disability (as defined in section 602(3)) within 60 days of receiving parental consent for the evaluation, or, if the State has established a timeframe within which the evaluation must be conducted, within such timeframe; and

''(ii) to determine the educational needs of such child.

''(D) PARENTAL CONSENT.—

''(i) IN GENERAL.—The agency proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability as defined in section 602(3) (A) or (B) shall obtain an informed consent from the parent of such child before the evaluation is conducted. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services.

''(ii) REFUSAL.—If the parents of such child refuse consent for the evaluation, the agency may continue to pursue an evaluation by utilizing the mediation and due process procedures under section 615, except to the extent inconsistent with State law relating to parental consent.

''(iii) REFUSAL OR FAILURE TO CONSENT.—If the parent of a child does not provide informed consent to the receipt of special education and related services, or the parent fails to respond to a request to provide the consent, the local educational agency shall not be considered to be in violation of the requirement to make available a free appropriate public education to the child for the failure to provide the special education and related services for which the local educational agency requests such informed consent.

''(iv) EXCEPTION FOR WARDS OF THE STATE.—The agency shall not be required to obtain an informed consent from the parents of a child for an initial evaluation to determine whether the child is a child with a disability if such child is a ward of the State and is not residing with the child's parent and consent has been given by an individual who has appropriate knowledge of the child's educational needs, including the judge appointed to the child's case or the child's attorney, guardian ad litem, or court appointed special advocate.

''(2) REEVALUATIONS.—

''(A) IN GENERAL.—A local educational agency shall ensure that a reevaluation of each child with a disability is conducted in accordance with subsections (b) and (c)—

''(i) if the local educational agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or

''(ii) if the child's parents or teacher requests a reevaluation.

''(B) LIMITATION.—A reevaluation conducted under subparagraph (A) shall occur—

''(i) not more than once a year, unless the parent and the local educational agency agree otherwise; and

''(ii) at least once every 3 years, unless the parent and the local educational agency agree that a reevaluation is unnecessary.

''(b) EVALUATION PROCEDURES.—

''(1) NOTICE.—The local educational agency shall provide notice to the parents of a child with a disability, in accordance with subsections (b)(3), (b)(4), and (c) of section 615, that describes any evaluation procedures such agency proposes to conduct.

''(2) CONDUCT OF EVALUATION.—In conducting the evaluation, the local educational agency shall—

''(A) use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent, that may assist in determining—

''(i) whether the child is a child with a disability; and

''(ii) the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general curriculum, or for preschool children, to participate in appropriate activities;

''(B) not use any single procedure, measure, or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and

''(C) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

''(3) ADDITIONAL REQUIREMENTS.—Each local educational agency shall ensure that—

''(A) tests and other evaluation materials used to assess a child under this section—

''(i) are selected and administered so as not to be discriminatory on a racial or cultural basis;

''(ii) are provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer;''.

''(iii) are used for purposes for which the assessments or measures are valid and reliable;

''(iv) are administered by trained and knowledgeable personnel; and

''(v) are administered in accordance with any instructions provided by the producer of such tests;

''(B) the child is assessed in all areas of suspected disability; and

''(C) assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.

''(D) assessments of children with disabilities, including homeless children with disabilities, children with disabilities who are wards of the State, and children with disabilities in military families, who transfer from 1 school district to another school district in the same academic year, are—

''(i) coordinated with such children's prior and subsequent schools as necessary to ensure timely completion of full evaluations; and

''(ii) completed within time limits—

''(I) established for all students by Federal law or State plans; and

''(II) that computes the commencement of time from the date on which such children are first referred for assessments in any local educational agency.

''(4) DETERMINATION OF ELIGIBILITY.—Upon completion of administration of tests and other evaluation materials—

''(A) the determination of whether the child is a child with a disability as defined in section 602(3) shall be made by a team of qualified professionals and the parent of the child in accordance with paragraph (5); and

''(B) a copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent.

''(5) SPECIAL RULE FOR ELIGIBILITY DETERMINATION.—In making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinant factor for such determination is—

''(A) lack of scientifically based instruction in reading;

''(B) lack of instruction in mathematics; or

''(C) limited English proficiency.

''(6) SPECIFIC LEARNING DISABILITIES.—

''(A) IN GENERAL.—Notwithstanding section 607(b), when determining whether a child has a specific learning disability as defined in section 602(29), a local educational agency shall not be

required to take into consideration whether a child has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning.

''(B) ADDITIONAL AUTHORITY.—In determining whether a child has a specific learning disability, a local educational agency may use a process that determines if the child responds to scientific, research-based intervention as a part of the evaluation procedures described in paragraphs (2) and (3).

''(c) ADDITIONAL REQUIREMENTS FOR EVALUATION AND REEVALUATIONS.—

''(1) REVIEW OF EXISTING EVALUATION DATA.—As part of an initial evaluation (if appropriate) and as part of any reevaluation under this section, the IEP Team described in subsection (d)(1)(B) and other qualified professionals, as appropriate, shall—

''(A) review existing evaluation data on the child, including evaluations and information provided by the parents of the child, current classroom-based assessments, and observations, and teacher and related services providers observations; and

''(B) on the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—

''(i) whether the child has a particular category of disability, as described in section 602(3), or, in case of a reevaluation of a child, whether the child continues to have such a disability;

''(ii) the present levels of performance and educational needs of the child;

''(iii) whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and

''(iv) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general curriculum.

''(2) SOURCE OF DATA.—The local educational agency shall administer such tests and other evaluation materials and procedures as may be needed to produce the data identified by the IEP Team under paragraph (1)(B).

''(3) PARENTAL CONSENT.—Each local educational agency shall obtain informed parental consent, in accordance with subsection (a)(1)(D), prior to conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if the local educational agency can demonstrate that the local educational agency had taken reasonable measures to obtain such consent and the child's parent has failed to respond.

''(4) REQUIREMENTS IF ADDITIONAL DATA ARE NOT NEEDED.—If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child is or continues to be a child with a disability, the local educational agency—

''(A) shall notify the child's parents of—

''(i) that determination and the reasons for the determination; and

''(ii) the right of such parents to request an assessment to determine whether the child is or continues to be a child with a disability; and

''(B) shall not be required to conduct such an assessment unless requested by the child's parents.

''(5) EVALUATIONS BEFORE CHANGE IN ELIGIBILITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a local educational agency shall evaluate a child with a disability in accordance with this section before determining that the child is no longer a child with a disability.

''(B) EXCEPTION.—

''(i) IN GENERAL.—The evaluation described in subparagraph (A) shall not be required before the termination of a child's eligibility under this part due to graduation from secondary school with a regular diploma, or to exceeding the age eligibility for a free appropriate public education under State law.

''(ii) SUMMARY OF PERFORMANCE.—For a child whose eligibility under this part terminates under circumstances described in clause (i), a local educational agency shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

''(d) INDIVIDUALIZED EDUCATION PROGRAMS.—

''(1) DEFINITIONS.—As used in this title:

''(A) INDIVIDUALIZED EDUCATION PROGRAM.—

''(i) IN GENERAL.—The term 'individualized education program' or 'IEP' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that includes—

''(I) a statement of the child's present levels of academic achievement and functional performance, including—

''(aa) how the child's disability affects the child's involvement and progress in the general curriculum; or

''(bb) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

''(II) a statement of measurable annual goals, including academic and functional goals, designed to—

''(aa) meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general curriculum; and

''(bb) meet each of the child's other educational needs that result from the child's disability;

''(III) a description of how the child's progress toward meeting the annual goals described in subclause (II) will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;

''(IV) a statement of the special education and related services, and supplementary aids and services, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child—

''(aa) to advance appropriately toward attaining the annual goals;

''(bb) to be involved in and make progress in the general curriculum in accordance with subclause (I) and to participate in extracurricular and other nonacademic activities; and

''(cc) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this paragraph;

''(V) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in subclause (IV)(cc);

''(VI)(aa) a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16)(A); and

''(bb) if the IEP Team determines that the child shall take an alternate assessment on a particular State or districtwide assessment of student achievement, a statement of why—

''(AA) the child cannot participate in the regular assessment; and

''(BB) the particular alternate assessment selected is appropriate for the child;

''(VII) the projected date for the beginning of the services and modifications described in subclause (IV), and the anticipated frequency, location, and duration of those services and modifications; and

''(VIII) beginning not later than the first IEP to be in effect when the child is 14, and updated annually thereafter—

''(aa) appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills;

''(bb) the transition services (including courses of study) needed by the child to reach those goals, including services to be provided by other agencies when needed; and

''(cc) beginning at least 1 year before the child reaches the age of majority under State law, a statement that the child has been informed of the child's rights under this title, if any, that will transfer to the child on reaching the age of majority under section 615(m).

''(ii) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require—

''(I) that additional information be included in a child's IEP beyond what is explicitly required in this section; and

''(II) the IEP Team to include information under 1 component of a child's IEP that is already contained under another component of such IEP.

''(B) INDIVIDUALIZED EDUCATION PROGRAM TEAM.—The term 'individualized education program team' or 'IEP Team' means a group of individuals composed of—

''(i) the parents of a child with a disability;

''(ii) at least 1 regular education teacher of such child (if the child is, or may be, participating in the regular education environment);

''(iii) at least 1 special education teacher, or where appropriate, at least 1 special education provider of such child;

''(iv) a representative of the local educational agency who—

''(I) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

''(II) is knowledgeable about the general curriculum; and

''(III) is knowledgeable about the availability of resources of the local educational agency;

''(v) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in clauses (ii) through (vi);

''(vi) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

''(vii) whenever appropriate, the child with a disability.

''(viii) if the child is a ward of the State, another individual with appropriate knowledge of the child's educational needs, such as a foster parent, a relative with whom the child lives who acts as a parent to the child, an attorney for the child, a guardian ad litem, a court appointed special advocate, a judge, or an education surrogate.

''(C) IEP TEAM ATTENDANCE.—

''(i) ATTENDANCE NOT NECESSARY.—A member of the IEP Team shall not be required to attend an IEP meeting, in whole or in part, if that member, the parent of a child with a disability, and the local educational agency agree that the attendance of such member is not necessary because no modification to the member's area of the curriculum or related services is being modified or discussed in the meeting.

''(ii) EXCUSAL.—A member of the IEP Team may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if—

''(I) that member, the parent, and the local educational agency consent to the excusal; and

''(II) the member submits input into the development of the IEP prior to the meeting.

''(iii) WRITTEN AGREEMENT AND CONSENT REQUIRED.—A parent's agreement under clause (i) and consent under clause (ii) shall be in writing.

''(2) REQUIREMENT THAT PROGRAM BE IN EFFECT.—

''(A) IN GENERAL.—At the beginning of each school year, each local educational agency, State educational agency, or other State agency, as the case may be, shall have in effect, for each child with a disability in its jurisdiction, an individualized education program, as defined in paragraph (1)(A).

''(B) PROGRAM FOR CHILD AGED 3 THROUGH 5.—In the case of a child with a disability aged 3 through 5 (or, at the discretion of the State educational agency, a 2-year-old child with a disability who will turn age 3 during the school year), an individualized family service plan that contains the material described in section 636, and that is developed in accordance with this section, may serve as the IEP of the child if using that plan as the IEP is—

''(i) consistent with State policy; and

''(ii) agreed to by the agency and the child's parents.

''(C) PROGRAM FOR CHILDREN WHO TRANSFER SCHOOL DISTRICTS.—

''(i) IN GENERAL.—In the case of a child with a disability, including a homeless child with a disability, a child with a disability who is a ward of the State, or a child with a disability in a military family, who transfers school districts within the same academic year, who enrolls in a new school and who had an IEP that was in effect in the same or another State, the local educational agency, State educational agency, or other State agency, as the case may be, shall immediately provide such child with a free appropriate public education, including comparable services identified in the previously held IEP and in consultation with the parents until such time as the local educational agency, State educational agency, or other State agency, as the case may be, adopts the previously held IEP or develops, adopts, and implements a new IEP that is consistent with Federal and State law.

''(ii) TRANSMITTAL OF RECORDS.—To facilitate the transition for a child described in clause (i), the new school in which the child enrolls shall immediately request the child's records from the previous schools in which the child was enrolled and the previous schools in which the child was enrolled shall immediately transmit to the new school, upon such request, the IEP and supporting documents and any other records relating to the provision of special education or related services to the child.

''(3) DEVELOPMENT OF IEP.—

''(A) IN GENERAL.—In developing each child's IEP, the IEP Team, subject to subparagraph (C), shall consider—

''(i) the strengths of the child;

''(ii) the concerns of the parents for enhancing the education of their child;

''(iii) the results of the initial evaluation or most recent evaluation of the child; and

''(iv) the academic, developmental, and functional needs of the child.

''(B) CONSIDERATION OF SPECIAL FACTORS.—The IEP Team shall—

''(i) in the case of a child whose behavior impedes the child's learning or that of others, provide for positive behavioral interventions and supports, and other strategies to address that behavior;

''(ii) in the case of a child with limited English proficiency, consider the language needs of the child as such needs relate to the child's IEP;

''(iii) in the case of a child who is blind or visually impaired—

''(I) provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child; and

''(II) consider, when appropriate, instructional services related to functional performance skills, orientation and mobility, and skills in the use of assistive technology devices, including low vision devices;

''(iv) consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and

''(v) consider whether the child requires assistive technology devices and services.

''(C) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—A regular education teacher of the child, as a member of the IEP Team shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and supports, and other strategies, and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (1)(A)(i)(IV).

''(D) AGREEMENT.—In making changes to a child's IEP after the annual IEP meeting for a school year, the parent of a child with a disability and the local educational agency may agree not to convene an IEP meeting for the purposes of making such changes, and instead may develop a written document to amend or modify the child's current IEP.

''(E) CONSOLIDATION OF IEP TEAM MEETINGS.—To the extent possible, the local educational agency shall encourage the consolidation of reevaluations of a child with IEP Team meetings for the child.

''(4) REVIEW AND REVISION OF IEP.—

''(A) IN GENERAL.—The local educational agency shall ensure that, subject to subparagraph (B), the IEP Team—

''(i) reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and

''(ii) revise the IEP as appropriate to address—

''(I) any lack of expected progress toward the annual goals and in the general curriculum, where appropriate;

''(II) the results of any reevaluation conducted under this section;

''(III) information about the child provided to, or by, the parents, as described in subsection (c)(1)(B);

''(IV) the child's anticipated needs; or

''(V) other matters.

''(B) REQUIREMENT WITH RESPECT TO REGULAR EDUCATION TEACHER.—A regular education teacher of the child, as a member of the IEP Team, shall, consistent with paragraph (1)(C), participate in the review and revision of the IEP of the child.

''(5) THREE-YEAR IEP.—

''(A) DEVELOPMENT OF 3-YEAR IEP.—The local educational agency may offer a child with a disability who has reached the age of 18, the option of developing a comprehensive 3-year IEP. With the consent of the parent, when appropriate, the IEP Team shall develop an IEP, as described in paragraphs (1) and (3), that is designed to serve the child for the final 3-year transition period, which includes a statement of—

''(i) measurable goals that will enable the child to be involved in and make progress in the general education curriculum and that will meet the child's transitional and postsecondary needs that result from the child's disability; and

''(ii) measurable annual goals for measuring progress toward meeting the postsecondary goals described in clause (i).

''(B) REVIEW AND REVISION OF 3-YEAR IEP.—

''(i) REQUIREMENT.—Each year the local educational agency shall ensure that the IEP Team—

''(I) provides an annual review of the child's IEP to determine the child's current levels of progress and determine whether the annual goals for the child are being achieved; and

''(II) revises the IEP, as appropriate, to enable the child to continue to meet the measurable transition goals set out in the IEP.

''(ii) COMPREHENSIVE REVIEW.—If the review under clause (i) determines that the child is not making sufficient progress toward the goals described in subparagraph (A), the local educational agency shall ensure that the IEP Team provides a review, within 30 calendar days, of the IEP under paragraph (4).

''(iii) PREFERENCE.—At the request of the child, or when appropriate, the parent, the IEP Team shall conduct a review of the child's 3-year IEP under paragraph (4) rather than an annual review under subparagraph (B)(i).

''(6) FAILURE TO MEET TRANSITION OBJECTIVES.—If a participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (1)(A)(i)(VIII), the local educational agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in that program.

''(7) CHILDREN WITH DISABILITIES IN ADULT PRISONS.—

''(A) IN GENERAL.—The following requirements shall not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:

''(i) The requirements contained in section 612(a)(16) and paragraph (1)(A)(i)(V) (relating to participation of children with disabilities in general assessments).

''(ii) The requirements of items (aa) and (bb) of paragraph (1)(A)(i)(VIII) (relating to transition planning and transition services), do not apply with respect to such children whose eligibility under this part will end, because of their age, before they will be released from prison.

''(B) ADDITIONAL REQUIREMENT.—If a child with a disability is convicted as an adult under State law and incarcerated in an adult prison, the child's IEP Team may modify the child's IEP or placement notwithstanding the requirements of sections 612(a)(5)(A) and 614(d)(1)(A) if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

''(e) EDUCATIONAL PLACEMENTS.—Each local educational agency or State educational agency shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child. Decisions regarding the educational placement of a child with a disability who is a homeless child shall comply with the requirements described under section 722(g)(3) of the McKinney-Vento Homeless Assistance Act.

''(f) ALTERNATIVE MEANS OF MEETING PARTICIPATION.—When conducting IEP Team meetings and placement meetings pursuant to this section, the parent of a child with a disability and a local educational agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.

"SEC. 615. PROCEDURAL SAFEGUARDS.

''(a) ESTABLISHMENT OF PROCEDURES.—Any State educational agency, State agency, or local educational agency that receives assistance under this part shall establish and maintain procedures in accordance with this section to ensure that children with disabilities, including children with disabilities who are wards of the State, and their parents are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies.

''(b) TYPES OF PROCEDURES.—The procedures required by this section shall include—

''(1) an opportunity for the parents of a child with a disability to examine all records relating to such child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to

such child, and to obtain an independent educational evaluation of the child;

''(2) procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, the child is a ward of the State, or the child is a homeless child who is not in the physical custody of a parent or guardian including the assignment of an individual (who shall not be an employee of the State educational agency, the local educational agency, or any other agency that is involved in the education or care of the child) to act as a surrogate for the parents in accordance with subsection (o);

''(3) written prior notice to the parents of the child, in accordance with subsection (c)(1), whenever the local educational agency—

''(A) proposes to initiate or change; or

''(B) refuses to initiate or change,

the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child;

''(4) procedures designed to ensure that the notice required by paragraph (3) is in the native language of the parents, unless it clearly is not feasible to do so;

''(5) an opportunity for mediation in accordance with subsection (e);

''(6) an opportunity for either party to present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child;

''(7)(A) procedures that require either party, or the attorney representing a party, to provide due process complaint notice in accordance with subsection (c)(2) (which shall remain confidential)—

''(i) to the other party, in the complaint filed under paragraph (6), and forward a copy of such notice to the State educational agency; and

''(ii) that shall include—

''(I) the name of the child, the address of the residence of the child (or available contact information in the case of a homeless child), and the name of the school the child is attending;

''(II) in the case of a homeless child or youth (within the meaning of section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)), available contact information for the child and the name of the school the child is attending;

''(III) a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and

''(IV) a proposed resolution of the problem to the extent known and available to the party at the time; and

''(B) a requirement that a party may not have a due process hearing until the party, or the attorney representing the party, files a notice that meets the requirements of subparagraph (A)(ii);

''(8) a requirement that the local educational agency shall send a prior written notice pursuant to subsection (c)(1) in response to a parent's due process complaint notice under paragraph (7) if the local educational agency has not sent such a prior written notice to the parent regarding the subject matter contained in the parent's due process complaint notice; and

''(9) procedures that require the State educational agency to develop a model form to assist parents in filing a complaint and due process complaint notice in accordance with paragraphs (6) and (7), respectively.

''(10) procedures to protect the rights of the child whenever the child is a ward of the State, including procedures that preserve the rights of the natural or adoptive parent to make the decisions required of parents under this Act (unless such rights have been extinguished under State law) but that permit a child who is represented in juvenile court by an attorney, guardian ad litem, or another individual, to have such attorney, guardian ad litem, or other individual present in any meetings, mediation proceedings, or hearings provided under this Act.

''(c) NOTIFICATION REQUIREMENTS.—

''(1) CONTENT OF PRIOR WRITTEN NOTICE.—The prior written notice of the local educational agency required by subsection (b)(3) shall include—

''(A) a description of the action proposed or refused by the agency;

''(B) an explanation of why the agency proposes or refuses to take the action;

''(C) a description of any other options that the agency considered and the reasons why those options were rejected;

''(D) a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action;

''(E) a description of any other factors that are relevant to the agency's proposal or refusal;

''(F) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and

''(G) sources for parents to contact to obtain assistance in understanding the provisions of this part.

''(2) DUE PROCESS COMPLAINT NOTICE.—

''(A) IN GENERAL.—The due process complaint notice required under subsection (b)(7)(A) shall be deemed to be sufficient unless the party receiving the notice notifies the hearing officer and the other party in writing that the receiving party believes the notice has not met the requirements of that subsection.

''(B) TIMING.—The party sending a hearing officer notification under subparagraph (A) shall send the notification within 20 days of receiving the complaint.

''(C) DETERMINATION.—Within 5 days of receipt of the notification provided under subparagraph (B), the hearing officer shall make a determination on the face of the notice of whether the notification meets the requirements of subsection (b)(7)(A), and shall immediately notify both parties in writing of such determination.

''(D) PARENT'S AMENDED NOTICE OF COMPLAINT.—

''(i) IN GENERAL.—A parent may amend the parent's due process complaint notice only if—

''(I) the public agency consents in writing to such amendment and is given the opportunity to resolve the complaint through a meeting held pursuant to subsection (f)(1)(B); or

''(II) the hearing officer grants permission, but may do so only before a due process hearing occurs.

''(ii) APPLICABLE TIMELINE.—The applicable timeline for a due process hearing under this part shall recommence at the time the party files an amended notice.

''(d) PROCEDURAL SAFEGUARDS NOTICE.—

''(1) IN GENERAL.—A copy of the procedural safeguards available to the parents of a child with a disability shall be given to the parents only 1 time a year, except that a copy also shall be given to the parents—

''(A) upon initial referral or parental request for evaluation;

''(B) upon registration of a complaint under subsection (b)(6); and

''(C) upon request by a parent.

''(2) CONTENTS.—The procedural safeguards notice shall include a full explanation of the procedural safeguards, written in the native language of the parents, unless it clearly is not feasible to do so, and written in an easily understandable manner, available under this section and under regulations promulgated by the Secretary relating to—

''(A) independent educational evaluation;

''(B) prior written notice;

''(C) parental consent;

''(D) access to educational records;

''(E) the opportunity to present and resolve complaints, including—

''(i) the time period in which to make a complaint;

''(ii) the opportunity for the agency to resolve the complaint; and

''(iii) the availability of mediation;

''(F) the child's placement during pendency of due process proceedings;

''(G) procedures for students who are subject to placement in an interim alternative educational setting;

''(H) requirements for unilateral placement by parents of children in private schools at public expense;

''(I) due process hearings, including requirements for disclosure of evaluation results and recommendations;

''(J) State-level appeals (if applicable in that State);

''(K) civil actions, including the time period in which to file such actions; and

''(L) attorney's fees.

''(e) MEDIATION.—

''(1) IN GENERAL.—Any State educational agency or local educational agency that receives assistance under this part shall ensure that procedures are established and implemented to allow parties to disputes involving any matter, including matters arising prior to the filing of a complaint pursuant to subsection (b)(6), to resolve such disputes through a mediation process.

''(2) REQUIREMENTS.—Such procedures shall meet the following requirements:

''(A) The procedures shall ensure that the mediation process—

''(i) is voluntary on the part of the parties;

''(ii) is not used to deny or delay a parent's right to a due process hearing under subsection (f), or to deny any other rights afforded under this part; and

''(iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

''(B) OPPORTUNITY TO MEET WITH A DISINTERESTED PARTY.—A local educational agency or a State agency may establish procedures to offer to parents and schools who choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with—

''(i) a parent training and information center or community parent resource center in the State established under section 671 or 672; or

''(ii) an appropriate alternative dispute resolution entity,

to encourage the use, and explain the benefits, of the mediation process to the parents.

''(C) LIST OF QUALIFIED MEDIATORS.—The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

''(D) COSTS.—The State shall bear the cost of the mediation process, including the costs of meetings described in subparagraph (B).

''(E) SCHEDULING AND LOCATION.—Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

''(F) WRITTEN MEDIATION AGREEMENT.—An agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement that is enforceable in any State court of competent jurisdiction or in a district court of the United States.

''(G) MEDIATION DISCUSSIONS.—Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings, and the parties to the mediation process may be required to sign a confidentiality pledge prior to the commencement of such process.

''(f) IMPARTIAL DUE PROCESS HEARING.—

''(1) IN GENERAL.—

''(A) HEARING.—Whenever a complaint has been received under subsection (b)(6) or (k), the

parents or the local educational agency involved in such complaint shall have an opportunity for an impartial due process hearing, which shall be conducted by the State educational agency or by the local educational agency, as determined by State law or by the State educational agency.

''(B) OPPORTUNITY TO RESOLVE COMPLAINT.—

''(i) PRELIMINARY MEETING.—Prior to the opportunity for an impartial due process hearing under subparagraph (A), the local educational agency shall convene a meeting with the parents and the IEP Team—

''(I) within 15 days of receiving notice of the parents' complaint;

''(II) which shall include a representative of the public agency who has decisionmaking authority on behalf of such agency;

''(III) which may not include an attorney of the local educational agency unless the parent is accompanied by an attorney; and

''(IV) where the parents of the child discuss their complaint, and the specific issues that form the basis of the complaint, and the local educational agency is provided the opportunity to resolve the complaint,

unless the parents and the local educational agency agree in writing to waive such meeting, or agree to use the mediation process described in subsection (e).

''(ii) HEARING.—If the local educational agency has not resolved the complaint to the satisfaction of the parents within 15 days of the receipt of the complaint, the due process hearing may occur, and all of the applicable timelines for a due process hearing under this part shall commence.

''(iii) WRITTEN SETTLEMENT AGREEMENT.—In the case that an agreement is reached to resolve the complaint at such meeting, the agreement shall be set forth in a written settlement agreement that is—

''(I) signed by both the parent and a representative of the public agency who has decisionmaking authority on behalf of such agency; and

''(II) enforceable in any State court of competent jurisdiction or in a district court of the United States.

''(2) DISCLOSURE OF EVALUATIONS AND RECOMMENDATIONS.—

''(A) IN GENERAL.—Not less than 5 business days prior to a hearing conducted pursuant to paragraph (1), each party shall disclose to all other parties all evaluations completed by that date, and recommendations based on the offering party's evaluations, that the party intends to use at the hearing.

''(B) FAILURE TO DISCLOSE.—A hearing officer may bar any party that fails to comply with subparagraph (A) from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

''(3) LIMITATIONS ON HEARING.—

''(A) PERSON CONDUCTING HEARING.—A hearing officer conducting a hearing pursuant to paragraph (1)(A) shall, at a minimum—

''(i) not be—

''(I) an employee of the State educational agency or the local educational agency involved in the education or care of the child; or

''(II) a person having a personal or professional interest that conflicts with the person's objectivity in the hearing;

''(ii) possess a fundamental understanding of this Act, Federal and State regulations pertaining to this Act, and interpretations of this Act by State and Federal courts;

''(iii) possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and

''(iv) possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

''(B) SUBJECT MATTER OF HEARING.—The party requesting the due process hearing shall not be allowed to raise issues at the due process hearing that were not raised in the notice filed under subsection (b)(7), unless the other party agrees otherwise.

''(C) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preclude a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed.

''(D) TIMELINE FOR REQUESTING HEARING.—A parent or public agency shall request an impartial due process hearing within 2 years of the date the parent or public agency knew or should have known about the alleged action that forms the basis of the complaint, or, if the State has an explicit time limitation for requesting such a hearing under this part, in such time as the State law allows.

''(E) EXCEPTION TO THE TIMELINE.—The timeline described in subparagraph (D) shall not apply if the parent was prevented from requesting the hearing due to—

''(i) failure of the local educational agency to provide prior written or procedural safeguards notices;

''(ii) false representations that the local educational agency was attempting to resolve the problem forming the basis of the complaint; or

''(iii) the local educational agency's withholding of information from parents.

''(F) DECISION OF HEARING OFFICER.—

''(i) IN GENERAL.—Subject to clause (ii), a decision made by a hearing officer shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education.

''(ii) PROCEDURAL ISSUES.—In matters alleging a procedural violation, a hearing officer may find that a child did not receive a free appropriate public education only if the procedural inadequacies—

''(I) compromised the child's right to an appropriate public education;

''(II) seriously hampered the parents' opportunity to participate in the process; or

''(III) caused a deprivation of educational benefits.

''(iii) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to preclude a hearing officer from ordering a local educational agency to comply with procedural requirements under this section.

''(G) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the right of a parent to file a complaint with the State educational agency.

''(g) APPEAL.—If the hearing required by subsection (f) is conducted by a local educational agency, any party aggrieved by the findings and decision rendered in such a hearing may appeal such findings and decision to the State educational agency. Such State educational agency shall conduct an impartial review of such decision. The officer conducting such review shall make an independent decision upon completion of such review.

''(h) SAFEGUARDS.—Any party to a hearing conducted pursuant to subsection (f) or (k), or an appeal conducted pursuant to subsection (g), shall be accorded—

''(1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

''(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses;

''(3) the right to a written, or, at the option of the parents, electronic verbatim record of such hearing; and

''(4) the right to a written, or, at the option of the parents, electronic findings of fact and decisions, which findings and decisions—

''(A) shall be made available to the public consistent with the requirements of section 617(b) (relating to the confidentiality of data, information, and records); and

''(B) shall be transmitted to the advisory panel established pursuant to section 612(a)(20).

''(i) ADMINISTRATIVE PROCEDURES.—

''(1) IN GENERAL.—

''(A) DECISION MADE IN HEARING.—A decision made in a hearing conducted pursuant to subsection (f) or (k) shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (g) and paragraph (2).

''(B) DECISION MADE AT APPEAL.—A decision made under subsection (g) shall be final, except that any party may bring an action under paragraph (2).

''(2) RIGHT TO BRING CIVIL ACTION.—

''(A) IN GENERAL.—Any party aggrieved by the findings and decision made under subsection (f) or (k) who does not have the right to an appeal under subsection (g), and any party aggrieved by the findings and decision under this subsection, shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States, without regard to the amount in controversy.

''(B) LIMITATION.—The party bringing the action shall have 90 days from the date of the decision of the hearing officer to bring such an action, or, if the State has an explicit time limitation for bringing such action under this part, in such time as the State law allows.

''(C) ADDITIONAL REQUIREMENTS.—In any action brought under this paragraph, the court—

''(i) shall receive the records of the administrative proceedings;

''(ii) shall hear additional evidence at the request of a party; and

''(iii) basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

''(3) JURISDICTION OF DISTRICT COURTS; ATTORNEYS' FEES.—

''(A) IN GENERAL.—The district courts of the United States shall have jurisdiction of actions brought under this section without regard to the amount in controversy.

''(B) AWARD OF ATTORNEYS' FEES.—

''(i) IN GENERAL.—In any action or proceeding brought under this section, the court, in its discretion, may award reasonable attorneys' fees as part of the costs—

''(I) to a prevailing party who is the parent of a child with a disability;

''(II) to a prevailing party who is a State educational agency or local educational agency against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or

''(III) to a State educational agency or local educational agency against the attorney of a parent, or against the parent, if the parent's complaint or subsequent cause of action was presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

''(ii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to affect section 432 of the District of Columbia Appropriations Act, 2004.

''(C) DETERMINATION OF AMOUNT OF ATTORNEYS' FEES.—Fees awarded under this paragraph shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection.

''(D) PROHIBITION OF ATTORNEYS' FEES AND RELATED COSTS FOR CERTAIN SERVICES.—

''(i) IN GENERAL.—Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under this section for services performed subsequent to the time of a written offer of settlement to a parent if—

''(I) the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than 10 days before the proceeding begins;

''(II) the offer is not accepted within 10 days; and

''(III) the court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.

''(ii) IEP TEAM MEETINGS.—Attorneys' fees may not be awarded relating to any meeting of the IEP Team unless such meeting is convened as a result of an administrative proceeding or judicial action, or, at the discretion of the State, for a mediation described in subsection (e).

''(iii) OPPORTUNITY TO RESOLVE COMPLAINTS.—A meeting conducted pursuant to subsection (f)(1)(B)(i) shall not be considered—

''(I) a meeting convened as a result of an administrative hearing or judicial action; or

''(II) an administrative hearing or judicial action for purposes of this paragraph.

''(E) EXCEPTION TO PROHIBITION ON ATTORNEYS' FEES AND RELATED COSTS.—Notwithstanding subparagraph (D), an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.

''(F) REDUCTION IN AMOUNT OF ATTORNEYS' FEES.—Except as provided in subparagraph (G), whenever the court finds that—

''(i) the parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

''(ii) the amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;

''(iii) the time spent and legal services furnished were excessive considering the nature of the action or proceeding; or

''(iv) the attorney representing the parent did not provide to the local educational agency the appropriate information in the notice of the complaint described in subsection (b)(7)(A),

the court shall reduce, accordingly, the amount of the attorneys' fees awarded under this section.

''(G) EXCEPTION TO REDUCTION IN AMOUNT OF ATTORNEYS' FEES.—The provisions of subparagraph (F) shall not apply in any action or proceeding if the court finds that the State or local educational agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of this section.

''(4) PARENTS REPRESENTING THEIR CHILDREN IN COURT.—Subject to subsection (m), and notwithstanding any other provision of Federal law regarding attorney representation (including the Federal Rules of Civil Procedure), a parent of a child with a disability may represent the child in any action under this part in Federal or State court, without the assistance of an attorney.

''(j) MAINTENANCE OF CURRENT EDUCATIONAL PLACEMENT.—Except as provided in subsection (k)(4), during the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents otherwise agree, the child shall remain in the then-current educational placement of such child, or, if applying for initial admission to a public school, shall, with the consent of the parents, be placed in the public school program until all such proceedings have been completed.

''(k) PLACEMENT IN ALTERNATIVE EDUCATIONAL SETTING.—

''(1) AUTHORITY OF SCHOOL PERSONNEL.—

''(A) IN GENERAL.—School personnel under this section may order a change in the placement of a child with a disability who violates a code of student conduct to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives are applied to children without disabilities).

''(B) ADDITIONAL AUTHORITY.—If school personnel seek to order a change in placement that would exceed 10 school days and the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to subparagraph (C), the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner in which the procedures would be applied to children without disabilities, except as provided in section 612(a)(1).

''(C) MANIFESTATION DETERMINATION.—

''(i) IN GENERAL.—Except as provided in subparagraphs (A) and (D), within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the IEP Team shall review all relevant information in the student's file, any information provided by the parents, and teacher observations, to determine—

''(I) if the conduct in question was the result of the child's disability; or

''(II) if the conduct in question resulted from the failure to implement the IEP or to implement behavioral interventions as required by section 614(d)(3)(B)(i).

''(ii) MANIFESTATION.—If the IEP Team determines that either subclause (I) or (II) of clause (i) is applicable for the child, the conduct shall be determined to be a manifestation of the child's disability.

''(D) SPECIAL CIRCUMSTANCES.—In cases where a child—

''(i) carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of a State or local educational agency; or

''(ii) knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school or a school function under the jurisdiction of a State or local educational agency; or

''(iii) has committed serious bodily injury upon another person while at school or at a school function under the jurisdiction of a State or local educational agency,

school personnel may remove a student to an interim alternative educational setting for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the child's disability.

''(E) NOTIFICATION.—Not later than the date on which the decision to take disciplinary action is made, the local educational agency shall notify the parents of that decision, and of all procedural safeguards accorded under this section.

''(F) SERVICES.—A child with a disability who is removed from the child's current placement under subparagraph (B) or (D) shall—

''(i) continue to receive educational services pursuant to section 612(a)(1), so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

''(ii) receive behavioral intervention services as described in section 614(d)(3)(B)(i), and a functional behavioral assessment (but only if the local educational agency did not conduct such an assessment before the violation occurred), designed to address the behavior violation so that the violation does not recur.

''(2) DETERMINATION OF SETTING.—The alternative educational setting shall be determined by the IEP Team.

''(3) APPEAL.—

''(A) IN GENERAL.—The parent of a child with a disability who disagrees with any decision regarding disciplinary action, placement, or the manifestation determination under this subsection, or a local educational agency that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others, may request a hearing.

''(B) AUTHORITY OF HEARING OFFICER.—

''(i) IN GENERAL.—If a parent of a child with a disability disagrees with a decision as described in subparagraph (A), the hearing officer may determine whether the decision regarding such action was appropriate.

''(ii) CHANGE OF PLACEMENT ORDER.—A hearing officer under this section may order a change in placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of such child is substantially likely to result in injury to the child or to others.

''(4) PLACEMENT DURING APPEALS.—When a parent requests a hearing regarding a disciplinary procedure described in paragraph (1)(B) or challenges the interim alternative educational setting or manifestation determination—

''(A) the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in paragraph (1)(B), whichever occurs first, unless the parent and the State or local educational agency agree otherwise; and

''(B) the State or local educational agency shall arrange for an expedited hearing, which shall occur within 20 school days of the date the hearing is requested.

''(5) PROTECTIONS FOR CHILDREN NOT YET ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES.—

''(A) IN GENERAL.—A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violates a code of student conduct, may assert any of the protections provided for in this part if the local educational agency had knowledge (as determined in accordance with this paragraph) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

''(B) BASIS OF KNOWLEDGE.—A local educational agency shall be deemed to have knowledge that a child is a child with a disability if, before the behavior that precipitated the disciplinary action occurred—

''(i) the parent of the child has expressed concern in writing (unless the parent is illiterate or has a disability that prevents compliance with the requirements contained in this clause) to personnel of the appropriate educational agency that the child is in need of special education and related services;

''(ii) the parent of the child has requested an evaluation of the child pursuant to section 614;

''(iii) the teacher of the child, or other personnel of the local educational agency, has expressed concern about a pattern of behavior demonstrated by the child, to the director of special education of such agency or to other administrative personnel of the agency; or

''(iv) the child has engaged in a pattern of behavior that should have alerted personnel of the local educational agency that the child may be in need of special education and related services.

''(C) EXCEPTION.—A local educational agency shall not be deemed to have knowledge that the child has a disability if the parent of the child has not agreed to allow an evaluation of the child pursuant to section 614.

''(D) CONDITIONS THAT APPLY IF NO BASIS OF KNOWLEDGE.—

''(i) IN GENERAL.—If a local educational agency does not have knowledge that a child is a child with a disability (in accordance with subparagraph (B) or (C)) prior to taking disciplinary measures against the child, the child may be subjected to disciplinary measures applied to children without disabilities who engaged in comparable behaviors consistent with clause (ii).

''(ii) LIMITATIONS.—If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under paragraph (1), the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with this part, except that, pending the results of the evaluation, the child shall remain in the educational placement determined by school authorities.

''(6) REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES.—

''(A) CONSTRUCTION.—Nothing in this part shall be construed to prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

''(B) TRANSMITTAL OF RECORDS.—An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.

''(7) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

''(A) CONTROLLED SUBSTANCE.—The term 'controlled substance' means a drug or other substance identified under schedule I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

''(B) ILLEGAL DRUG.—The term 'illegal drug' means a controlled substance but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act or under any other provision of Federal law.

''(C) WEAPON.—The term 'weapon' has the meaning given the term 'dangerous weapon' under section 930(g)(2) of title 18, United States Code.

''(D) SERIOUS BODILY INJURY.—The term 'serious bodily injury' has the meaning given the term 'serious bodily injury' under paragraph (3) of subsection (h) of section 1365 of title 18, United States Code.

''(l) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990, title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities, or under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act or parts B and E of title IV of the Social Security Act, except that before the filing of a civil action under such laws seeking relief that is also available under this part, the procedures under subsections (f) and (g) shall be exhausted to the same extent as would be required had the action been brought under this part.

''(m) TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY.—

''(1) IN GENERAL.—A State that receives amounts from a grant under this part may provide that, when a child with a disability reaches the age of majority under State law (except for a child with a disability who has been determined to be incompetent under State law)—

''(A) the public agency shall provide any notice required by this section to both the individual and the parents;

''(B) all other rights accorded to parents under this part transfer to the child;

''(C) the agency shall notify the individual and the parents of the transfer of rights; and

''(D) all rights accorded to parents under this part transfer to children who are incarcerated in an adult or juvenile Federal, State, or local correctional institution.

''(2) SPECIAL RULE.—If, under State law, a child with a disability who has reached the age of majority under State law, who has not been determined to be incompetent, but who is determined not to have the ability to provide informed consent with respect to the educational program of the child, the State shall establish procedures for appointing the parent of the child, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of eligibility of the child under this part.

''(n) E-MAIL.—A parent of a child with a disability may elect to receive notices required under this section by e-mail communication, if the public agency makes such option available.

''(o) SURROGATE PARENT.—

''(1) ASSIGNMENT.—The assignment of a surrogate under subsection (b)(2) shall take place not more than 30 days after either of the following takes place:

''(A) The child is referred to the local educational agency for an initial evaluation to determine if the child is a child with a disability.

''(B) There is a determination made by the agency that the child needs a surrogate parent because the child's parent cannot be identified, the child becomes a ward of the State, or, despite reasonable efforts to do so, the agency cannot discover the whereabouts of the parent of the child.

''(2) REQUIREMENTS OF SURROGATE.—An individual may not be assigned to act as a surrogate for the parents under subsection (b)(2) unless the individual—

''(A) signs a written form agreeing to make the educational decisions required of parents under this Act;

''(B)(i) has the knowledge and skills necessary to ensure adequate representation of the child; or

''(ii) agrees to be trained as an educational surrogate; and

''(C) has no interests that would conflict with the interests of the child.

''(3) FOSTER PARENT AS SURROGATE.—A foster parent of a child may be assigned to act as a surrogate for the parents of such child under subsection (b)(2) if the foster parent—

''(A) has an ongoing, long-term parental relationship with the child;

''(B) agrees to make the educational decisions required of parents under this Act;

''(C) agrees to be trained as an educational surrogate; and

''(D) has no interest that would conflict with the interests of the child.

''SEC. 616. MONITORING, TECHNICAL ASSISTANCE, AND ENFORCEMENT.

''(a) FEDERAL AND STATE MONITORING.—

''(1) IN GENERAL.—The Secretary shall—

''(A) monitor implementation of this Act through—

''(i) oversight of the States' exercise of general supervision, as required in section 612(a)(11); and

''(ii) the system of indicators, described in subsection (b)(2); and

''(B) enforce this Act in accordance with subsection (c); and

''(C) require States to monitor implementation of this Act by local educational agencies and enforce this Act in accordance with paragraph (3) of this subsection and subsection (c).

''(2) FOCUSED MONITORING.—The primary focus of Federal and State monitoring activities described in paragraph (1) shall be on improving educational results and functional outcomes for all children with disabilities, while ensuring compliance with program requirements, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

''(3) MONITORING PRIORITIES.—The Secretary shall monitor, and shall require States to monitor, the following priority areas:

''(A) Provision of a free appropriate public education in the least restrictive environment.

''(B) Provision of transition services, as defined in section 602(33).

''(C) State exercise of general supervisory authority, including the effective use of complaint resolution and mediation.

''(D) Overrepresentation of racial and ethnic groups in special education and related services, to the extent the overrepresentation is the result of inappropriate policies, procedures, and practices.

''(4) PERMISSIVE AREAS OF REVIEW.—The Secretary may examine other relevant information and data, including data provided by States under section 618, and data from the State's compliance plan under subsection (b)(2)(C).

''(b) INDICATORS.—

''(1) SYSTEM.—The Secretary shall implement and administer a system of required indicators as described in paragraph (2) that measures the progress of States in improving their performance under this Act.

''(2) INDICATORS.—

''(A) IN GENERAL.—Using the performance indicators established by States under section 612(a)(15), the Secretary shall review—

''(i) the performance of children with disabilities in the State on assessments, including alternate assessments, dropout rates, and graduation rates, which for purposes of this paragraph means the number and percentage of students with disabilities who graduate with a regular diploma within the number of years specified in a student's IEP; and

''(ii) the performance of children with disabilities in the State on assessments, including alternate assessments, dropout rates, and graduation rates, as compared to the performance and rates for all children.

''(B) SECRETARY'S ASSESSMENT.—Based on that review and a review of the State's compliance plan under subparagraph (C), the Secretary shall assess the State's progress in improving educational results for children with disabilities.

''(C) STATE COMPLIANCE PLAN.—Not later than 1 year after the date of the enactment of the Individuals with Disabilities Education Improvement Act of 2004, each State shall have in place a compliance plan developed in collaboration with the Secretary. Each State's compliance plan shall—

''(i) include benchmarks to measure continuous progress on the priority areas described in subsection (a)(3);

''(ii) describe strategies the State will use to achieve the benchmarks; and

''(iii) be approved by the Secretary.

''(D) PUBLIC REPORTING AND PRIVACY.—

''(i) IN GENERAL.—After the Secretary approves a State's compliance plan under subparagraph (C), the State shall use the benchmarks in the plan and the indicators described in this subsection to analyze the progress of each local educational agency in the State on those benchmarks and indicators.

''(ii) REPORT.—The State shall report annually to the public on each local educational agency's progress under clause (i), except where doing so would result in the disclosure of personally identifiable information about individual children or where the available data is insufficient to yield statistically reliable information.

''(3) DATA COLLECTION AND ANALYSIS.—The Secretary shall—

''(A) review the data collection and analysis capacity of States to ensure that data and information determined necessary for implementation of this subsection is collected, analyzed, and accurately reported to the Secretary; and

''(B) provide technical assistance to improve the capacity of States to meet these data collection requirements.

''(c) COMPLIANCE AND ENFORCEMENT.—

''(1) IN GENERAL.—The Secretary shall examine relevant State information and data annually, to determine whether the State is making

satisfactory progress toward improving educational results for children with disabilities using the indicators described in subsection (b)(2)(A) and the benchmarks established in the State compliance plan under subsection (b)(2)(C), and is in compliance with the provisions of this Act.

''(2) LACK OF SATISFACTORY PROGRESS BY A STATE.—

''(A) IN GENERAL.—If after examining data, as provided in subsection (b)(2) (A) and (C), the Secretary determines that a State failed to make satisfactory progress in meeting the indicators described in subsection (b)(2)(A) or has failed to meet the benchmarks described in subsection (b)(2)(C) for 2 consecutive years after the State has developed its compliance plan, the Secretary shall notify the State that the State has failed to make satisfactory progress, and shall take 1 or more of the following actions:

''(i) Direct the use of State level funds for technical assistance, services, or other expenditures to ensure that the State resolves the area or areas of unsatisfactory progress.

''(ii) Withhold not less than 20, but not more than 50, percent of the State's funds for State administration and activities for the fiscal year under section 611(e), after providing the State the opportunity to show cause why the withholding should not occur, until the Secretary determines that sufficient progress has been made in improving educational results for children with disabilities.

''(B) ADDITIONAL SECRETARIAL ACTION.—If, at the end of the 5th year after the Secretary has approved the compliance plan that the State has developed under subsection (b)(2)(C), the Secretary determines that a State failed to meet the benchmarks in the State compliance plan and make satisfactory progress in improving educational results for children with disabilities pursuant to the indicators described in subsection (b)(2)(A), the Secretary shall take 1 or more of the following actions:

''(i) Seek to recover funds under section 452 of the General Education Provisions Act.

''(ii) After providing reasonable notice and an opportunity for a hearing to the State educational agency involved, withhold, in whole or in part, any further payments to the State under this part pursuant to subsection (c)(5).

''(iii) After providing reasonable notice and an opportunity for a hearing to the State educational agency involved, refer the matter for appropriate enforcement action, which may include referral to the Department of Justice.

''(iv) Pending the outcome of any hearing to withhold payments under clause (ii), the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.

''(C) SUBSTANTIAL NONCOMPLIANCE.—Notwithstanding subparagraph (B), at any time that the Secretary determines that a State is not in substantial compliance with any provision of this part or that there is a substantial failure to comply with any condition of a local agency's or State agency's eligibility under this part, the Secretary shall take 1 or more of the following actions:

''(i) Request that the State prepare a corrective action plan or improvement plan if the Secretary determines that the State should be able to correct the problem within 1 year.

''(ii) Identify the State as a high-risk grantee and impose special conditions on the State's grant under this part.

''(iii) Require the State to enter into a compliance agreement under section 457 of the General Education Provisions Act, if the Secretary has reason to believe that the State cannot correct the problem within 1 year.

''(iv) Recovery of funds under section 452 of the General Education Provisions Act.

''(v) After providing reasonable notice and an opportunity for a hearing to the State educational agency involved, withhold, in whole or in part, any further payments to the State under this part.

''(vi) After providing reasonable notice and an opportunity for a hearing to the State educational agency involved, refer the matter for appropriate enforcement action, which may include referral to the Department of Justice.

''(vii) Pending the outcome of any hearing to withhold payments under clause (v), the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.

''(3) EGREGIOUS NONCOMPLIANCE.—At any time that the Secretary determines that a State is in egregious noncompliance or is willfully disregarding the provisions of this Act, the Secretary shall take such additional enforcement actions as the Secretary determines to be appropriate from among those actions specified in paragraph (2)(C), and, additionally, may impose 1 or more of the following sanctions upon that State:

''(A) Institute a cease and desist action under section 456 of the General Education Provisions Act.

''(B) Refer the case to the Office of the Inspector General.

''(4) REPORT TO CONGRESS.—The Secretary shall report to Congress within 30 days of taking enforcement action pursuant to paragraph (2)(B) or (C), or (3), on the specific action taken and the reasons why enforcement action was taken.

''(5) NATURE OF WITHHOLDING.—If the Secretary withholds further payments under paragraphs (2)(B)(ii) and (2)(C)(v), the Secretary may determine that such withholding will be limited to programs or projects, or portions thereof, affected by the failure, or that the State educational agency shall not make further payments under this part to specified local educational agencies or State agencies affected by the failure. Until the Secretary is satisfied that there is no longer any failure to make satisfactory progress as specified in paragraph (2)(B), or to comply with the provisions of this part, as specified in paragraph (2)(C), payments to the State under this part shall be withheld in whole or in part, or payments by the State educational agency under this part shall be limited to local educational agencies and State agencies whose actions did not cause or were not involved in the failure, as the case may be. Any State educational agency, State agency, or local educational agency that has received notice under paragraph (2)(B) or (2)(C) shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency.

''(6) JUDICIAL REVIEW.—

''(A) IN GENERAL.—If any State is dissatisfied with the Secretary's final action with respect to the eligibility of the State under section 612, such State may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings upon which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

''(B) JURISDICTION; REVIEW BY UNITED STATES SUPREME COURT.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

''(C) STANDARD OF REVIEW.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

''(d) DIVIDED STATE AGENCY RESPONSIBILITY.—For purposes of this section, where responsibility for ensuring that the requirements of this part are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons is assigned to a public agency other than the State educational agency pursuant to section 612(a)(11)(C), the Secretary, in instances where the Secretary finds that the failure to comply substantially with the provisions of this part are related to a failure by the public agency, shall take appropriate corrective action to ensure compliance with this part, except that—

''(1) any reduction or withholding of payments to the State shall be proportionate to the total funds allotted under section 611 to the State as the number of eligible children with disabilities in adult prisons under the supervision of the other public agency is proportionate to the number of eligible individuals with disabilities in the State under the supervision of the State educational agency; and

''(2) any withholding of funds under paragraph (1) shall be limited to the specific agency responsible for the failure to comply with this part.

''(e) STATE AND LOCAL MONITORING.—

''(1) IN GENERAL.—The State educational agency shall monitor and enforce implementation of this Act, implement a system of monitoring the benchmarks in the State's compliance plan under subsection (b)(2)(C), and require local educational agencies to monitor and enforce implementation of this Act.

''(2) ADDITIONAL ENFORCEMENT OPTIONS.—If a State educational agency determines that a local educational agency is not meeting the requirements of this part, including the benchmarks in the State's compliance plan, the State educational agency shall prohibit the local educational agency from treating funds received under this part as local funds under section 613(a)(2)(C) for any fiscal year.

"SEC. 617. ADMINISTRATION.

''(a) RESPONSIBILITIES OF SECRETARY.—The Secretary shall—

''(1) cooperate with, and (directly or by grant or contract) furnish technical assistance necessary to, a State in matters relating to—

''(A) the education of children with disabilities; and

''(B) carrying out this part; and

''(2) provide short-term training programs and institutes.

''(b) CONFIDENTIALITY.—The Secretary shall take appropriate action, in accordance with section 444 of the General Education Provisions Act (20 U.S.C. 1232g), to assure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to this part.

''(c) PERSONNEL.—The Secretary is authorized to hire qualified personnel necessary to carry out the Secretary's duties under subsection (a) and under sections 618, 661, and 664, without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, except that not more than 20 such personnel shall be employed at any 1 time.

''(d) MODEL FORMS.—Not later than the date that the Secretary publishes final regulations under this Act, to implement amendments made by the Individuals with Disabilities Education Improvement Act of 2004, the Secretary shall publish and disseminate widely to States, local educational agencies, and parent and community training and information centers—

''(1) a model IEP form;

''(2) a model individualized family service plan (IFSP) form;

''(3) a model form of the notice of procedural safeguards described in section 615(d); and

''(4) a model form of the prior written notice described in section 615 (b)(3) and (c)(1) that is consistent with the requirements of this part and is sufficient to meet such requirements.

''SEC. 618. PROGRAM INFORMATION.

''(a) IN GENERAL.—Each State that receives assistance under this part, and the Secretary of the Interior, shall provide data each year to the Secretary of Education and the public on—

''(1)(A) the number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, gender, and disability category, who are receiving a free appropriate public education;

''(B) the number and percentage of children with disabilities, by race, gender, and ethnicity, who are receiving early intervention services;

''(C) the number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, gender, and disability category, who are participating in regular education;

''(D) the number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, gender, and disability category, who are in separate classes, separate schools or facilities, or public or private residential facilities;

''(E) the number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, gender, and disability category, who, for each year of age from age 14 through 21, stopped receiving special education and related services because of program completion (including graduation with a regular secondary school diploma), or other reasons, and the reasons why those children stopped receiving special education and related services;

''(F) the number and percentage of children with disabilities, by race, gender, and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons;

''(G)(i) the number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, gender, and disability category, who are removed to an interim alternative educational setting under section 615(k)(1);

''(ii) the acts or items precipitating those removals; and

''(iii) the number of children with disabilities who are subject to long-term suspensions or expulsions;

''(H) the incidence and duration of disciplinary actions by race, ethnicity, limited English proficiency status, gender, and disability category, of children with disabilities, including suspensions of 1 day or more;

''(I) the number and percentage of children with disabilities who are removed to alternative educational settings or expelled as compared to children without disabilities who are removed to alternative educational settings or expelled;

''(J) the number of due process complaints filed under section 615 and the number of hearings conducted;

''(K) the number of hearings requested under section 615(k) and the number of changes in placements ordered as a result of those hearings;

''(L) the number of hearings requested under section 615(k)(3)(B)(ii) and the number of changes in placements ordered as a result of those hearings; and

''(M) the number of mediations held and the number of settlement agreements reached through such mediations;

''(2) the number and percentage of infants and toddlers, by race, and ethnicity, who are at risk of having substantial developmental delays (as defined in section 632), and who are receiving early intervention services under part C; and

''(3) any other information that may be required by the Secretary.

''(b) DATA REPORTING.—The data described in subsection (a) shall be reported by each State at the school district and State level in a manner that does not result in the disclosure of data identifiable to individual children.

''(c) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to States to ensure compliance with the data collection and reporting requirements under this Act.

''(d) DISPROPORTIONALITY.—

''(1) IN GENERAL.—Each State that receives assistance under this part, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race is occurring in the State with respect to—

''(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 602(3);

''(B) the placement in particular educational settings of such children; and

''(C) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

''(2) REVIEW AND REVISION OF POLICIES, PRACTICES, AND PROCEDURES.—In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, in accordance with paragraph (1), the State or the Secretary of the Interior, as the case may be, shall provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this Act.

''SEC. 619. PRESCHOOL GRANTS.

''(a) IN GENERAL.—The Secretary shall provide grants under this section to assist States to provide special education and related services, in accordance with this part—

''(1) to children with disabilities aged 3 through 5, inclusive; and

''(2) at the State's discretion, to 2-year-old children with disabilities who will turn 3 during the school year.

''(b) ELIGIBILITY.—A State shall be eligible for a grant under this section if such State—

''(1) is eligible under section 612 to receive a grant under this part; and

''(2) makes a free appropriate public education available to all children with disabilities, aged 3 through 5, residing in the State.

''(c) ALLOCATIONS TO STATES.—

''(1) IN GENERAL.—The Secretary shall allocate the amount made available to carry out this section for a fiscal year among the States in accordance with paragraph (2) or (3), as the case may be.

''(2) INCREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is equal to or greater than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

''(A) ALLOCATION.—

''(i) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall—

''(I) allocate to each State the amount the State received under this section for fiscal year 1997;

''(II) allocate 85 percent of any remaining funds to States on the basis of the States' relative populations of children aged 3 through 5; and

''(III) allocate 15 percent of those remaining funds to States on the basis of the States' relative populations of all children aged 3 through 5 who are living in poverty.

''(ii) DATA.—For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

''(B) LIMITATIONS.—Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

''(i) PRECEDING YEARS.—No State's allocation shall be less than its allocation under this section for the preceding fiscal year.

''(ii) MINIMUM.—No State's allocation shall be less than the greatest of—

''(I) the sum of—

''(aa) the amount the State received under this section for fiscal year 1997; and

''(bb) ⅓ of 1 percent of the amount by which the amount appropriated under subsection (j) for the fiscal year exceeds the amount appropriated for this section for fiscal year 1997;

''(II) the sum of—

''(aa) the amount the State received under this section for the preceding fiscal year; and

''(bb) that amount multiplied by the percentage by which the increase in the funds appropriated under this section from the preceding fiscal year exceeds 1.5 percent; or

''(III) the sum of—

''(aa) the amount the State received under this section for the preceding fiscal year; and

''(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated under this section from the preceding fiscal year.

''(iii) MAXIMUM.—Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

''(I) the amount the State received under this section for the preceding fiscal year; and

''(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated under this section from the preceding fiscal year.

''(C) RATABLE REDUCTIONS.—If the amount available for allocations under this paragraph is insufficient to pay those allocations in full, those allocations shall be ratably reduced, subject to subparagraph (B)(i).

''(3) DECREASE IN FUNDS.—If the amount available for allocations to States under paragraph (1) is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

''(A) ALLOCATIONS.—If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1997, each State shall be allocated the sum of—

''(i) the amount the State received under this section for fiscal year 1997; and

''(ii) an amount that bears the same relation to any remaining funds as the increase the State received under this section for the preceding fiscal year over fiscal year 1997 bears to the total of all such increases for all States.

''(B) If the amount available for allocations under this paragraph is equal to or less than the amount allocated under this section to the States for fiscal year 1997, each State shall be allocated the amount the State received for that year, ratably reduced, if necessary.

''(d) RESERVATION FOR STATE ACTIVITIES.—

''(1) IN GENERAL.—Each State may reserve not more than the amount described in paragraph (2) for administration and other State-level activities in accordance with subsections (e) and (f).

''(2) AMOUNT DESCRIBED.—For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

''(A) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or

''(B) the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

''(e) STATE ADMINISTRATION.—

''(1) IN GENERAL.—For the purpose of administering this section (including the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities) a State may use not more than 20 percent of the maximum amount the State may reserve under subsection (d) for any fiscal year.

''(2) ADMINISTRATION OF PART C.—Funds described in paragraph (1) may also be used for the administration of part C of this Act, if the State educational agency is the lead agency for the State under that part.

''(f) OTHER STATE-LEVEL ACTIVITIES.—Each State shall use any funds the State reserves under subsection (d) and does not use for administration under subsection (e)—

''(1) for support services (including establishing and implementing the mediation process required by section 615(e)), which may benefit children with disabilities younger than 3 or older than 5 as long as those services also benefit children with disabilities aged 3 through 5;

''(2) for direct services for children eligible for services under this section;

''(3) for activities at the State and local levels to meet the performance goals established by the State under section 612(a)(15);

''(4) to supplement other funds used to develop and implement a statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not more than 1 percent of the amount received by the State under this section for a fiscal year; or

''(5) to provide early intervention services (which shall include an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills) in accordance with part C to children with disabilities who are eligible for services under this section and who previously received services under part C until such children enter, or are eligible under State law to enter, kindergarten.

''(g) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.—

''(1) SUBGRANTS REQUIRED.—Each State that receives a grant under this section for any fiscal year shall distribute all of the grant funds that the State does not reserve under subsection (d) to local educational agencies in the State that have established their eligibility under section 613, as follows:

''(A) BASE PAYMENTS.—The State shall first award each local educational agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 619(c)(3), as such section was then in effect.

''(B) ALLOCATION OF REMAINING FUNDS.—After making allocations under subparagraph (A), the State shall—

''(i) allocate 85 percent of any remaining funds to those local educational agencies on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the local educational agency's jurisdiction; and

''(ii) allocate 15 percent of those remaining funds to those local educational agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

''(2) REALLOCATION OF FUNDS.—If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities aged 3 through 5 residing in the area served by that agency with State and local funds, the State educational agency may reallocate any portion of the funds under this section that are not needed by that local educational agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities aged 3 through 5 residing in the areas the other local educational agencies serve.

''(h) PART C INAPPLICABLE.—Part C of this Act does not apply to any child with a disability receiving a free appropriate public education, in accordance with this part, with funds received under this section.

''(i) DEFINITION.—For the purpose of this section, the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

"PART C—INFANTS AND TODDLERS WITH DISABILITIES

"SEC. 631. FINDINGS AND POLICY.

''(a) FINDINGS.—Congress finds that there is an urgent and substantial need—

''(1) to enhance the development of infants and toddlers with disabilities, to minimize their potential for developmental delay, and to recognize the significant brain development which occurs during a child's first 3 years of life;

''(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age;

''(3) to maximize the potential for individuals with disabilities to live independently in society;

''(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities; and

''(5) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of all children, particularly minority, low-income, inner city, and rural children, and infants and toddlers in foster care.

''(b) POLICY.—It is the policy of the United States to provide financial assistance to States—

''(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;

''(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage);

''(3) to enhance State capacity to provide high quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; and

''(4) to encourage States to expand opportunities for children under 3 years of age who would be at risk of having substantial developmental delay if they did not receive early intervention services.

"SEC. 632. DEFINITIONS.

''As used in this part:

''(1) AT-RISK INFANT OR TODDLER.—The term 'at-risk infant or toddler' means an individual under 3 years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual.

''(2) COUNCIL.—The term 'council' means a State interagency coordinating council established under section 641.

''(3) DEVELOPMENTAL DELAY.—The term 'developmental delay', when used with respect to an individual residing in a State, has the meaning given such term by the State under section 635(a)(1).

''(4) EARLY INTERVENTION SERVICES.—The term 'early intervention services' means developmental services that—

''(A) are provided under public supervision;

''(B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees;

''(C) are designed to meet the developmental needs of an infant or toddler with a disability in any 1 or more of the following areas:

''(i) physical development;

''(ii) cognitive development;

''(iii) communication development;

''(iv) social or emotional development; or

''(v) adaptive development;

''(D) meet the standards of the State in which the services are provided, including the requirements of this part;

''(E) include—

''(i) family training, counseling, and home visits;

''(ii) special instruction;

''(iii) speech-language pathology and audiology services, and sign language and cued language services;

''(iv) occupational therapy;

''(v) physical therapy;

''(vi) psychological services;

''(vii) service coordination services;

''(viii) medical services only for diagnostic or evaluation purposes;

''(ix) early identification, screening, and assessment services;

''(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services;

''(xi) social work services;

''(xii) vision services;

''(xiii) assistive technology devices and assistive technology services; and

''(xiv) transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive another service described in this paragraph;

''(F) are provided by qualified personnel, including—

''(i) special educators;

''(ii) speech-language pathologists and audiologists;

''(iii) teachers of the deaf;

''(iv) occupational therapists;

''(v) physical therapists;

''(vi) psychologists;

''(vii) social workers;

''(viii) nurses;

''(ix) nutritionists;

''(x) family therapists;

''(xi) orientation and mobility specialists;

''(xii) vision specialists, including opthamologists and optometrists; and

''(xiii) pediatricians and other physicians;

''(G) to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate; and

''(H) are provided in conformity with an individualized family service plan adopted in accordance with section 636.

''(5) INFANT OR TODDLER WITH A DISABILITY.—The term 'infant or toddler with a disability'—

''(A) means an individual under 3 years of age who needs early intervention services because the individual—

''(i) is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in 1 or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or

''(ii) has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay; and

''(B) may also include, at a State's discretion—

''(i) at-risk infants and toddlers; and

''(ii) children with disabilities who are eligible for services under section 619 and who previously received services under this part until such children enter, or are eligible under State law to enter, kindergarten.

"SEC. 633. GENERAL AUTHORITY.

''The Secretary shall, in accordance with this part, make grants to States (from their allotments under section 643) to assist each State to maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

"SEC. 634. ELIGIBILITY.

''In order to be eligible for a grant under section 633, a State shall demonstrate to the Secretary that the State—

''(1) has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State, infants or toddlers with disabilities who are homeless children, infants or toddlers with disabilities who are wards of the State, and infants or toddlers with disabilities who have a parent who is a member of the Armed Forces, including a member of the National Guard or Reserves; and

''(2) has in effect a statewide system that meets the requirements of section 635.

"SEC. 635. REQUIREMENTS FOR STATEWIDE SYSTEM.

''(a) IN GENERAL.—A statewide system described in section 633 shall include, at a minimum, the following components:

''(1) A definition of the term 'developmental delay' that—

''(A) will be used by the State in carrying out programs under this part; and

''(B) covers, at a minimum, all infants and toddlers with—

''(i) a developmental delay of 35 percent or more in 1 of the developmental areas described in section 632(5)(A)(i); or

''(ii) a developmental delay of 25 percent or more in 2 or more of the developmental areas described in section 632(5)(A)(i).

''(2) A State policy that is in effect and that ensures that appropriate early intervention services are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers and their families residing on a reservation geographically located in the State.

''(3) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State, and a family-directed identification of the needs of each family of such an infant or toddler, to appropriately assist in the development of the infant or toddler.

''(4) For each infant or toddler with a disability in the State, an individualized family service plan in accordance with section 636, including service coordination services in accordance with such service plan.

''(5) A comprehensive child find system, consistent with part B, including a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources.

''(6) A public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency designated or established under paragraph (10) to all primary referral sources, especially hospitals, physicians, homeless family shelters, medicaid and State child health insurance program enrollment offices, health and mental health clinics, public schools in low-income areas serving low-income children, staff in State and local child welfare agencies, judges, and base commanders or their designees, of information for parents on the availability of early intervention services, and procedures for determining the extent to which such sources disseminate such information to parents of infants and toddlers.

''(7) A central directory that includes information on early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State.

''(8) A comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources with respect to the basic components of early intervention services available in the State, which comprehensive system may include—

''(A) implementing innovative strategies and activities for the recruitment and retention of early education service providers;

''(B) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part;

''(C) training personnel to work in rural and inner-city areas; and

''(D) training personnel to coordinate transition services for infants and toddlers served under this part from an early intervention program under this part to preschool or other appropriate services.

''(9) Policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including the establishment and maintenance of standards which are consistent with any State-approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which such personnel are providing early intervention services, except that nothing in this part (including this paragraph) shall be construed to prohibit the use of paraprofessionals and assistants who are appropriately trained and supervised in accordance with State law, regulation, or written policy, to assist in the provision of early intervention services under this part to infants and toddlers with disabilities.

''(10) A single line of responsibility in a lead agency designated or established by the Governor for carrying out—

''(A) the general administration and supervision of programs and activities receiving assistance under section 633, and the monitoring of programs and activities used by the State to carry out this part, whether or not such programs or activities are receiving assistance made available under section 633, to ensure that the State complies with this part;

''(B) the identification and coordination of all available resources within the State from Federal, State, local, and private sources;

''(C) the assignment of financial responsibility in accordance with section 637(a)(2) to the appropriate agencies;

''(D) the development of procedures to ensure that services are provided to infants and toddlers with disabilities and their families under this part in a timely manner pending the resolution of any disputes among public agencies or service providers;

''(E) the resolution of intra- and interagency disputes; and

''(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination.

''(11) A policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of this part, including the contents of the application used and the conditions of the contract or other arrangements.

''(12) A procedure for securing timely reimbursements of funds used under this part in accordance with section 640(a).

''(13) Procedural safeguards with respect to programs under this part, as required by section 639.

''(14) A system for compiling data requested by the Secretary under section 618 that relates to this part.

''(15) A State interagency coordinating council that meets the requirements of section 641.

''(16) Policies and procedures to ensure that, consistent with section 636(d)(5) to the maximum extent appropriate, early intervention services are provided in natural environments unless a specific outcome cannot be met satisfactorily for the infant or toddler in a natural environment.

''(17) A procedure to ensure that early intervention services and evaluations are available to infants or toddlers with disabilities who are—

''(A) homeless children; and

''(B) wards of the State or in foster care, or both.

''(b) FLEXIBILITY TO SERVE CHILDREN 3 YEARS OF AGE TO UNDER 6 YEARS OF AGE.—

''(1) IN GENERAL.—A statewide system described in section 633 may include a State policy, developed and implemented jointly by the lead agency and the State educational agency, under which parents of children with disabilities who are eligible for services under section 619 and previously received services under this part, may choose the continuation of early intervention services (which shall include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) for such children under this part until such children enter, or are eligible under State law to enter, kindergarten.

''(2) REQUIREMENTS.—If a statewide system includes a State policy described in paragraph (1), the statewide system shall ensure—

''(A) that parents of infants or toddlers with disabilities (as defined in section 632(5)(A)) provide informed written consent to the State, before such infants and toddlers reach 3 years of age, as to whether such parents intend to choose the continuation of early intervention services pursuant to this subsection for such infants or toddlers;

''(B) that the State policy will not affect the right of any child served pursuant to this subsection to instead receive a free appropriate public education under part B;

''(C) that parents of children served pursuant to this subsection are provided with annual notice—

''(i) of such parents' right to elect services pursuant to this subsection or under part B; and

''(ii) fully explaining the differences between receiving services pursuant to this subsection and receiving services under part B, including—

''(I) the types of services available under both provisions;

''(II) applicable procedural safeguards under both provisions, including due-process protections and mediation or other dispute resolution options; and

''(III) the possible costs, if any (including any fees to be charged to families as described in section 632(4)(B)) to parents under both provisions;

''(D) that the conference under section 637(a)(9)(A)(ii)(II), the review under section 637(a)(9)(B), and the establishment of a transition plan under section 637(a)(9)(C) occur not less than 90 days (and at the discretion of the parties to the conference, not more than 9 months) before each of the following:

''(i) the time the child will first be eligible for services under part B, including under section 619; and

''(ii) if the child is receiving services in accordance with this subsection, the time the child will no longer receive those services;

''(E) the continuance of all early intervention services outlined in the child's individualized family service plan under section 636 while any eligibility determination is being made for services under this subsection;

''(F) that services provided pursuant to this subsection include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills and

are provided in accordance with an individualized family service plan under section 636; and

''(G) the referral for evaluation for early intervention services of a child below the age of 3 who experiences a substantiated case of exposure to violence or trauma.

''(3) REPORTING REQUIREMENT.—If a statewide system includes a State policy described in paragraph (1), the State shall submit to the Secretary, in the State's report under section 637(b)(4)(A), a report on—

''(A) the percentage of children with disabilities who are eligible for services under section 619 but whose parents choose for such children to continue to receive early intervention services under this part; and

''(B) the number of children who are eligible for services under section 619 who instead continue to receive early intervention services under this part.

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to require a provider of services under this part to provide a child served under this part with a free appropriate public education.

''(5) AVAILABLE FUNDS.—If a statewide system includes a State policy described in paragraph (1), the policy shall describe the funds (including an identification as Federal, State, or local funds) that will be used to ensure that the option described in paragraph (1) is available to eligible children and families who provide the consent described in paragraph (2)(A), including fees to be charged to families as described in section 632(4)(B).

''(c) CONSTRUCTION.—Nothing in subsection (a)(5) shall be construed to alter the responsibility of a State under title XIX of the Social Security Act with respect to early and periodic screening, diagnostic, and treatment services (as defined in section 1905(r) of such Act).

"SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN.

''(a) ASSESSMENT AND PROGRAM DEVELOPMENT.—A statewide system described in section 633 shall provide, at a minimum, for each infant or toddler with a disability, and the infant's or toddler's family, to receive—

''(1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet such needs;

''(2) a family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the infant or toddler; and

''(3) a written individualized family service plan developed by a multidisciplinary team, including the parents, as required by subsection (e), including a description of the appropriate transition services for the child.

''(b) PERIODIC REVIEW.—The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs).

''(c) PROMPTNESS AFTER ASSESSMENT.—The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) is completed. With the parents' consent, early intervention services may commence prior to the completion of the assessment.

''(d) CONTENT OF PLAN.—The individualized family service plan shall be in writing and contain—

''(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on objective criteria;

''(2) a statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability;

''(3) a statement of the measurable outcomes expected to be achieved for the infant or toddler and the family, including, as appropriate, preliteracy and language skills, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being made and whether modifications or revisions of the outcomes or services are necessary;

''(4) a statement of specific early intervention services necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services;

''(5) a statement of the natural environments in which early intervention services will appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment;

''(6) the projected dates for initiation of services and the anticipated length, duration, and frequency of the services;

''(7) the identification of the service coordinator from the profession most immediately relevant to the infant's or toddler's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this part) who will be responsible for the implementation of the plan and coordination with other agencies and persons, including transition services; and

''(8) the steps to be taken to support the transition of the toddler with a disability to preschool or other appropriate services.

''(e) PARENTAL CONSENT.—The contents of the individualized family service plan shall be fully explained to the parents and informed written consent from the parents shall be obtained prior to the provision of early intervention services described in such plan. If the parents do not provide consent with respect to a particular early intervention service, then only the early intervention services to which consent is obtained shall be provided.

"SEC. 637. STATE APPLICATION AND ASSURANCES.

''(a) APPLICATION.—A State desiring to receive a grant under section 633 shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall contain—

''(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 633;

''(2) a certification to the Secretary that the arrangements to establish financial responsibility for services provided under this part pursuant to section 640(b) are current as of the date of submission of the certification;

''(3) information demonstrating eligibility of the State under section 634, including—

''(A) information demonstrating to the Secretary's satisfaction that the State has in effect the statewide system required by section 633; and

''(B) a description of services to be provided to infants and toddlers with disabilities and their families through the system;

''(4) if the State provides services to at-risk infants and toddlers through the system, a description of such services;

''(5) a description of the uses for which funds will be expended in accordance with this part;

''(6) a description of the State policies and procedures that require the referral for evaluation for early intervention services of a child under the age of 3 who—

''(A) is involved in a substantiated case of child abuse or neglect; or

''(B) is identified as affected by illegal substance abuse, or withdrawal symptoms resulting from prenatal drug exposure;

''(7) a description of the procedure used to ensure that resources are made available under this part for all geographic areas within the State;

''(8) a description of State policies and procedures that ensure that, prior to the adoption by the State of any other policy or procedure necessary to meet the requirements of this part, there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of infants and toddlers with disabilities;

''(9) a description of the policies and procedures to be used—

''(A) to ensure a smooth transition for toddlers receiving early intervention services under this part (and children receiving those services under section 635(b)) to preschool, other appropriate services, or exiting the program, including a description of how—

''(i) the families of such toddlers and children will be included in the transition plans required by subparagraph (C); and

''(ii) the lead agency designated or established under section 635(a)(10) will—

''(I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool services under part B, as determined in accordance with State law;

''(II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency at least 90 days (and at the discretion of all such parties, not more than 9 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive; and

''(III) in the case of a child who may not be eligible for such preschool services, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under part B, to discuss the appropriate services that the child may receive;

''(B) to review the child's program options for the period from the child's third birthday through the remainder of the school year; and

''(C) to establish a transition plan, including, as appropriate, steps to exit from the program; and

''(10) such other information and assurances as the Secretary may reasonably require.

''(11) a description of policies and procedures to ensure that infants or toddlers with disabilities who are homeless children and their families and infants or toddlers with disabilities who are wards of the State have access to multidisciplinary evaluations and early intervention services.

''(b) ASSURANCES.—The application described in subsection (a)—

''(1) shall provide satisfactory assurance that Federal funds made available under section 643 to the State will be expended in accordance with this part;

''(2) shall contain an assurance that the State will comply with the requirements of section 640;

''(3) shall provide satisfactory assurance that the control of funds provided under section 643, and title to property derived from those funds, will be in a public agency for the uses and purposes provided in this part and that a public agency will administer such funds and property;

''(4) shall provide for—

''(A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part; and

''(B) keeping such reports and affording such access to the reports as the Secretary may find necessary to ensure the correctness and verification of the reports and proper disbursement of Federal funds under this part;

''(5) provide satisfactory assurance that Federal funds made available under section 643 to the State—

''(A) will not be commingled with State funds; and

''(B) will be used so as to supplement the level of State and local funds expended for infants

and toddlers with disabilities and their families and in no case to supplant those State and local funds;

''(6) shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under section 643 to the State;

''(7) shall provide satisfactory assurance that policies and procedures have been adopted to ensure meaningful involvement of underserved groups, including minority, low-income, homeless, and rural families and children with disabilities who are wards of the State, in the planning and implementation of all the requirements of this part; and

''(8) shall contain such other information and assurances as the Secretary may reasonably require by regulation.

''(c) STANDARD FOR DISAPPROVAL OF APPLICATION.—The Secretary may not disapprove such an application unless the Secretary determines, after notice and opportunity for a hearing, that the application fails to comply with the requirements of this section.

''(d) SUBSEQUENT STATE APPLICATION.—If a State has on file with the Secretary a policy, procedure, or assurance that demonstrates that the State meets a requirement of this section, including any policy or procedure filed under part C, as in effect before the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004, the Secretary shall consider the State to have met the requirement for purposes of receiving a grant under this part.

''(e) MODIFICATION OF APPLICATION.—An application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State determines necessary. This section shall apply to a modification of an application to the same extent and in the same manner as this section applies to the original application.

''(f) MODIFICATIONS REQUIRED BY THE SECRETARY.—The Secretary may require a State to modify its application under this section, but only to the extent necessary to ensure the State's compliance with this part, if—

''(1) an amendment is made to this Act, or a Federal regulation issued under this Act;

''(2) a new interpretation of this Act is made by a Federal court or the State's highest court; or

''(3) an official finding of noncompliance with Federal law or regulations is made with respect to the State.

''SEC. 638. USES OF FUNDS.

''In addition to using funds provided under section 633 to maintain and implement the statewide system required by such section, a State may use such funds—

''(1) for direct early intervention services for infants and toddlers with disabilities, and their families, under this part that are not otherwise funded through other public or private sources;

''(2) to expand and improve on services for infants and toddlers and their families under this part that are otherwise available;

''(3) to provide a free appropriate public education, in accordance with part B, to children with disabilities from their third birthday to the beginning of the following school year;

''(4) with the written consent of the parents, to continue to provide early intervention services under this part to children with disabilities from their 3rd birthday to the beginning of the following school year, in lieu of a free appropriate public education provided in accordance with part B; and

''(5) in any State that does not provide services for at-risk infants and toddlers under section 637(a)(4), to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public or private community-based organizations, services, and personnel for the purposes of—

''(A) identifying and evaluating at-risk infants and toddlers;

''(B) making referrals of the infants and toddlers identified and evaluated under subparagraph (A); and

''(C) conducting periodic follow-up on each such referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this part.

''SEC. 639. PROCEDURAL SAFEGUARDS.

''(a) MINIMUM PROCEDURES.—The procedural safeguards required to be included in a statewide system under section 635(a)(13) shall provide, at a minimum, the following:

''(1) The timely administrative resolution of complaints by parents. Any party aggrieved by the findings and decision regarding an administrative complaint shall have the right to bring a civil action with respect to the complaint in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

''(2) The right to confidentiality of personally identifiable information, including the right of parents to written notice of and written consent to the exchange of such information among agencies consistent with Federal and State law.

''(3) The right of the parents to determine whether they, their infant or toddler, or other family members will accept or decline any early intervention service under this part in accordance with State law without jeopardizing other early intervention services under this part.

''(4) The opportunity for parents to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the individualized family service plan.

''(5) Procedures to protect the rights of the infant or toddler whenever the parents of the infant or toddler are not known or cannot be found or the infant or toddler is a ward of the State, including the assignment of an individual (who shall not be an employee of the State lead agency, or other State agency, and who shall not be any person, or any employee of a person, providing early intervention services to the infant or toddler or any family member of the infant or toddler) to act as a surrogate for the parents.

''(6) Written prior notice to the parents of the infant or toddler with a disability whenever the State agency or service provider proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or placement of the infant or toddler with a disability, or the provision of appropriate early intervention services to the infant or toddler.

''(7) Procedures designed to ensure that the notice required by paragraph (6) fully informs the parents, in the parents' native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section.

''(8) The right of parents to use mediation in accordance with section 615, except that—

''(A) any reference in the section to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 635(a)(10);

''(B) any reference in the section to a local educational agency shall be considered to be a reference to a local service provider or the State's lead agency under this part, as the case may be; and

''(C) any reference in the section to the provision of free appropriate public education to children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

''(b) SERVICES DURING PENDENCY OF PROCEEDINGS.—During the pendency of any proceeding or action involving a complaint by the parents of an infant or toddler with a disability, unless the State agency and the parents otherwise agree, the infant or toddler shall continue to receive the appropriate early intervention services currently being provided or, if applying for initial services, shall receive the services not in dispute.

''SEC. 640. PAYOR OF LAST RESORT.

''(a) NONSUBSTITUTION.—Funds provided under section 643 may not be used to satisfy a financial commitment for services that would have been paid for from another public or private source, including any medical program administered by the Secretary of Defense, but for the enactment of this part, except that whenever considered necessary to prevent a delay in the receipt of appropriate early intervention services by an infant, toddler, or family in a timely fashion, funds provided under section 643 may be used to pay the provider of services pending reimbursement from the agency that has ultimate responsibility for the payment.

''(b) OBLIGATIONS RELATED TO AND METHODS OF ENSURING SERVICES.—

''(1) ESTABLISHING FINANCIAL RESPONSIBILITY FOR SERVICES.—

''(A) IN GENERAL.—The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency and the State educational agency, in order to ensure—

''(i) the provision of, and financial responsibility for, services provided under this part; and

''(ii) such services are consistent with the requirements of section 635 and the State's application pursuant to section 637, including the provision of such services during the pendency of any dispute.

''(B) CONSISTENCY BETWEEN AGREEMENTS OR MECHANISMS UNDER PARTS B AND D.—The Chief Executive Officer of a State or designee of the officer shall ensure that the terms and conditions of such agreement or mechanism are consistent with the terms and conditions of the State's agreement or mechanism under section 612(a)(12).

''(2) REIMBURSEMENT FOR SERVICES BY PUBLIC AGENCY.—

''(A) IN GENERAL.—If a public agency other than an educational agency fails to provide or pay for the services pursuant to an agreement required under paragraph (1) the local educational agency or State agency (as determined by the Chief Executive Officer or designee) shall provide or pay for the provision of such services to the child.

''(B) REIMBURSEMENT.—Such local educational agency or State agency is authorized to claim reimbursement for the services from the public agency that failed to provide or pay for such services and such public agency shall reimburse the local educational agency or State agency pursuant to the terms of the interagency agreement or other mechanism required under paragraph (1).

''(3) SPECIAL RULE.—The requirements of paragraph (1) may be met through—

''(A) State statute or regulation;

''(B) signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or

''(C) other appropriate written methods as determined by the Chief Executive Officer of the State or designee of the officer and approved by the Secretary through the review and approval of the State's application pursuant to section 637.

''(c) REDUCTION OF OTHER BENEFITS.—Nothing in this part shall be construed to permit the

State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act (relating to maternal and child health) or title XIX of the Social Security Act (relating to Medicaid for infants or toddlers with disabilities) within the State.

"SEC. 641. STATE INTERAGENCY COORDINATING COUNCIL.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—A State that desires to receive financial assistance under this part shall establish a State interagency coordinating council.

''(2) APPOINTMENT.—The council shall be appointed by the Governor. In making appointments to the council, the Governor shall ensure that the membership of the council reasonably represents the population of the State.

''(3) CHAIRPERSON.—The Governor shall designate a member of the council to serve as the chairperson of the council, or shall require the council to so designate such a member. Any member of the council who is a representative of the lead agency designated under section 635(a)(10) may not serve as the chairperson of the council.

''(b) COMPOSITION.—

''(1) IN GENERAL.—The council shall be composed as follows:

''(A) PARENTS.—At least 20 percent of the members shall be parents of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least 1 such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger, not less than one other member shall be a foster parent of a child with a disability, not less than one other member shall be a grandparent or other relative acting in the place of a natural or adoptive parent of a child with a disability, and not less than 1 other member shall be a representative of children with disabilities in military families.

''(B) SERVICE PROVIDERS.—At least 20 percent of the members shall be public or private providers of early intervention services.

''(C) STATE LEGISLATURE.—At least 1 member shall be from the State legislature.

''(D) PERSONNEL PREPARATION.—At least 1 member shall be involved in personnel preparation.

''(E) AGENCY FOR EARLY INTERVENTION SERVICES.—At least 1 member shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies.

''(F) AGENCY FOR PRESCHOOL SERVICES.—At least 1 member shall be from the State educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency.

''(G) STATE MEDICAID AGENCY.—At least 1 member shall be from the agency responsible for the State medicaid program.

''(H) HEAD START AGENCY.—At least 1 representative from a Head Start agency or program in the State.

''(I) CHILD CARE AGENCY.—At least 1 representative from a State agency responsible for child care.

''(J) AGENCY FOR HEALTH INSURANCE.—At least 1 member shall be from the agency responsible for the State regulation of health insurance.

''(K) OFFICE OF THE COORDINATOR OF EDUCATION OF HOMELESS CHILDREN AND YOUTH.—Not less than 1 representative designated by the Office of Coordinator for Education of Homeless Children and Youths.

''(L) STATE CHILD WELFARE AGENCY.—Not less than 1 representative from the State child welfare agency responsible for foster care.

''(M) REPRESENTATIVE OF FOSTER CHILDREN.—Not less than 1 individual who represents the interests of children in foster care and understands such children's education needs, such as an attorney for children in foster care, a guardian ad litem, a court appointed special advocate, a judge, or an education surrogate for children in foster care.

''(2) OTHER MEMBERS.—The council may include other members selected by the Governor, including a representative from the Bureau of Indian Affairs, or where there is no BIA-operated or BIA-funded school, from the Indian Health Service or the tribe or tribal council.

''(c) MEETINGS.—The council shall meet at least quarterly and in such places as the council determines necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

''(d) MANAGEMENT AUTHORITY.—Subject to the approval of the Governor, the council may prepare and approve a budget using funds under this part to conduct hearings and forums, to reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties (including child care for parent representatives), to pay compensation to a member of the council if the member is not employed or must forfeit wages from other employment when performing official council business, to hire staff, and to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this part.

''(e) FUNCTIONS OF COUNCIL.—

''(1) DUTIES.—The council shall—

''(A) advise and assist the lead agency designated or established under section 635(a)(10) in the performance of the responsibilities set forth in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements;

''(B) advise and assist the lead agency in the preparation of applications and amendments thereto;

''(C) advise and assist the State educational agency regarding the transition of toddlers with disabilities to preschool and other appropriate services; and

''(D) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

''(2) AUTHORIZED ACTIVITY.—The council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children from birth through age 5. The council may advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.

''(f) CONFLICT OF INTEREST.—No member of the council shall cast a vote on any matter that is likely to provide a direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

"SEC. 642. FEDERAL ADMINISTRATION.

''Sections 616, 617, and 618 shall, to the extent not inconsistent with this part, apply to the program authorized by this part, except that—

''(1) any reference in such sections to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 635(a)(10);

''(2) any reference in such sections to a local educational agency, educational service agency, or a State agency shall be considered to be a reference to an early intervention service provider under this part; and

''(3) any reference to the education of children with disabilities or the education of all children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

"SEC. 643. ALLOCATION OF FUNDS.

''(a) RESERVATION OF FUNDS FOR OUTLYING AREAS.—

''(1) IN GENERAL.—From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve not more than 1 percent for payments to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs.

''(2) CONSOLIDATION OF FUNDS.—The provisions of Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds those areas receive under this part.

''(b) PAYMENTS TO INDIANS.—

''(1) IN GENERAL.—The Secretary shall, subject to this subsection, make payments to the Secretary of the Interior to be distributed to tribes, tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act), or consortia of the above entities for the coordination of assistance in the provision of early intervention services by the States to infants and toddlers with disabilities and their families on reservations served by elementary schools and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this part for such fiscal year.

''(2) ALLOCATION.—For each fiscal year, the Secretary of the Interior shall distribute the entire payment received under paragraph (1) by providing to each tribe, tribal organization, or consortium an amount based on the number of infants and toddlers residing on the reservation, as determined annually, divided by the total of such children served by all tribes, tribal organizations, or consortia.

''(3) INFORMATION.—To receive a payment under this subsection, the tribe, tribal organization, or consortium shall submit such information to the Secretary of the Interior as is needed to determine the amounts to be distributed under paragraph (2).

''(4) USE OF FUNDS.—The funds received by a tribe, tribal organization, or consortium shall be used to assist States in child find, screening, and other procedures for the early identification of Indian children under 3 years of age and for parent training. Such funds may also be used to provide early intervention services in accordance with this part. Such activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe, tribal organization, or consortium is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

''(5) REPORTS.—To be eligible to receive a grant under paragraph (2), a tribe, tribal organization, or consortium shall make a biennial report to the Secretary of the Interior of activities undertaken under this subsection, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the 2 years following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis to the Secretary of Education along with such other information as required under section 611(h)(3)(E). The Secretary of Education may require any additional information from the Secretary of the Interior.

''(6) PROHIBITED USES OF FUNDS.—None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.

''(c) STATE ALLOTMENTS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), from the funds remaining for each fiscal year after the reservation and payments under subsections (a), (b), and (e), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States.

''(2) MINIMUM ALLOTMENTS.—Except as provided in paragraph (3), no State shall receive an amount under this section for any fiscal year that is less than the greater of—

''(A) ½ of 1 percent of the remaining amount described in paragraph (1); or

''(B) $500,000.

''(3) RATABLE REDUCTION.—

''(A) IN GENERAL.—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under this subsection for such year, the Secretary shall ratably reduce the allotments to such States for such year.

''(B) ADDITIONAL FUNDS.—If additional funds become available for making payments under this subsection for a fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis the allotments were reduced.

''(4) DEFINITIONS.—For the purpose of this subsection—

''(A) the terms 'infants' and 'toddlers' mean children under 3 years of age; and

''(B) the term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(d) REALLOTMENT OF FUNDS.—If a State elects not to receive its allotment under subsection (c), the Secretary shall reallot, among the remaining States, amounts from such State in accordance with such subsection.

''(e) RESERVATION FOR STATE BONUS GRANTS.—The Secretary shall reserve 10 percent of the amount by which the amount appropriated under section 644 for any fiscal year exceeds $434,159,000 to make allotments to States that are carrying out the policy described in section 635(b), in accordance with the formula described in subsection (c)(1) without regard to subsections (c) (2) and (3).

"SEC. 644. AUTHORIZATION OF APPROPRIATIONS.

''For the purpose of carrying out this part, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2009.

"PART D—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES

"SEC. 650. FINDINGS.

''Congress finds the following:

''(1) The Federal Government has an ongoing obligation to support activities that contribute to positive results for children with disabilities, enabling them to lead productive and independent adult lives.

''(2) Systemic change benefiting all students, including children with disabilities, requires the involvement of States, local educational agencies, parents, individuals with disabilities and their families, teachers and other service providers, and other interested individuals and organizations to develop and implement comprehensive strategies that improve educational results for children with disabilities.

''(3) State educational agencies, in partnership with local educational agencies, parents of children with disabilities, and other individuals and organizations, are in the best position to improve education for children with disabilities and to address their special needs.

''(4) An effective educational system serving students with disabilities should—

''(A) maintain high academic achievement standards and clear performance goals for children with disabilities, consistent with the standards and expectations for all students in the educational system, and provide for appropriate and effective strategies and methods to ensure that all children with disabilities have the opportunity to achieve those standards and goals;

''(B) clearly define, in objective, measurable terms, the school and post-school results that children with disabilities are expected to achieve; and

''(C) promote transition services and coordinate State and local education, social, health, mental health, and other services, in addressing the full range of student needs, particularly the needs of children with disabilities who need significant levels of support to participate and learn in school and the community.

''(5) The availability of an adequate number of qualified personnel is critical to serve effectively children with disabilities, to assume leadership positions in administration and direct services, to provide teacher training, and to conduct high quality research to improve special education.

''(6) High quality, comprehensive professional development programs are essential to ensure that the persons responsible for the education or transition of children with disabilities possess the skills and knowledge necessary to address the educational and related needs of those children.

''(7) Models of professional development should be scientifically based and reflect successful practices, including strategies for recruiting, preparing, and retaining personnel.

''(8) Continued support is essential for the development and maintenance of a coordinated and high quality program of research to inform successful teaching practices and model curricula for educating children with disabilities.

''(9) A comprehensive research agenda should be established and pursued to promote the highest quality and rigor in special education research, and to address the full range of issues facing children with disabilities, parents of children with disabilities, school personnel, and others.

''(10) Training, technical assistance, support, and dissemination activities are necessary to ensure that parts B and C are fully implemented and achieve high quality early intervention, educational, and transitional results for children with disabilities and their families.

''(11) Parents, teachers, administrators, and related services personnel need technical assistance and information in a timely, coordinated, and accessible manner in order to improve early intervention, educational, and transitional services and results at the State and local levels for children with disabilities and their families.

''(12) Parent training and information activities assist parents of a child with a disability in dealing with the multiple pressures of parenting such a child and are of particular importance in—

''(A) playing a vital role in creating and preserving constructive relationships between parents of children with disabilities and schools by facilitating open communication between the parents and schools; encouraging dispute resolution at the earliest possible point in time; and discouraging the escalation of an adversarial process between the parents and schools;

''(B) ensuring the involvement of parents in planning and decisionmaking with respect to early intervention, educational, and transitional services;

''(C) achieving high quality early intervention, educational, and transitional results for children with disabilities;

''(D) providing such parents information on their rights, protections, and responsibilities under this Act to ensure improved early intervention, educational, and transitional results for children with disabilities;

''(E) assisting such parents in the development of skills to participate effectively in the education and development of their children and in the transitions described in section 673(b)(6);

''(F) supporting the roles of such parents as participants within partnerships seeking to improve early intervention, educational, and transitional services and results for children with disabilities and their families; and

''(G) supporting such parents who may have limited access to services and supports, due to economic, cultural, or linguistic barriers.

''(13) Support is needed to improve technological resources and integrate technology, including universally designed technologies, into the lives of children with disabilities, parents of children with disabilities, school personnel, and others through curricula, services, and assistive technologies.

"Subpart 1—State Personnel Preparation and Professional Development Grants

"SEC. 651. PURPOSE; DEFINITION; PROGRAM AUTHORITY.

''(a) PURPOSE.—The purpose of this subpart is to assist State educational agencies in reforming and improving their systems for personnel preparation and professional development in early intervention, educational, and transition services in order to improve results for children with disabilities.

''(b) DEFINITION.—In this subpart, the term 'personnel' means special education teachers, regular education teachers, principals, administrators, related services personnel, paraprofessionals, and early intervention personnel serving infants, toddlers, preschoolers, or children with disabilities, except where a particular category of personnel, such as related services personnel, is identified.

''(c) COMPETITIVE GRANTS.—

''(1) IN GENERAL.—Except as provided in subsection (d), for any fiscal year for which the amount appropriated under section 655, that remains after the Secretary reserves funds under subsection (e) for the fiscal year, is less than $100,000,000, the Secretary shall award grants, on a competitive basis, to State educational agencies to carry out the activities described in the State plan submitted under section 653.

''(2) PRIORITY.—In awarding grants under paragraph (1), the Secretary may give priority to State educational agencies that—

''(A) are in States with the greatest personnel shortages; or

''(B) demonstrate the greatest difficulty meeting the requirements of section 612(a)(14).

''(3) MINIMUM.—The Secretary shall make a grant to each State educational agency selected under paragraph (1) in an amount for each fiscal year that is—

''(A) not less than $500,000, nor more than $4,000,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

''(B) not less than $80,000 in the case of an outlying area.

''(4) INCREASES.—The Secretary may increase the amounts under in paragraph (3) to account for inflation.

''(5) FACTORS.—The Secretary shall set the amount of each grant under paragraph (1) after considering—

''(A) the amount of funds available for making the grants;

''(B) the relative population of the State or outlying area;

''(C) the types of activities proposed by the State or outlying area;

''(D) the alignment of proposed activities with section 612(a)(14);

''(E) the alignment of proposed activities with the State plans and applications submitted under sections 1111 and 2112, respectively, of the Elementary and Secondary Education Act of 1965; and

''(F) the use, as appropriate, of scientifically based activities.

''(d) FORMULA GRANTS.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), for the first fiscal year for which the amount appropriated under section 655, that remains after the Secretary reserves funds under subsection (e) for the fiscal year, is equal to or greater than $100,000,000, and for each fiscal year thereafter, the Secretary shall allot to each State educational agency, whose application meets the requirements of this subpart, an amount that bears the same relation to the amount appropriated as the amount the State received under section 611(d) for that fiscal year bears to the amount of funds received by all States (whose applications meet the requirements of this subpart) under section 611(d) for that fiscal year.

''(2) MINIMUM ALLOTMENTS FOR STATES THAT RECEIVED COMPETITIVE GRANTS.—

''(A) IN GENERAL.—The amount allotted under this subsection to any State that received a competitive multi-year grant under subsection (c) for which the grant period has not expired shall be at least the amount specified for that fiscal year in the State's grant award document under that subsection.

''(B) SPECIAL RULE.—Each such State shall use the minimum amount described in subparagraph (A) for the activities described in its competitive grant award document for that year, unless the Secretary approves a request from the State to spend the funds on other activities.

''(3) MINIMUM ALLOTMENT.—The amount of any State educational agency's allotment under this subsection for any fiscal year shall not be less than—

''(A) the greater of $500,000 or ½ of 1 percent of the total amount available under this subsection for that year, in the case of each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

''(B) $80,000, in the case of an outlying area.

''(e) CONTINUATION AWARDS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this subpart, from funds appropriated under section 655 for each fiscal year, the Secretary shall reserve the amount that is necessary to make a continuation award to any State (at the request of the State) that received a multi-year award under this part (as this part was in effect on the day before the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004), to enable the State to carry out activities in accordance with the terms of the multi-year award.

''(2) PROHIBITION.—A State that receives a continuation award under paragraph (1) for any fiscal year may not receive any other award under this subpart for that fiscal year.

"SEC. 652. ELIGIBILITY AND COLLABORATIVE PROCESS.

''(a) ELIGIBLE APPLICANTS.—A State educational agency may apply for a grant under this subpart for a grant period of not less than 1 year and not more than 5 years.

''(b) PARTNERS.—

''(1) IN GENERAL.—In order to be considered for a grant under this subpart, a State educational agency shall establish a partnership with local educational agencies and other State agencies involved in, or concerned with, the education of children with disabilities, including institutions of higher education and the State agencies responsible for administering part C, child care, and vocational rehabilitation programs.

''(2) OTHER PARTNERS.—In order to be considered for a grant under this subpart, a State educational agency shall work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, which may include—

''(A) the Governor;

''(B) parents of children with disabilities ages birth through 26;

''(C) parents of nondisabled children ages birth through 26;

''(D) individuals with disabilities;

''(E) parent training and information centers or community parent resource centers funded under sections 671 and 672, respectively;

''(F) community based and other nonprofit organizations involved in the education and employment of individuals with disabilities;

''(G) personnel as defined in section 651(b);

''(H) the State advisory panel established under part B;

''(I) the State interagency coordinating council established under part C;

''(J) individuals knowledgeable about vocational education;

''(K) the State agency for higher education;

''(L) public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice;

''(M) other providers of professional development that work with infants, toddlers, preschoolers, and children with disabilities; and

''(N) other individuals.

''(3) REQUIRED PARTNER.—If State law assigns responsibility for teacher preparation and certification to an individual, entity, or agency other than the State educational agency, the State educational agency shall—

''(A) include that individual, entity, or agency as a partner in the partnership under this subsection; and

''(B) ensure that any activities the State will carry out under this subpart that are within that partner's jurisdiction (which may include activities described in section 654(b)) are carried out by that partner.

"SEC. 653. APPLICATIONS.

''(a) IN GENERAL.—

''(1) SUBMISSION.—A State educational agency that desires to receive a grant under this subpart shall submit to the Secretary an application at such time, in such manner, and including such information as the Secretary may require.

''(2) STATE PLAN.—The application shall include a plan that identifies and addresses the State and local needs for the personnel preparation and professional development of personnel, as well as individuals who provide direct supplementary aids and services to children with disabilities, and that—

''(A) is designed to enable the State to meet the requirements of section 612(a)(14) and section 635(a) (8) and (9);

''(B) is based on an assessment of State and local needs that identifies critical aspects and areas in need of improvement related to the preparation, ongoing training, and professional development of personnel that serve infants, toddlers, preschoolers, and children with disabilities within the State, including—

''(i) current and anticipated personnel vacancies and shortages; and

''(ii) the number of preservice programs; and

''(C) is integrated and aligned, to the maximum extent possible, with State plans and activities under the Elementary and Secondary Education Act of 1965, the Rehabilitation Act of 1973, and the Higher Education Act of 1965.

''(3) REQUIREMENT.—The State application shall contain an assurance that the State educational agency will carry out each of the strategies described in subsection (b)(4).

''(b) ELEMENTS OF STATE PERSONNEL PREPARATION AND PROFESSIONAL DEVELOPMENT PLAN.—Each professional development plan under subsection (a)(2) shall—

''(1) describe a partnership agreement that is in effect for the period of the grant, which agreement shall specify—

''(A) the nature and extent of the partnership described in section 652(b) and the respective roles of each member of the partnership, including the partner described in section 652(b)(3) if applicable; and

''(B) how the State will work with other persons and organizations involved in, and concerned with, the education of children with disabilities, including the respective roles of each of the persons and organizations;

''(2) describe how the strategies and activities described in paragraph (4) will be coordinated with other public resources (including part B and part C funds retained for use at the State level for personnel and professional development purposes) and private resources;

''(3) describe how the State will align its professional development plan under this subpart with the plan and application submitted under sections 1111 and 2112, respectively, of the Elementary and Secondary Education Act of 1965;

''(4) describe what strategies the State will use to address the professional development and personnel needs identified under subsection (a)(2) and how those strategies will be implemented, including—

''(A) a description of the preservice and in-service programs and activities to be supported under this subpart that will provide personnel with the knowledge and skills to meet the needs of, and improve the performance and achievement of, infants, toddlers, preschoolers, and children with disabilities; and

''(B) how such strategies shall be integrated, to the maximum extent possible, with other activities supported by grants funded under this part, including those under section 664;

''(5) provide an assurance that the State will provide technical assistance to local educational agencies to improve the quality of professional development available to meet the needs of personnel who serve children with disabilities;

''(6) provide an assurance that the State will provide technical assistance to entities that provide services to infants and toddlers with disabilities to improve the quality of professional development available to meet the needs of personnel serving such children;

''(7) describe how the State will recruit and retain highly qualified teachers and other qualified personnel in geographic areas of greatest need;

''(8) describe the steps the State will take to ensure that poor and minority children are not taught at higher rates by teachers who are not highly qualified; and

''(9) describe how the State will assess, on a regular basis, the extent to which the strategies implemented under this subpart have been effective in meeting the performance goals described in section 612(a)(15).

''(c) PEER REVIEW.—

''(1) IN GENERAL.—The Secretary shall use a panel of experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications for grants under section 651(c)(1).

''(2) COMPOSITION OF PANEL.—A majority of a panel described in paragraph (1) shall be composed of individuals who are not employees of the Federal Government.

''(3) PAYMENT OF FEES AND EXPENSES OF CERTAIN MEMBERS.—The Secretary may use available funds appropriated to carry out this subpart to pay the expenses and fees of panel members who are not employees of the Federal Government.

''(d) REPORTING PROCEDURES.—Each State educational agency that receives a grant under this subpart shall submit annual performance reports to the Secretary. The reports shall describe the progress of the State in implementing its plan and analyze the effectiveness of the State's activities under this subpart.

"SEC. 654. USE OF FUNDS.

''(a) PROFESSIONAL DEVELOPMENT ACTIVITIES.—A State educational agency that receives a grant under this subpart shall use the grant funds to support activities in accordance with the State's plan described in section 653, including 1 or more of the following:

''(1) Carrying out programs that provide support to both special education and regular education teachers of children with disabilities and principals, such as programs that—

''(A) provide teacher mentoring, team teaching, reduced class schedules and case loads, and intensive professional development;

''(B) use standards or assessments for guiding beginning teachers that are consistent with challenging State student academic achievement and functional standards and with the requirements for professional development as defined in section 9101(34) of the Elementary and Secondary Education Act of 1965; and

''(C) encourage collaborative and consultative models of providing early intervention, special education, and related services.

''(2) Encouraging and supporting the training of special education and regular education teachers and administrators to effectively use and integrate technology—

''(A) into curricula and instruction, including training to improve the ability to collect, manage, and analyze data to improve teaching, decisionmaking, school improvement efforts, and accountability;

''(B) to enhance learning by children with disabilities; and

''(C) to effectively communicate with parents.

''(3) Providing professional development activities that—

''(A) improve the knowledge of special education and regular education teachers concerning—

''(i) the academic and developmental or functional needs of students with disabilities; or

''(ii) effective instructional strategies, methods, and skills, and the use of State academic content standards and student academic achievement and functional standards, and State assessments, to improve teaching practices and student academic achievement;

''(B) improve the knowledge of special education and regular education teachers and principals and, in appropriate cases, paraprofessionals, concerning effective instructional practices and that—

''(i) provide training in how to teach and address the needs of children with different learning styles and children with limited English proficiency;

''(ii) involve collaborative groups of teachers, administrators, and, in appropriate cases, related services personnel;

''(iii) provide training in methods of—

''(I) positive behavioral interventions and supports to improve student behavior in the classroom;

''(II) scientifically based reading instruction, including early literacy instruction;

''(III) early and appropriate interventions to identify and help children with disabilities;

''(IV) effective instruction for children with low incidence disabilities;

''(V) successful transitioning to postsecondary opportunities; and

''(VI) using classroom-based techniques to assist children prior to referral for special education;

''(iv) provide training to enable personnel to work with and involve parents in their child's education, including parents of low income and limited English proficient children with disabilities;

''(v) provide training for special education personnel and regular education personnel in planning, developing, and implementing effective and appropriate IEPs; and

''(vi) provide training to meet the needs of students with significant health, mobility, or behavioral needs prior to serving such students;

''(C) train administrators, principals, and other relevant school personnel in conducting effective IEP meetings; and

''(D) Train early intervention, preschool, and related services providers, and other relevant school personnel, in conducting effective individualized family service plan (IFSP) meetings.

''(4) Developing and implementing initiatives to promote the recruitment and retention of highly qualified special education teachers, particularly initiatives that have been proven effective in recruitment and retaining highly qualified teachers, including programs that provide—

''(A) teacher mentoring from exemplary special education teachers, principals, or superintendents;

''(B) induction and support for special education teachers during their first 3 years of employment as teachers; or

''(C) incentives, including financial incentives, to retain special education teachers who have a record of success in helping students with disabilities.

''(5) Carrying out programs and activities that are designed to improve the quality of personnel who serve children with disabilities, such as—

''(A) innovative professional development programs (which may be provided through partnerships that include institutions of higher education), including programs that train teachers and principals to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy, which professional development shall be consistent with the definition of professional development in section 9101(34) of the Elementary and Secondary Education Act of 1965; and

''(B) the development and use of proven, cost effective strategies for the implementation of professional development activities, such as through the use of technology and distance learning.

''(6) Carrying out programs and activities that are designed to improve the quality of early intervention personnel, including paraprofessionals and primary referral sources, such as—

''(A) professional development programs to improve the delivery of early intervention services;

''(B) initiatives to promote the recruitment and retention of early intervention personnel; and

''(C) interagency activities to ensure that personnel are adequately prepared and trained.

''(b) OTHER ACTIVITIES.—A State educational agency that receives a grant under this subpart shall use the grant funds to support activities in accordance with the State's plan described in section 653, including 1 or more of the following:

''(1) Reforming special education and regular education teacher certification (including recertification) or licensing requirements to ensure that—

''(A) special education and regular education teachers have—

''(i) the training and information necessary to address the full range of needs of children with disabilities across disability categories; and

''(ii) the necessary subject matter knowledge and teaching skills in the academic subjects that they teach;

''(B) special education and regular education teacher certification (including recertification) or licensing requirements are aligned with challenging State academic content standards; and

''(C) special education and regular education teachers have the subject matter knowledge and teaching skills, including technology literacy, necessary to help students with disabilities meet challenging State student academic achievement and functional standards.

''(2) Programs that establish, expand, or improve alternative routes for State certification of special education teachers for highly qualified individuals with a baccalaureate or master's degree, including mid-career professionals from other occupations, paraprofessionals, and recent college or university graduates with records of academic distinction who demonstrate the potential to become highly effective special education teachers.

''(3) Teacher advancement initiatives for special education teachers that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.

''(4) Developing and implementing mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified special education teachers.

''(5) Reforming tenure systems, implementing teacher testing for subject matter knowledge, and implementing teacher testing for State certification or licensing, consistent with title II of the Higher Education Act of 1965.

''(6) Funding projects to promote reciprocity of teacher certification or licensing between or among States for special education teachers, except that no reciprocity agreement developed under this paragraph or developed using funds provided under this subpart may lead to the weakening of any State teaching certification or licensing requirement.

''(7) Developing or assisting local educational agencies to serve children with disabilities through the development and use of proven, innovative strategies to deliver intensive professional development programs that are both cost effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

''(8) Developing, or assisting local educational agencies in developing, merit based performance systems, and strategies that provide differential and bonus pay for special education teachers.

''(9) Supporting activities that ensure that teachers are able to use challenging State academic content standards and student academic and functional achievement standards, and State assessments for all children with disabilities, to improve instructional practices and improve the academic achievement of children with disabilities.

''(10) When applicable, coordinating with, and expanding centers established under, section 2113(c)(18) of the Elementary and Secondary Education Act of 1965 to benefit special education teachers.

''(c) CONTRACTS AND SUBGRANTS.—Each such State educational agency—

''(1) shall award contracts or subgrants to local educational agencies, institutions of higher education, parent training and information centers, or community parent resource centers, as appropriate, to carry out its State plan under this subpart; and

''(2) may award contracts and subgrants to other public and private entities, including the lead agency under part C, to carry out such plan.

''(d) USE OF FUNDS FOR PROFESSIONAL DEVELOPMENT.—A State educational agency that receives a grant under this subpart shall use—

''(1) not less than 75 percent of the funds the State educational agency receives under the grant for any fiscal year for activities under subsection (a); and

''(2) not more than 25 percent of the funds the State educational agency receives under the grant for any fiscal year for activities under subsection (b).

''(e) GRANTS TO OUTLYING AREAS.—Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds received under this subpart.

"SEC. 655. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this subpart such sums as may be necessary for each of the fiscal years 2004 through 2009.

"Subpart 2—Scientifically Based Research, Technical Assistance, Model Demonstration Projects, and Dissemination of Information

"SEC. 660. PURPOSE.

''The purpose of this subpart is—

''(1) to provide Federal funding for scientifically based research, technical assistance, model demonstration projects, and information dissemination to improve early intervention, educational, and transitional results for children with disabilities; and

''(2) to assist State educational agencies and local educational agencies in improving their education systems.

"SEC. 661. ADMINISTRATIVE PROVISIONS.

''(a) COMPREHENSIVE PLAN.—

''(1) IN GENERAL.—After receiving input from interested individuals with relevant expertise, the Secretary shall develop and implement a comprehensive plan for activities carried out under this subpart (other than activities assisted under section 665 and subpart 3) in order to enhance the provision of early intervention, educational, related and transitional services to

children with disabilities under parts B and C. The plan shall be coordinated with the plan developed pursuant to section 177(c) of the Education Sciences Reform Act of 2002 and shall include mechanisms to address early intervention, educational, related service and transitional needs identified by State educational agencies in applications submitted for State Personnel and Professional Development grants under subpart 1 and for grants under this subpart.

''(2) PUBLIC COMMENT.—The Secretary shall provide a public comment period of at least 60 days on the plan.

''(3) DISTRIBUTION OF FUNDS.—In implementing the plan, the Secretary shall, to the extent appropriate, ensure that funds are awarded to recipients under this subpart, subpart 3, and subpart 4 to carry out activities that benefit, directly or indirectly, children with the full range of disabilities and of all ages.

''(4) REPORTS TO CONGRESS.—The Secretary shall annually report to Congress on the Secretary's activities under this subpart, subpart 3, and subpart 4, including an initial report not later than 12 months after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004.

''(b) ELIGIBLE APPLICANTS.—

''(1) IN GENERAL.—Except as otherwise provided in this subpart, the following entities are eligible to apply for a grant, contract, or cooperative agreement under this subpart:

''(A) A State educational agency.

''(B) A local educational agency.

''(C) A public charter school that is a local educational agency under State law.

''(D) An institution of higher education.

''(E) Any other public agency.

''(F) A private nonprofit organization.

''(G) An outlying area.

''(H) An Indian tribe or a tribal organization (as defined under section 4 of the Indian Self-Determination and Education Assistance Act).

''(I) A for-profit organization.

''(2) SPECIAL RULE.—The Secretary may limit the entities eligible for an award of a grant, contract, or cooperative agreement to 1 or more categories of eligible entities described in paragraph (1).

''(c) SPECIAL POPULATIONS.—

''(1) APPLICATION REQUIREMENT.—In making an award of a grant, contract, or cooperative agreement under this subpart, subpart 3, and subpart 4, the Secretary shall, as appropriate, require an applicant to meet the criteria set forth by the Secretary under this subpart and demonstrate how the applicant will address the needs of children with disabilities from minority backgrounds.

''(2) OUTREACH AND TECHNICAL ASSISTANCE.—Notwithstanding any other provision of this Act, the Secretary shall reserve at least 1 percent of the total amount of funds made available to carry out this subpart, subpart 3, or subpart 4 for 1 or both of the following activities:

''(A) To provide outreach and technical assistance to Historically Black Colleges and Universities, and to institutions of higher education with minority enrollments of at least 25 percent, to promote the participation of such colleges, universities, and institutions in activities under this subpart.

''(B) To enable Historically Black Colleges and Universities, and the institutions described in subparagraph (A), to assist other colleges, universities, institutions, and agencies in improving educational and transitional results for children with disabilities.

''(d) PRIORITIES.—The Secretary, in making an award of a grant, contract, or cooperative agreement under this subpart, subpart 3, or subpart 4, may, without regard to the rulemaking procedures under section 553(a) of title 5, United States Code, limit competitions to, or otherwise give priority to—

''(1) projects that address 1 or more—

''(A) age ranges;

''(B) disabilities;

''(C) school grades;

''(D) types of educational placements or early intervention environments;

''(E) types of services;

''(F) content areas, such as reading; or

''(G) effective strategies for helping children with disabilities learn appropriate behavior in the school and other community based educational settings;

''(2) projects that address the needs of children based on the severity or incidence of their disability;

''(3) projects that address the needs of—

''(A) low achieving students;

''(B) underserved populations;

''(C) children from low income families;

''(D) limited English proficient children;

''(E) unserved and underserved areas;

''(F) rural or urban areas;

''(G) children whose behavior interferes with their learning and socialization;

''(H) children with reading difficulties;

''(I) children in charter schools; or

''(J) children who are gifted and talented;

''(K) children with disabilities served by local educational agencies that receive payments under title VIII of the Elementary and Secondary Education Act of 1965;

''(L) children with disabilities who are homeless children or children with disabilities who are wards of the State;

''(4) projects to reduce inappropriate identification of children as children with disabilities, particularly among minority children;

''(5) projects that are carried out in particular areas of the country, to ensure broad geographic coverage;

''(6) projects that promote the development and use of universally designed technologies, assistive technology devices, and assistive technology services to maximize children with disabilities' access to and participation in the general education curriculum;

''(7) any activity that is authorized in this subpart or subpart 3; and

''(8) projects that provide training in educational advocacy to individuals with responsibility for the needs of wards of the State, including foster parents, grandparents and other relatives acting in the place of a natural or adoptive parent, attorneys for children in foster care, guardians ad litem, court appointed special advocates, judges, education surrogates, and children's caseworkers.

''(e) APPLICANT AND RECIPIENT RESPONSIBILITIES.—

''(1) DEVELOPMENT AND ASSESSMENT OF PROJECTS.—The Secretary shall require that an applicant for, and a recipient of, a grant, contract, or cooperative agreement for a project under this subpart, subpart 3, or subpart 4—

''(A) involve individuals with disabilities or parents of individuals with disabilities ages birth through 26 in planning, implementing, and evaluating the project; and

''(B) where appropriate, determine whether the project has any potential for replication and adoption by other entities.

''(2) ADDITIONAL RESPONSIBILITIES.—The Secretary may require a recipient of a grant, contract, or cooperative agreement under this subpart, subpart 3, or subpart 4 to—

''(A) share in the cost of the project;

''(B) prepare any findings and products from the project in formats that are useful for specific audiences, including parents, administrators, teachers, early intervention personnel, related services personnel, and individuals with disabilities;

''(C) disseminate such findings and products; and

''(D) collaborate with other such recipients in carrying out subparagraphs (B) and (C).

''(f) APPLICATION MANAGEMENT.—

''(1) STANDING PANEL.—

''(A) IN GENERAL.—The Secretary shall establish and use a standing panel of experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this subpart (other than applications for assistance under section 665), subpart 3, and subpart 4 that, individually, request more than $75,000 per year in Federal financial assistance.

''(B) MEMBERSHIP.—The standing panel shall include, at a minimum—

''(i) individuals who are representatives of institutions of higher education that plan, develop, and carry out high quality programs of personnel preparation;

''(ii) individuals who design and carry out scientifically based research targeted to the improvement of special education programs and services;

''(iii) individuals who have recognized experience and knowledge necessary to integrate and apply scientifically based research findings to improve educational and transitional results for children with disabilities;

''(iv) individuals who administer programs at the State or local level in which children with disabilities participate;

''(v) individuals who prepare parents of children with disabilities to participate in making decisions about the education of their children;

''(vi) individuals who establish policies that affect the delivery of services to children with disabilities;

''(vii) parents of children with disabilities ages birth through 26 who are benefiting, or have benefited, from coordinated research, personnel preparation, and technical assistance; and

''(viii) individuals with disabilities.

''(C) TERM.—Unless approved by the Secretary due to extenuating circumstances related to shortages of experts in a particular area of expertise or for a specific competition, no individual shall serve on the standing panel for more than 3 consecutive years.

''(2) PEER REVIEW PANELS FOR PARTICULAR COMPETITIONS.—

''(A) COMPOSITION.—The Secretary shall ensure that each sub panel selected from the standing panel that reviews applications under this subpart (other than section 665), subpart 3, and subpart 4 includes—

''(i) individuals with knowledge and expertise on the issues addressed by the activities authorized by the relevant subpart; and

''(ii) to the extent practicable, parents of children with disabilities ages birth through 26, individuals with disabilities, and persons from diverse backgrounds.

''(B) FEDERAL EMPLOYMENT LIMITATION.—A majority of the individuals on each sub panel that reviews an application under this subpart (other than an application under section 665), subpart 3, and subpart 4 shall be individuals who are not employees of the Federal Government.

''(3) USE OF DISCRETIONARY FUNDS FOR ADMINISTRATIVE PURPOSES.—

''(A) EXPENSES AND FEES OF NON-FEDERAL PANEL MEMBERS.—The Secretary may use funds made available under this subpart, subpart 3, and subpart 4 to pay the expenses and fees of the panel members who are not officers or employees of the Federal Government.

''(B) ADMINISTRATIVE SUPPORT.—The Secretary may use not more than 1 percent of the funds made available to carry out this subpart, subpart 3, or subpart 4 to pay non-Federal entities for administrative support related to management of applications submitted under this subpart.

''(4) AVAILABILITY OF CERTAIN PRODUCTS.—The Secretary shall ensure that recipients of grants, cooperative agreements, or contracts under this subpart, subpart 3, and subpart 4 make available in formats that are accessible to individuals with disabilities any products developed under such grants, cooperative agreements, or contracts that the recipient is making available to the public.

''(g) PROGRAM EVALUATION.—The Secretary may use funds made available to carry out this subpart, subpart 3, and subpart 4 to evaluate activities carried out under this subpart.

''(h) MINIMUM FUNDING REQUIRED.—

''(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall ensure that, for each fiscal year, at least the following amounts are provided under this subpart and subpart 3 to address the following needs:

''(A) $12,832,000 to address the educational, related services, transitional, and early intervention needs of children with deaf-blindness.

''(B) $4,000,000 to address the postsecondary, vocational, technical, continuing, and adult education needs of individuals with deafness.

''(C) $4,000,000 to address the educational, related services, and transitional needs of children with an emotional disturbance and those who are at risk of developing an emotional disturbance.

''(2) RATABLE REDUCTION.—If the total amount appropriated to carry out this subpart, subpart 3, and part E of the Education Sciences Reform Act of 2002 for any fiscal year is less than $130,000,000, the amounts listed in paragraph (1) shall be ratably reduced.

''(i) ELIGIBILITY FOR FINANCIAL ASSISTANCE.—No State or local educational agency, or other public institution or agency, may receive a grant or enter into a contract or cooperative agreement under this subpart that relates exclusively to programs, projects, and activities pertaining to children aged 3 through 5, inclusive, unless the State is eligible to receive a grant under section 619(b).

''SEC. 662. RESEARCH COORDINATION TO IMPROVE RESULTS FOR CHILDREN WITH DISABILITIES.

''The Secretary shall coordinate research carried out under this subpart with research carried out under part E of the Education Sciences Reform Act of 2002.

''SEC. 663. TECHNICAL ASSISTANCE, DEMONSTRATION PROJECTS, DISSEMINATION OF INFORMATION, AND IMPLEMENTATION OF SCIENTIFICALLY BASED RESEARCH.

''(a) IN GENERAL.—From amounts made available under section 675, the Secretary, on a competitive basis, shall award grants to, or enter into contracts or cooperative agreements with, eligible entities to provide technical assistance, carry out model demonstration projects, disseminate useful information, and implement activities that are supported by scientifically based research.

''(b) REQUIRED ACTIVITIES.—The Secretary shall support activities to improve services provided under this Act, including the practices of professionals and others involved in providing such services to children with disabilities, that promote academic achievement and functional performance to improve educational results and functional outcomes for children with disabilities through—

''(1) implementing effective strategies that are conducive to learning and for addressing inappropriate behavior of students with disabilities in schools, including strategies to prevent children with emotional and behavioral problems from developing emotional disturbances that require the provision of special education and related services;

''(2) improving the alignment, compatibility, and development of valid and reliable assessment methods, including alternate assessment methods and evaluation methods, for assessing adequately yearly progress as described in section 1111(b)(2) of the Elementary and Secondary Education Act of 1965;

''(3) providing information to both regular education teachers and special education teachers to address the different learning styles and disabilities of students;

''(4) disseminating information on innovative, effective, and efficient curricula, materials (including those that are universally designed), instructional approaches, and strategies that—

''(A) support effective transitions between educational settings or from school to post-school settings;

''(B) support effective inclusion of students with disabilities in general education settings, especially students with low-incidence disabilities; and

''(C) improve educational and transitional results at all levels of the educational system in which the activities are carried out and, in particular, that improve the progress of children with disabilities, as measured by assessments within the general education curriculum involved; and

''(5) demonstrating and applying scientifically-based findings to facilitate systematic changes related to the provision of services to children with disabilities.

''(c) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this section include activities to improve services provided under this Act, including the practices of professionals and others involved in providing such services to children with disabilities, that promote increased academic achievement and enhanced functional outcomes for children with disabilities through—

''(1) supporting and promoting the coordination of early intervention, education, and transitional services for children with disabilities with services provided by health, rehabilitation, and social service agencies;

''(2) promoting improved alignment and compatibility of general and special education reforms concerned with curriculum and instructional reform, and evaluating of such reforms;

''(3) enabling professionals, parents of children with disabilities, and other persons, to learn about, and implement, the findings of scientifically based research and effective practices relating to the provision of services to children with disabilities;

''(4) disseminating information relating to successful approaches to overcoming systemic barriers to the effective and efficient delivery of early intervention, educational, and transitional services, to personnel who provide services to children with disabilities;

''(5) assisting States and local educational agencies with the process of planning systemic changes that will promote improved early intervention, educational, and transitional results for children with disabilities;

''(6) promoting change through a multi-State or regional framework that benefits States, local educational agencies, and other participants in partnerships that are in the process of achieving systemic change;

''(7) focusing on the needs and issues that are specific to a population of children with disabilities, such as providing single-State and multi-State technical assistance and in-service training—

''(A) to schools and agencies serving deaf-blind children and their families;

''(B) to programs and agencies serving other groups of children with low-incidence disabilities and their families;

''(C) to address the postsecondary education needs of individuals who are deaf or hard-of-hearing; and

''(D) to schools and personnel providing special education and related services for children with autism spectrum disorders;

''(8) demonstrating models of personnel preparation to ensure appropriate placements and services for all students with disabilities and to reduce disproportionality in eligibility, placement, and disciplinary actions for minority and limited English proficient children: and

''(9) disseminating information on how to reduce racial and ethnic disproportionalities.

''(d) BALANCE AMONG DISABILITIES AND AGE RANGES.—In carrying out this section, the Secretary shall ensure that there is an appropriate balance across all age ranges and disabilities.

''(e) LINKING STATES TO INFORMATION SOURCES.—In carrying out this section, the Secretary may support projects that link States to technical assistance resources, including special education and general education resources, and may make research and related products available through libraries, electronic networks, parent training projects, and other information sources.

''(f) APPLICATIONS.—

''(1) IN GENERAL.—An eligible entity that desires to receive a grant, or to enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(2) CONTENTS.—The Secretary may, as appropriate, require eligible entities to demonstrate that the projects described in their applications are supported by scientifically based research that has been carried out in conjunction with the standards for the conduct and evaluation of all research and development established by the National Center for Education Research under sections 133 and 134 of the Education Sciences Reform Act of 2002.

''(3) PRIORITY.—As appropriate, the Secretary shall give priority to applications that propose to serve teachers and school personnel directly in the school environment or that strengthen State and local agency capacity to improve instructional practices of personnel to improve educational results for children with disabilities in the school environment.

''SEC. 664. PERSONNEL DEVELOPMENT TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES.

''(a) IN GENERAL.—The Secretary, on a competitive basis, shall award grants to, or enter into contracts or cooperative agreements with, eligible entities for 1 or more of the following:

''(1) To help address the needs identified in the State plan described in section 653(a)(2) for highly qualified personnel, as defined in section 651(b), to work with infants, toddlers, or children with disabilities, consistent with the standards described in section 612(a)(14).

''(2) To ensure that those personnel have the necessary skills and knowledge, derived from practices that have been determined, through scientifically based research, to be successful in serving those children.

''(3) To encourage increased focus on academics and core content areas in special education personnel preparation programs.

''(4) To ensure that regular education teachers have the necessary skills and knowledge to provide instruction to students with disabilities in the regular education classroom.

''(5) To ensure that all special education teachers are highly qualified.

''(6) To ensure that preservice and in-service personnel preparation programs include training in—

''(A) the use of new technologies;

''(B) the area of early intervention, educational, and transition services;

''(C) effectively involving parents; and

''(D) positive behavioral supports.

''(7) To provide high-quality professional development for principals, superintendents, and other administrators, including training in—

''(A) instructional leadership;

''(B) behavioral supports in the school and classroom;

''(C) paperwork reduction;

''(D) promoting improved collaboration between special education and general education teachers;

''(E) assessment and accountability;

''(F) ensuring effective learning environments; and

''(G) fostering positive relationships with parents.

''(b) PERSONNEL DEVELOPMENT; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities to prepare personnel, including activities for the preparation of personnel who will serve children with high-incidence and low-incidence disabilities, consistent with the objectives described in subsection (a).

''(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include the following:

''(A) Supporting collaborative personnel preparation activities undertaken by institutions of higher education, local educational agencies, and other local entities—

''(i) to improve and reform their existing programs, to support effective existing programs, to support the development of new programs, and to prepare teachers, principals, administrators, and related services personnel—

''(I) to meet the diverse needs of children with disabilities for early intervention, educational, and transitional services; and

''(II) to work collaboratively in regular classroom settings; and

''(ii) to incorporate best practices and scientifically based research about preparing personnel—

''(I) so the personnel will have the knowledge and skills to improve educational results for children with disabilities; and

''(II) to implement effective teaching strategies and interventions to prevent the misidentification, overidentification, or underidentification of children as having a disability, especially minority and limited English proficient children.

''(B) Developing, evaluating, and disseminating innovative models for the recruitment, induction, retention, and assessment of highly qualified teachers to reduce teachers shortages.

''(C) Providing continuous personnel preparation, training, and professional development designed to provide support and ensure retention of teachers and personnel who teach and provide related services to children with disabilities.

''(D) Developing and improving programs for paraprofessionals to become special education teachers, related services personnel, and early intervention personnel, including interdisciplinary training to enable the paraprofessionals to improve early intervention, educational, and transitional results for children with disabilities.

''(E) Demonstrating models for the preparation of, and interdisciplinary training of, early intervention, special education, and general education personnel, to enable the personnel to acquire the collaboration skills necessary to work within teams and to improve results for children with disabilities, particularly within the general education curriculum.

''(F) Promoting effective parental involvement practices to enable the personnel to work with parents and involve parents in the education of such parents' children.

''(G) Promoting the transferability, across State and local jurisdictions, of licensure and certification of teachers, principals, and administrators working with such children.

''(H) Developing and disseminating models that prepare teachers with strategies, including positive behavioral interventions, for addressing the conduct of children with disabilities that impedes their learning and that of others in the classroom.

''(I) Developing and improving programs to enhance the ability of early childhood providers, general education teachers, principals, school administrators, related services personnel, and school board members to improve results for children with disabilities.

''(J) Supporting institutions of higher education with minority enrollments of at least 25 percent for the purpose of preparing personnel to work with children with disabilities.

''(K) Preparing personnel to work in high need elementary schools and secondary schools, including urban schools, rural schools, and schools operated by an entity described in section 7113(d)(1)(A)(ii) of the Elementary and Secondary Education Act of 1965, and schools that serve high numbers or percentages of limited English proficient children.

''(L) Developing, evaluating, and disseminating innovative models for the recruitment, induction, retention, and assessment of new, highly qualified teachers, especially from groups that are underrepresented in the teaching profession, including individuals with disabilities.

''(M) Developing and improving programs to train special education teachers to develop an expertise in autism spectrum disorders.

''(c) LOW INCIDENCE DISABILITIES; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that benefit children with low incidence disabilities.

''(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

''(A) Preparing persons who—

''(i) have prior training in educational and other related service fields; and

''(ii) are studying to obtain degrees, certificates, or licensure that will enable the persons to assist children with low incidence disabilities to achieve the objectives set out in their individualized education programs described in section 614(d), or to assist infants and toddlers with low incidence disabilities to achieve the outcomes described in their individualized family service plans described in section 636.

''(B) Providing personnel from various disciplines with interdisciplinary training that will contribute to improvement in early intervention, educational, and transitional results for children with low incidence disabilities.

''(C) Preparing personnel in the innovative uses and application of technology, including universally designed technologies, assistive technology devices, and assistive technology services—

''(i) to enhance learning by children with low incidence disabilities through early intervention, educational, and transitional services; and

''(ii) to improve communication with parents.

''(D) Preparing personnel who provide services to visually impaired or blind children to teach and use Braille in the provision of services to such children.

''(E) Preparing personnel to be qualified educational interpreters, to assist children with low incidence disabilities, particularly deaf and hard of hearing children in school and school related activities, and deaf and hard of hearing infants and toddlers and preschool children in early intervention and preschool programs.

''(F) Preparing personnel who provide services to children with significant cognitive disabilities and children with multiple disabilities.

''(3) DEFINITION.—As used in this section, the term 'low incidence disability' means—

''(A) a visual or hearing impairment, or simultaneous visual and hearing impairments;

''(B) a significant cognitive impairment; or

''(C) any impairment for which a small number of personnel with highly specialized skills and knowledge are needed in order for children with that impairment to receive early intervention services or a free appropriate public education.

''(4) SELECTION OF RECIPIENTS.—In selecting recipients under this subsection, the Secretary may give preference to eligible entities submitting applications that include 1 or more of the following:

''(A) A proposal to prepare personnel in more than 1 low incidence disability, such as deafness and blindness.

''(B) A demonstration of an effective collaboration with an eligible entity and a local educational agency that promotes recruitment and subsequent retention of highly qualified personnel to serve children with disabilities.

''(5) PREPARATION IN USE OF BRAILLE.—The Secretary shall ensure that all recipients of assistance under this subsection who will use that assistance to prepare personnel to provide services to visually impaired or blind children that can appropriately be provided in Braille will prepare those individuals to provide those services in Braille.

''(d) LEADERSHIP PREPARATION; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support leadership preparation activities that are consistent with the objectives described in subsection (a).

''(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include activities such as the following:

''(A) Preparing personnel at the graduate, doctoral, and postdoctoral levels of training to administer, enhance, or provide services to improve results for children with disabilities.

''(B) Providing interdisciplinary training for various types of leadership personnel, including teacher preparation faculty, administrators, researchers, supervisors, principals, related services personnel, and other persons whose work affects early intervention, educational, and transitional services for children with disabilities.

''(e) ENHANCED SUPPORT AND TRAINING FOR BEGINNING SPECIAL EDUCATORS; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support personnel preparation activities that are consistent with the objectives described in subsection (a).

''(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include—

''(A) enhancing and restructuring an existing program or developing a preservice teacher education program, to prepare special education teachers, at colleges or departments of education within the institution of higher education, by incorporating an additional 5th year clinical learning opportunity, field experience, or supervised practicum into a program of preparation and coursework for special education teachers; or

''(B) Creating or supporting professional development schools that provide—

''(i) high quality mentoring and induction opportunities with ongoing support for beginning special education teachers; or

''(ii) inservice professional development to veteran special education teachers through the ongoing exchange of information and instructional strategies.

''(3) ELIGIBLE PARTNERSHIPS.—Eligible recipients of assistance under this subsection are partnerships—

''(A) that shall consist of—

''(i) 1 or more institutions of higher education with special education personnel preparation programs; and

''(ii) 1 or more local educational agencies; and

''(iii) in the case of activities assisted under paragraph (2)(B), an elementary school or secondary school; and

''(B) that may include other entities eligible for assistance under this part, such as a State educational agency.

''(4) PRIORITY.—In awarding grants or entering into contracts or cooperative agreements under this subsection, the Secretary shall give priority to partnerships that include local educational agencies that serve—

''(A) high numbers or percentages of low-income students; or

''(B) schools that have failed to make adequate yearly progress toward enabling children with disabilities to meet academic achievement standards.

''(f) TRAINING TO SUPPORT GENERAL EDUCATORS; AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support personnel preparation activities that are consistent with the objectives described in subsection (a).

''(2) AUTHORIZED ACTIVITIES.—Activities that may be carried out under this subsection include—

''(A) high quality professional development for general educators that develops the knowledge and skills, and enhances the ability, of general educators to—

''(i) use classroom-based techniques to identify students who may be eligible for special education services, and deliver instruction in a way that meets the individualized needs of children with disabilities through appropriate supports, accommodations, and curriculum modifications;

''(ii) use classroom-based techniques, such as scientifically based reading instruction;

''(iii) work collaboratively with special education teachers and related services personnel;

''(iv) implement strategies, such as positive behavioral interventions—

''(I) to address the behavior of children with disabilities that impedes the learning of such children and others; or

''(II) to prevent children from being misidentified as children with disabilities;

''(v) prepare children with disabilities to participate in statewide assessments (with or without accommodations) and alternate assessments, as appropriate;

''(vi) develop effective practices for ensuring that all children with disabilities are a part of all accountability systems under the Elementary and Secondary Education Act of 1965;

''(vii) work with and involve parents of children with disabilities in their child's education;

''(viii) understand how to effectively construct IEPs, participate in IEP meetings, and implement IEPs; and

''(ix) in the case of principals and superintendents, be instructional leaders and promote improved collaboration between general educators, special education teachers, and related services personnel; and

''(B) release and planning time for the activities described in this subsection.

''(3) ELIGIBLE PARTNERSHIPS.—Eligible recipients of assistance under this subsection are partnerships—

''(A) that consist of—

''(i) 1 or more institutions of higher education with special education personnel preparation programs; and

''(ii) 1 or more local educational agencies; and

''(B) that may include other entities eligible for assistance under this part, such as a State educational agency.

''(g) APPLICATIONS.—

''(1) IN GENERAL.—Any eligible entity that desires to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(2) IDENTIFIED STATE NEEDS.—

''(A) REQUIREMENT TO ADDRESS IDENTIFIED NEEDS.—Any application under subsection (b), (c), (d), (e), or (f) shall include information demonstrating to the satisfaction of the Secretary that the activities described in the application will address needs identified by the State or States the applicant proposes to serve, consistent with the needs identified in the State plan described in section 653(a)(2).

''(B) COOPERATION WITH STATE EDUCATIONAL AGENCIES.—Any applicant that is not a local educational agency or a State educational agency shall include in the application information demonstrating to the satisfaction of the Secretary that the applicant and 1 or more State educational agencies or local educational agencies have engaged in a cooperative effort to carry out and monitor the project to be assisted.

''(3) ACCEPTANCE BY STATES OF PERSONNEL PREPARATION REQUIREMENTS.—The Secretary may require applicants to provide assurances from 1 or more States that such States intend to accept successful completion of the proposed personnel preparation program as meeting State personnel standards for serving children with disabilities or serving infants and toddlers with disabilities.

''(h) SELECTION OF RECIPIENTS.—

''(1) IMPACT OF PROJECT.—In selecting award recipients under this section, the Secretary shall consider the impact of the proposed project described in the application in meeting the need for personnel identified by the States.

''(2) REQUIREMENT FOR APPLICANTS TO MEET STATE AND PROFESSIONAL STANDARDS.—The Secretary shall make grants and enter into contracts and cooperative agreements under this section only to eligible applicants that meet State and professionally recognized standards for the preparation of special education and related services personnel, if the purpose of the project is to assist personnel in obtaining degrees.

''(3) PREFERENCES.—In selecting recipients under this section, the Secretary may give preference to institutions of higher education that are—

''(A) educating regular education personnel to meet the needs of children with disabilities in integrated settings;

''(B) educating special education personnel to work in collaboration with regular educators in integrated settings; and

''(C) successfully recruiting and preparing individuals with disabilities and individuals from groups that are underrepresented in the profession for which the institution of higher education is preparing individuals.

''(i) SERVICE OBLIGATION.—Each application for funds under subsections (b), (c), (d), and (e) shall include an assurance that the applicant will ensure that individuals who receive assistance under the proposed project will subsequently provide special education and related services to children with disabilities for a period of 1 year for every year for which assistance was received, or repay all or part of the cost of that assistance, in accordance with regulations issued by the Secretary.

''(j) SCHOLARSHIPS.—The Secretary may include funds for scholarships, with necessary stipends and allowances, in awards under subsections (b), (c), (d), and (e).

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 2004 through 2009.

"SEC. 665. STUDIES AND EVALUATIONS.

''(a) STUDIES AND EVALUATIONS.—

''(1) DELEGATION.—The Secretary shall delegate to the Director of the Institute for Education Sciences responsibility to carry out this section, other than subsections (d) and (f).

''(2) ASSESSMENT.—The Secretary shall, directly or through grants, contracts, or cooperative agreements awarded on a competitive basis, assess the progress in the implementation of this Act, including the effectiveness of State and local efforts to provide—

''(A) a free appropriate public education to children with disabilities; and

''(B) early intervention services to infants and toddlers with disabilities, and infants and toddlers who would be at risk of having substantial developmental delays if early intervention services were not provided to them.

''(b) NATIONAL ASSESSMENT.—

''(1) IN GENERAL.—The Secretary shall carry out a national assessment of activities carried out with Federal funds under this Act in order—

''(A) to determine the effectiveness of this Act in achieving its purposes;

''(B) to provide timely information to the President, Congress, the States, local educational agencies, and the public on how to implement this Act more effectively; and

''(C) to provide the President and Congress with information that will be useful in developing legislation to achieve the purposes of this Act more effectively.

''(2) CONSULTATION.—The Secretary shall plan, review, and conduct the national assessment under this subsection in consultation with researchers, State practitioners, local practitioners, parents of children with disabilities, and other appropriate individuals.

''(3) SCOPE OF ASSESSMENT.—The national assessment shall assess the—

''(A) implementation of programs assisted under this Act and the impact of those programs on addressing the developmental, educational, and transitional needs of, and improving the academic achievement and functional outcomes of, children with disabilities to enable the children to reach challenging developmental goals and challenging State academic content standards based on State academic assessments, including alternate assessments;

''(B) types of programs and services that have demonstrated the greatest likelihood of helping students reach the challenging State academic content standards and developmental goals;

''(C) implementation of the personnel preparation and professional development activities assisted under this Act and the impact on instruction, student academic achievement, and teacher qualifications to enhance the ability of special education teachers and regular education teachers to improve results for children with disabilities; and

''(D) effectiveness of schools, local educational agencies, States, and other recipients of assistance under this Act, in achieving the purposes of this Act in—

''(i) improving the academic achievement of children with disabilities and their performance on regular statewide assessments, and the performance of children with disabilities on alternate assessments;

''(ii) improving the participation rate of children with disabilities in the general education curriculum;

''(iii) improving the transitions of children with disabilities at natural transition points;

''(iv) placing and serving children with disabilities, including minority children, in the least restrictive environment appropriate;

''(v) preventing children with disabilities, especially children with emotional disturbances and specific learning disabilities, from dropping out of school;

''(vi) addressing the reading and literacy needs of children with disabilities;

''(vii) coordinating services provided under this Act with each other, with other educational and pupil services (including preschool services), and with health and social services funded from other sources;

''(viii) improving the participation of parents of children with disabilities in the education of their children;

''(ix) resolving disagreements between education personnel and parents through alternative dispute resolution activities including mediation; and

''(x) reducing the misidentification of children, especially minority and limited English proficient children.

''(4) INTERIM AND FINAL REPORTS.—The Secretary shall submit to the President and Congress—

''(A) an interim report that summarizes the preliminary findings of the national assessment not later than 3 years after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004; and

''(B) a final report of the findings of the assessment not later than 5 years after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004.

''(c) STUDY ON ENSURING ACCOUNTABILITY FOR STUDENTS WHO ARE HELD TO ALTERNATIVE ACHIVEMENT STANDARDS.—The Secretary shall carry out a national study or studies to examine—

''(1) the criteria that States use to determine—

''(A) eligibility for alternate assessments; and

''(B) the number and type of children who take those assessments and are held accountable to alternate achievement standards;

''(2) the validity and reliability of alternate assessment instruments and procedures;

''(3) the alignment of alternate assessments and alternative achievement standards to State academic content standards in reading, mathematics, and science; and

''(4) the use and effectiveness of alternate assessments in appropriately measuring student

progress and outcomes specific to individualized instructional need.

''(d) ANNUAL REPORT.—The Secretary shall provide an annual report to Congress that—

''(1) summarizes the research conducted under section 662;

''(2) analyzes and summarizes the data reported by the States and the Secretary of the Interior under section 618;

''(3) summarizes the studies and evaluations conducted under this section and the timeline for their completion;

''(4) describes the extent and progress of the national assessment; and

''(5) describes the findings and determinations resulting from reviews of State implementation of this Act.

''(e) AUTHORIZED ACTIVITIES.—In carrying out this section, the Secretary may support objective studies, evaluations, and assessments, including studies that—

''(1) analyze measurable impact, outcomes, and results achieved by State educational agencies and local educational agencies through their activities to reform policies, procedures, and practices designed to improve educational and transitional services and results for children with disabilities;

''(2) analyze State and local needs for professional development, parent training, and other appropriate activities that can reduce the need for disciplinary actions involving children with disabilities;

''(3) assess educational and transitional services and results for children with disabilities from minority backgrounds, including—

''(A) data on—

''(i) the number of minority children who are referred for special education evaluation;

''(ii) the number of minority children who are receiving special education and related services and their educational or other service placement;

''(iii) the number of minority children who graduated from secondary programs with a regular diploma in the standard number of years; and

''(iv) the number of minority children who drop out of the educational system; and

''(B) the performance of children with disabilities from minority backgrounds on State assessments and other performance indicators established for all students;

''(4) measure educational and transitional services and results of children with disabilities served under this Act, including longitudinal studies that—

''(A) examine educational and transitional services and results for children with disabilities who are 3 through 17 years of age and are receiving special education and related services under this Act, using a national, representative sample of distinct age cohorts and disability categories; and

''(B) examine educational results, transition services, postsecondary placement, and employment status of individuals with disabilities, 18 through 21 years of age, who are receiving or have received special education and related services under this Act; and

''(5) identify and report on the placement of children with disabilities by disability category.

''(f) STUDY.—The Secretary shall study, and report to Congress regarding, the extent to which States adopt policies described in section 635(b)(1) and on the effects of those policies.

''(g) RESERVATION FOR STUDIES AND EVALUATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of this Act, the Secretary may reserve not more than ½ of 1 percent of the amount appropriated under parts B and C for each fiscal year to carry out this section, of which not more than $3,000,000 shall be available to carry out subsection (c).

''(2) MAXIMUM AMOUNT.—The maximum amount the Secretary may reserve under paragraph (1) for any fiscal year is $40,000,000, increased by the cumulative rate of inflation since fiscal year 2003.

''Subpart 3—Supports To Improve Results for Children With Disabilities

''SEC. 670. PURPOSES.

''The purposes of this subpart are to ensure that—

''(1) children with disabilities and their parents receive training and information on their rights, responsibilities, and protections under this Act, in order to develop the skills necessary to cooperatively and effectively participate in planning and decision making relating to early intervention, educational, and transitional services;

''(2) parents, teachers, administrators, early intervention personnel, related services personnel, and transition personnel receive coordinated and accessible technical assistance and information to assist them in improving early intervention, educational, and transitional services and results for children with disabilities and their families; and

''(3) appropriate technology and media are researched, developed, and demonstrated, to improve and implement early intervention, educational, and transitional services and results for children with disabilities and their families.

''SEC. 671. PARENT TRAINING AND INFORMATION CENTERS.

''(a) PROGRAM AUTHORIZED.—The Secretary may award grants to, and enter into contracts and cooperative agreements with, parent organizations to support parent training and information centers to carry out activities under this section.

''(b) REQUIRED ACTIVITIES.—Each parent training and information center that receives assistance under this section shall—

''(1) provide training and information that meets the needs of parents of children with disabilities living in the area served by the center, particularly underserved parents and parents of children who may be inappropriately identified, to enable their children with disabilities to—

''(A) meet developmental and functional goals, and challenging academic achievement goals that have been established for all children; and

''(B) be prepared to lead productive independent adult lives, to the maximum extent possible;

''(2) serve the parents of infants, toddlers, and children with the full range of disabilities described in section 602(3);

''(3) assist parents to—

''(A) better understand the nature of their children's disabilities and their educational, developmental, and transitional needs;

''(B) communicate effectively and work collaboratively with personnel responsible for providing special education, early intervention services, transition services, and related services;

''(C) participate in decisionmaking processes and the development of individualized education programs under part B and individualized family service plans under part C;

''(D) obtain appropriate information about the range, type, and quality of options, programs, services, technologies, and research based practices and interventions, and resources available to assist children with disabilities and their families in school and at home;

''(E) understand the provisions of this Act for the education of, and the provision of early intervention services to, children with disabilities; and

''(F) participate in school reform activities;

''(4) in States where the State elects to contract with the parent training and information center, contract with State educational agencies to provide, consistent with subparagraphs (B) and (D) of section 615(e)(2), individuals who meet with parents to explain the mediation process to the parents;

''(5) assist parents in resolving disputes in the most expeditious and effective way possible, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the mediation process described in section 615(e);

''(6) assist parents and students with disabilities to understand their rights and responsibilities under this Act, including those under section 615(m) on the student's reaching the age of majority;

''(7) assist parents to understand the availability of, and how to effectively use, procedural safeguards under this Act;

''(8) assist parents in understanding, preparing for, and participating in, the process described in section 615(f)(1)(B);

''(9) establish cooperative partnerships with community parent resource centers funded under section 672;

''(10) network with appropriate clearinghouses, including organizations conducting national dissemination activities under section 663, and with other national, State, and local organizations and agencies, such as protection and advocacy agencies, that serve parents and families of children with the full range of disabilities described in section 602(3); and

''(11) annually report to the Secretary on—

''(A) the number and demographics of parents to whom the center provided information and training in the most recently concluded fiscal year;

''(B) the effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities; and

''(C) the number of parents served who have resolved disputes through alternative methods of dispute resolution.

''(c) OPTIONAL ACTIVITIES.—A parent training and information center that receives assistance under this section may provide information to teachers and other professionals to assist the teachers and professionals in improving results for children with disabilities.

''(d) APPLICATION REQUIREMENTS.—Each application for assistance under this section shall identify with specificity the special efforts that the parent organization will undertake—

''(1) to ensure that the needs for training and information of underserved parents of children with disabilities in the area to be served are effectively met; and

''(2) to work with community based organizations.

''(e) DISTRIBUTION OF FUNDS.—

''(1) IN GENERAL.—The Secretary shall—

''(A) make at least 1 award to a parent organization in each State for a parent training and information center which is designated as the statewide parent training and information center; or

''(B) in the case of a large State, make awards to multiple parent training and information centers, but only if the centers demonstrate that coordinated services and supports will occur among the multiple centers.

''(2) SELECTION REQUIREMENT.—The Secretary shall select among applications submitted by parent organizations in a State in a manner that ensures the most effective assistance to parents, including parents in urban and rural areas, in the State.

''(f) QUARTERLY REVIEW.—

''(1) MEETINGS.—The board of directors of each parent organization that receives an award under this section shall meet at least once in each calendar quarter to review the activities for which the award was made.

''(2) CONTINUATION AWARD.—When an organization requests a continuation award under this section, the board of directors shall submit to the Secretary a written review of the parent training and information program conducted by the organization during the preceding fiscal year.

''(g) DEFINITION OF PARENT ORGANIZATION.—As used in this section, the term 'parent organization' means a private nonprofit organization

(other than an institution of higher education) that—

''(1) has a board of directors—

''(A) the majority of whom are parents of children with disabilities ages birth through 26;

''(B) that includes—

''(i) individuals working in the fields of special education, related services, and early intervention; and

''(ii) individuals with disabilities;

''(C) the parent and professional members of which are broadly representative of the population to be served; and

''(2) has as its mission serving families of children and youth with disabilities who—

''(A) are ages birth through 26; and

''(B) have the full range of disabilities described in section 602(3).

''SEC. 672. COMMUNITY PARENT RESOURCE CENTERS.

''(a) IN GENERAL.—The Secretary may award grants to, and enter into contracts and cooperative agreements with, local parent organizations to support parent training and information centers that will help ensure that underserved parents of children with disabilities, including low income parents, parents of children with limited English proficiency, and parents with disabilities, have the training and information the parents need to enable the parents to participate effectively in helping their children with disabilities—

''(1) to meet developmental and functional goals, and challenging academic achievement goals that have been established for all children; and

''(2) to be prepared to lead productive independent adult lives, to the maximum extent possible.

''(b) REQUIRED ACTIVITIES.—Each community parent resource center assisted under this section shall—

''(1) provide training and information that meets the training and information needs of parents of children with disabilities proposed to be served by the grant, contract, or cooperative agreement;

''(2) carry out the activities required of parent training and information centers under paragraphs (2) through (9) of section 671(b);

''(3) establish cooperative partnerships with the parent training and information centers funded under section 671; and

''(4) be designed to meet the specific needs of families who experience significant isolation from available sources of information and support.

''(c) DEFINITION.—As used in this section, the term 'local parent organization' means a parent organization, as defined in section 671(g), that—

''(1) has a board of directors the majority of whom are parents of children with disabilities ages birth through 26 from the community to be served; and

''(2) has as its mission serving parents of children with disabilities who—

''(A) are ages birth through 26; and

''(B) have the full range of disabilities described in section 602(3).

''SEC. 673. TECHNICAL ASSISTANCE FOR PARENT TRAINING AND INFORMATION CENTERS.

''(a) IN GENERAL.—The Secretary may make an award to 1 parent organization (as defined in section 671(g)) that receives assistance under section 671 to enable the parent organization to provide technical assistance for developing, assisting, and coordinating parent training and information programs carried out by parent training and information centers receiving assistance under sections 671 and 672.

''(b) AUTHORIZED ACTIVITIES.—The Secretary may provide technical assistance to a parent training and information center under this section in areas such as—

''(1) effective national coordination of parent training efforts, which includes encouraging collaborative efforts among award recipients under sections 671 and 672;

''(2) dissemination of information, scientifically based research, and research based practices and interventions;

''(3) promotion of the use of technology, including universally designed technologies, assistive technology devices, and assistive technology services;

''(4) reaching underserved populations;

''(5) including children with disabilities in general education programs;

''(6) facilitation of transitions from—

''(A) early intervention services to preschool;

''(B) preschool to elementary school;

''(C) elementary school to secondary school; and

''(D) secondary school to postsecondary environments; and

''(7) promotion of alternative methods of dispute resolution, including mediation.

''(c) REGIONAL PARENT CENTERS.—The recipient of the award described in section 673(a) shall establish no fewer than 4 regional centers from the parent training and information centers and community parent resource centers receiving assistance under sections 671 and 672 for the purpose of carrying out the authorized activities described in subsection (b). These regional centers shall be selected on the basis of the center's—

''(1) willingness to be a regional parent center;

''(2) demonstrated expertise in the delivery of required parent training and information center activities described in section 671(b);

''(3) demonstrated capacity to deliver the authorized activities described in subsection (b);

''(4) history of collaboration with other parent training and information centers, community parent resource centers, regional resource centers, clearinghouses, and other projects; and

''(5) geographic location.

''(d) COLLABORATION WITH THE RESOURCE CENTERS.—The recipient of the award described in subsection (a), in conjunction with the regional parent centers described in subsection (c), shall develop collaborative agreements with the geographically appropriate Regional Resource Center to further parent and professional collaboration.

''SEC. 674. TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND UTILIZATION; AND MEDIA SERVICES.

''(a) IN GENERAL.—The Secretary, on a competitive basis, shall award grants to, and enter into contracts and cooperative agreements with, eligible entities to support activities described in subsections (b) and (c).

''(b) TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND USE.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support activities to promote the development, demonstration, and use of technology.

''(2) AUTHORIZED ACTIVITIES.—The following activities may be carried out under this subsection:

''(A) Conducting research on and promoting the demonstration and use of innovative, emerging, and universally designed technologies for children with disabilities, by improving the transfer of technology from research and development to practice.

''(B) Supporting research, development, and dissemination of technology with universal design features, so that the technology is accessible to the broadest range of individuals with disabilities without further modification or adaptation.

''(C) Demonstrating the use of systems to provide parents and teachers with information and training concerning early diagnosis of, intervention for, and effective teaching strategies for, young children with reading disabilities.

''(D) Supporting the use of Internet-based communications for students with cognitive disabilities in order to maximize their academic and functional skills.

''(c) EDUCATIONAL MEDIA SERVICES; OPTIONAL ACTIVITIES.—

''(1) IN GENERAL.—In carrying out this section, the Secretary shall support—

''(A) educational media activities that are designed to be of educational value in the classroom setting to children with disabilities;

''(B) providing video description, open captioning, or closed captioning, that is appropriate for use in the classroom setting, of—

''(i) television programs;

''(ii) videos;

''(iii) other materials, including programs and materials associated with new and emerging technologies, such as CDs, DVDs, video streaming, and other forms of multimedia; or

''(iv) news (but only until September 30, 2006);

''(C) distributing materials described in subparagraphs (A) and (B) through such mechanisms as a loan service; and

''(D) providing free educational materials, including textbooks, in accessible media for visually impaired and print disabled students in elementary schools and secondary schools.

''(2) LIMITATION.—The video description, open captioning, or closed captioning described in paragraph (1)(B) shall only be provided when the description or captioning has not been previously provided by the producer or distributor, or has not been fully funded by other sources.

''(d) APPLICATIONS.—Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 2004 through 2009.

''SEC. 675. ACCESSIBILITY OF INSTRUCTIONAL MATERIALS.

''(a) INSTRUCTIONAL MATERIALS ACCESSIBILITY STANDARD.—

''(1) ACCESSIBILITY STANDARD.—Not later than 180 days after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004, the Secretary shall, by rulemaking, promulgate an Instructional Materials Accessibility Standard which shall constitute the technical standards to be used by publishers for the preparation of electronic files for States under section 612(a)(22).

''(2) RELATIONSHIP TO OTHER LAWS.—For purposes of this section:

''(A) AUTHORIZED ENTITY.—Notwithstanding the provisions of section 106 of title 17, United States Code, it is not an infringement of copyright for an authorized entity to reproduce or to distribute copies of the electronic files described in section 612(a)(22)(B), containing the contents of the print instructional materials using the Instructional Materials Accessibility Standard, if such copies are used solely for reproduction or distribution of the contents of such print instructional materials in specialized formats designed exclusively for use by the blind or other persons with print disabilities.

''(B) PUBLISHER.—Notwithstanding the provisions of section of 106 of title 17, United States Code, it is not an infringement of copyright for a publisher to create and distribute copies of the electronic files described in section 612(a)(22)(B), containing the contents of the print instructional materials using the Instructional Material Accessibility Standard, if such copies are used solely for reproduction or distribution of the contents of such print instructional materials in specialized formats designed exclusively for use by the blind or other persons with print disabilities.

''(C) COPIES.—Copies of the electronic files containing the contents of the print instructional materials using the Instructional Materials Accessibility Standard shall be made in compliance with the provisions of section 121(b) of title 17, United States Code, regarding the reproduction and distribution of copyrighted print instructional materials in specialized formats.

''(3) DEFINITIONS.—In this section:

''(A) INSTRUCTIONAL MATERIALS ACCESSIBILITY STANDARD.—The term 'Instructional Materials Accessibility Standard' means the technical standards described in paragraph (2), to be used in the preparation of electronic files suitable and used solely for efficient conversion into specialized formats.

''(B) BLIND OR OTHER PERSONS WITH PRINT DISABILITIES.—The term 'blind or other persons with print disabilities' means children served under this Act and who may qualify in accordance with the Act entitled ''An Act to provide books for the adult blind'', approved March 3, 1931 (2 U.S.C. 135a; 46 Stat. 1487) to receive books and other publications produced in specialized formats.

''(C) SPECIALIZED FORMATS.—The term 'specialized formats' has the meaning given the term in section 121(c)(3) of title 17, United States Code, and for the purposes of this section, includes synthesized speech, digital audio, and large print.

''(D) PRINT INSTRUCTIONAL MATERIALS.—The term 'print instructional materials' means printed textbooks and related printed core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by a State educational agency or local educational agency for use by pupils in the classroom.

''(E) AUTHORIZED ENTITY.—The term 'authorized entity' has the meaning given the term in section 121(c)(1) of title 17, United States Code.

''(4) APPLICABILITY.—This section shall apply to print instructional materials published and copyrighted after the date on which the final rule establishing the Instructional Materials Accessibility Standard is published in the Federal Register.

''(b) NATIONAL INSTRUCTIONAL MATERIALS ACCESS CENTER.—

''(1) ESTABLISHMENT.—Not later than 2 years after the date of enactment of the Individuals with Disabilities Education Improvement Act of 2004, the Secretary shall establish a center, to be known as the National Instructional Materials Access Center, which shall coordinate the acquisition and distribution of print instructional materials prepared in the Instructional Materials Accessibility Standard described in subsection (a)(2).

''(2) RESPONSIBILITIES.—The duties of the National Instructional Materials Access Center are the following:

''(A) To receive and maintain a catalog of print instructional materials made available under section 612(a)(22) and section 613(a)(6).

''(B) To provide authorized entities with access to such print instructional materials, free of charge, in accordance with such terms and procedures as the National Instructional Materials Access Center may prescribe.

''(C) To develop, adopt, and publish procedures to protect against copyright infringement and otherwise to administratively assure compliance with title 17, United States Code, with respect to the print instructional materials provided under section 612(a)(22) and section 613(a)(6).

''(3) CONTRACT AUTHORIZED.—To assist in carrying out paragraph (1), the Secretary shall award, on a competitive basis, a contract renewable on a biennial basis with a nonprofit organization, or with a consortium of such organizations, determined by the Secretary to be best qualified to carry out the responsibilities described in paragraph (2). The contractor shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary.

''SEC. 676. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out sections 671, 672, 673, and 663 such sums as may be necessary for each of the fiscal years 2004 through 2009.

''Subpart 4—Interim Alternative Educational Settings, Behavioral Supports, and Whole School Interventions

''SEC. 681. PURPOSE.

''The purpose of this subpart is to authorize resources to foster a safe learning environment that supports academic achievement for all students by improving the quality of interim alternative educational settings, providing more behavioral supports in schools, and supporting whole school interventions.

''SEC. 682. DEFINITION OF ELIGIBLE ENTITY.

''In this subpart, the term 'eligible entity' means—

''(1) a local educational agency; or

''(2) a consortium consisting of a local educational agency and 1 or more of the following entities:

''(A) another local educational agency;

''(B) a community-based organization with a demonstrated record of effectiveness in helping children with disabilities who have behavioral challenges succeed;

''(C) an institution of higher education;

''(D) a mental health provider; or

''(E) an educational service agency.

''SEC. 683. PROGRAM AUTHORIZED.

''The Secretary is authorized to award grants, on a competitive basis, to eligible entities to enable the eligible entities—

''(1) to establish or expand behavioral supports and whole school behavioral interventions by providing for effective, research-based practices, including—

''(A) comprehensive, early screening efforts for students at risk for emotional and behavioral difficulties;

''(B) training for school staff on early identification, prereferral, and referral procedures;

''(C) training for administrators, teachers, related services personnel, behavioral specialists, and other school staff in whole school positive behavioral interventions and supports, behavioral intervention planning, and classroom and student management techniques;

''(D) joint training for administrators, parents, teachers, related services personnel, behavioral specialists, and other school staff on effective strategies for positive behavioral interventions and behavior management strategies that focus on the prevention of behavior problems;

''(E) developing or implementing specific curricula, programs, or interventions aimed at addressing behavioral problems;

''(F) stronger linkages between school-based services and community-based resources, such as community mental health and primary care providers; or

''(G) using behavioral specialists, related services personnel, and other staff necessary to implement behavioral supports; or

''(2) to improve interim alternative educational settings by—

''(A) improving the training of administrators, teachers, related services personnel, behavioral specialists, and other school staff (including ongoing mentoring of new teachers);

''(B) attracting and retaining a high quality, diverse staff;

''(C) providing for on-site counseling services;

''(D) using research-based interventions, curriculum, and practices;

''(E) allowing students to use instructional technology that provides individualized instruction;

''(F) ensuring that the services are fully consistent with the goals of the individual student's IEP;

''(G) promoting effective case management and collaboration among parents, teachers, physicians, related services personnel, behavioral specialists, principals, administrators, and other school staff;

''(H) promoting interagency coordination and coordinated service delivery among schools, juvenile courts, child welfare agencies, community mental health providers, primary care providers, public recreation agencies, and community-based organizations; or

''(I) providing for behavioral specialists to help students transitioning from interim alternative educational settings reintegrate into their regular classrooms.

''SEC. 684. PROGRAM EVALUATIONS.

''(a) REPORT AND EVALUATION.—Each eligible entity receiving a grant under this subpart shall prepare and submit annually to the Secretary a report on the outcomes of the activities assisted under the grant.

''(b) BEST PRACTICES ON WEBSITE.—The Secretary shall make available on the Department's website information for parents, teachers, and school administrators on best practices for interim alternative educational settings, behavior supports, and whole school intervention.

''SEC. 685. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this subpart $50,000,000 for fiscal year 2004 and such sums as may be necessary for each of the 5 succeeding fiscal years.''.

TITLE II—AMENDMENTS TO THE REHABILITATION ACT OF 1973

SEC. 201. FINDINGS.

Section 2(a) of the Rehabilitation Act of 1973 (29 U.S.C. 701(a)) is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(7) there is a substantial need to improve and expand services for students with disabilities under this Act.''.

SEC. 202. DEFINITIONS.

Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) is amended—

(1) by redesignating paragraphs (35) through (39) as paragraphs (36), (37), (38), (40), and (41), respectively;

(2) in subparagraph (A)(ii) of paragraph (36) (as redesignated in paragraph (1)), by striking ''paragraph (36)(C)'' and inserting ''paragraph (37)(C)'';

(3) by inserting after paragraph (34) the following:

''(35)(A) The term 'student with a disability' means an individual with a disability who—

''(i) is not younger than 14 and not older than 21;

''(ii) has been determined to be eligible under section 102(a) for assistance under this title; and

''(iii)(I) is eligible for, and is receiving, special education under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); or

''(II) is an individual with a disability, for purposes of section 504.

''(B) The term 'students with disabilities' means more than 1 student with a disability.''; and

(4) by inserting after paragraph (38) the following:

''(39) The term 'transition services expansion year' means—

''(A) the first fiscal year for which the amount appropriated under section 100(b) exceeds the amount appropriated under section 100(b) for fiscal year 2004 by not less than $100,000,000; and

''(B) each fiscal year subsequent to that first fiscal year.''.

SEC. 203. STATE PLAN.

(a) ASSESSMENT AND STRATEGIES.—Section 101(a)(15) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(15)) is amended—

(1) in subparagraph (A)(i)—

(A) in subclause (II), by striking ''and'' at the end;

(B) in subclause (III), by adding ''and'' at the end; and

(C) by adding at the end the following:

''(IV) in a transition services expansion year, students with disabilities, including their need for transition services;''; and

(2) in subparagraph (D)—

(A) by redesignating clauses (iii), (iv), and (v) as clauses (iv), (v), and (vi), respectively; and

(B) by inserting after clause (ii) the following:

''(iii) in a transition services expansion year, the methods to be used to improve and expand vocational rehabilitation services for students with disabilities, including the coordination of services designed to facilitate the transition of such students from the receipt of educational services in school to the receipt of vocational rehabilitation services under this title or to post-secondary education or employment;''.

(b) SERVICES FOR STUDENTS WITH DISABILITIES.—Section 101(a) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)) is amended by adding at the end the following:

''(25) SERVICES FOR STUDENTS WITH DISABILITIES.—The State plan for a transition services expansion year shall provide an assurance satisfactory to the Secretary that the State—

''(A) has developed and implemented strategies to address the needs identified in the assessment described in paragraph (15), and achieve the goals and priorities identified by the State, to improve and expand vocational rehabilitation services for students with disabilities on a statewide basis in accordance with paragraph (15); and

''(B) from funds reserved under section 110A, shall carry out programs or activities designed to improve and expand vocational rehabilitation services for students with disabilities that—

''(i) facilitate the transition of the students with disabilities from the receipt of educational services in school, to the receipt of vocational rehabilitation services under this title, including, at a minimum, those services specified in the interagency agreement required in paragraph (11)(D);

''(ii) improve the achievement of post-school goals of students with disabilities, including improving the achievement through participation (as appropriate when vocational goals are discussed) in meetings regarding individualized education programs developed under section 614 of the Individuals with Disabilities Education Act (20 U.S.C. 1414);

''(iii) provide vocational guidance, career exploration services, and job search skills and strategies and technical assistance to students with disabilities;

''(iv) support the provision of training and technical assistance to State and local educational agency and designated State agency personnel responsible for the planning and provision of services to students with disabilities; and

''(v) support outreach activities to students with disabilities who are eligible for, and need, services under this title.''.

SEC. 204. SCOPE OF SERVICES.

Section 103 of the Rehabilitation Act of 1973 (29 U.S.C. 723) is amended—

(1) in subsection (a), by striking paragraph (15) and inserting the following:

''(15) transition services for students with disabilities, that facilitate the achievement of the employment outcome identified in the individualized plan for employment, including, in a transition services expansion year, services described in clauses (i) through (iii) of section 101(a)(25)(B);''; and

(2) in subsection (b), by striking paragraph (6) and inserting the following:

''(6)(A)(i) Consultation and technical assistance services to assist State and local educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.

''(ii) In a transition services expansion year, training and technical assistance described in section 101(a)(25)(B)(iv).

''(B) In a transition services expansion year, services for groups of individuals with disabilities who meet the requirements of clauses (i) and (iii) of section 7(35)(A), including services described in clauses (i), (ii), (iii), and (v) of section 101(a)(25)(B), to assist in the transition from school to post-school activities.''.

SEC. 205. STANDARDS AND INDICATORS.

Section 106(a) of the Rehabilitation Act of 1973 (29 U.S.C. 726(a)) is amended by striking paragraph (1)(C) and all that follows through paragraph (2) and inserting the following:

''(2) MEASURES.—The standards and indicators shall include outcome and related measures of program performance that—

''(A) facilitate the accomplishment of the purpose and policy of this title;

''(B) to the maximum extent practicable, are consistent with the core indicators of performance, and corresponding State adjusted levels of performance, established under section 136(b) of the Workforce Investment Act of 1998 (29 U.S.C. 2871(b)); and

''(C) include measures of the program's performance with respect to the transition to post-school vocational activities, and achievement of the post-school vocational goals, of students with disabilities served under the program.''.

SEC. 206. RESERVATION FOR EXPANDED TRANSITION SERVICES.

The Rehabilitation Act of 1973 is amended by inserting after section 110 (29 U.S.C. 730) the following:

''SEC. 110A. RESERVATION FOR EXPANDED TRANSITION SERVICES.

''(a) RESERVATION.—From the State allotment under section 110 in a transition services expansion year, each State shall reserve an amount calculated by the Commissioner under subsection (b) to carry out programs and activities under sections 101(a)(25)(B) and 103(b)(6).

''(b) CALCULATION.—The Commissioner shall calculate the amount to be reserved for such programs and activities for a fiscal year by each State by multiplying $50,000,000 by the percentage determined by dividing—

''(1) the amount allotted to that State under section 110 for the prior fiscal year; by

''(2) the total amount allotted to all States under section 110 for that prior fiscal year.''.

SEC. 207. CONFORMING AMENDMENT.

Section 1(b) of the Rehabilitation Act of 1973 is amended by inserting after the item relating to section 110 the following:

''Sec. 110A. Reservation for expanded transition services.''.

TITLE III—NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH

SEC. 301. NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH.

(a) AMENDMENT.—The Education Sciences Reform Act of 2002 (20 U.S.C. 9501 et seq.) is amended—

(1) by redesignating part E as part F; and

(2) by inserting after part D the following:

''PART E—NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH

''SEC. 175. ESTABLISHMENT.

''(a) ESTABLISHMENT.—There is established in the Institute a National Center for Special Education Research.

''(b) MISSION.—The mission of the National Center for Special Education Research (in this part referred to as the 'Special Education Research Center') is—

''(1) to sponsor research to expand knowledge and understanding of the needs of infants, toddlers, and children with disabilities in order to improve the developmental, educational, and transitional results of such individuals;

''(2) to sponsor research to improve services provided under, and support the implementation of, the Individuals with Disabilities Education Act; and

''(3) to evaluate the implementation and effectiveness of the Individuals with Disabilities Education Act in coordination with the National Center for Education Evaluation and Regional Assistance.

''(c) APPLICABILITY OF EDUCATION SCIENCES REFORM ACT OF 2002.—Parts A and F, and the standards for peer review of applications and for the conduct and evaluation of research under sections 133(a) and 134, respectively, shall apply to the Secretary, the Director, and the Commissioner in carrying out this part.

''SEC. 176. COMMISSIONER FOR SPECIAL EDUCATION RESEARCH.

''The Special Education Research Center shall be headed by a Commissioner for Special Education Research (in this part referred to as 'the Special Education Research Commissioner') who shall have substantial knowledge of the Special Education Research Center's activities, including a high level of expertise in the fields of research, research management, and the education of children with disabilities.

''SEC. 177. DUTIES.

''(a) GENERAL DUTIES.—The Special Education Research Center shall carry out research activities under this part consistent with the mission described in section 175(b), such as activities that—

''(1) improve services provided under the Individuals with Disabilities Education Act in order to improve—

''(A) academic achievement, functional outcomes, and educational results for children with disabilities; and

''(B) developmental outcomes for infants and toddlers;

''(2) identify scientifically based educational practices that support learning and improve academic achievement, functional outcomes, and educational results for all students with disabilities;

''(3) examine the special needs of preschool aged children, infants, and toddlers with disabilities, including factors that may result in developmental delays;

''(4) identify scientifically based related services and interventions that promote participation and progress in the general education curriculum and general education settings;

''(5) improve the alignment, compatibility, and development of valid and reliable assessments, including alternate assessments, as required by section 1111(b) of the Elementary and Secondary Education Act of 1965;

''(6) examine State content standards and alternate assessments for students with significant cognitive impairment in terms of academic achievement, individualized instructional need, appropriate education settings, and improved post-school results;

''(7) examine the educational, developmental, and transitional needs of children with high incidence and low incidence disabilities;

''(8) examine the extent to which overidentification and underidentification of children with disabilities occurs, and the causes thereof;

''(9) improve reading and literacy skills of children with disabilities;

''(10) examine and improve secondary and postsecondary education and transitional outcomes and results for children with disabilities;

''(11) examine methods of early intervention for children with disabilities, including children with multiple or complex developmental delays;

''(12) examine and incorporate universal design concepts in the development of standards, assessments, curricula, and instructional methods as a method to improve educational and transitional results for children with disabilities;

''(13) improve the preparation of personnel, including early intervention personnel, who provide educational and related services to children with disabilities to increase the academic achievement and functional performance of students with disabilities;

''(14) examine the excess costs of educating a child with a disability and expenses associated with high cost special education and related services;

''(15) help parents improve educational results for their children, particularly related to transition issues; and

''(16) address the unique needs of children with significant cognitive disabilities.

''(b) STANDARDS.—The Commissioner of Special Education Research shall ensure that activities assisted under this section—

''(1) conform to high standards of quality, integrity, accuracy, validity, and reliability;

''(2) are carried out in conjunction with the standards for the conduct and evaluation of all research and development established by the National Center for Education Research; and

''(3) are objective, secular, neutral, and nonideological, and are free of partisan political influence, and racial, cultural, gender, regional, or disability bias.

''(c) PLAN.—The Commissioner of Special Education Research shall propose to the Director a research plan, developed in collaboration with the Assistant Secretary for Special Education and Rehabilitative Services, that—

''(1) is consistent with the priorities and mission of the Institute and the mission of the Special Education Research Center;

''(2) is carried out, updated, and modified, as appropriate;

''(3) is consistent with the purpose of the Individuals with Disabilities Education Act;

''(4) contains an appropriate balance across all age ranges and types of children with disabilities;

''(5) provides for research that is objective and uses measurable indicators to assess its progress and results;

''(6) is coordinated with the comprehensive plan developed under section 661 of the Individuals with Disabilities Education Act; and

''(7) provides that the research conducted under part D of the Individuals with Disabilities Education Act is relevant to special education practice and policy.

''(d) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—In carrying out the duties under this section, the Director may award grants to, or enter into contracts or cooperative agreements with, eligible entities.

''(e) APPLICATIONS.—An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this part shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

''(f) DISSEMINATION.—The Special Education Research Center shall—

''(1) synthesize and disseminate, through the National Center for Education Evaluation and Regional Assistance, the findings and results of special education research conducted or supported by the Special Education Research Center; and

''(2) assist the Director in the preparation of a biennial report, as described in section 119.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 2004 through 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) EDUCATION SCIENCES REFORM ACT OF 2002.—The Education Sciences Reform Act of 2002 (20 U.S.C. 9501 et seq.) is amended—

(A) in section 111(b)(1)(A) (20 U.S.C. 9511(b)(1)(A)), by inserting ''and special education'' after ''early childhood education''.

(B) in section 111(c)(3) (20 U.S.C. 9511(c)(3))—

(i) in subparagraph (B), by striking ''and'' after the semicolon;

(ii) in subparagraph (C), by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(D) the National Center for Special Education Research (as described in part E).'';

(C) in section 115(a) (20 U.S.C. 9515(a)), by striking ''including those'' and all that follows through ''such as'' and inserting ''including those associated with the goals and requirements of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), such as''; and

(D) in section 116(c)(4)(A)(ii) (20 U.S.C. 9516(c)(4)(A)(ii) is amended by inserting ''special education experts,'' after ''early childhood experts,''.

(2) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Section 1117(a)(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6317(a)(3)) is amended by striking ''part E'' and inserting ''part D''.

(c) TRANSITION PROVISIONS.—

(1) ORDERLY TRANSITION.—Notwithstanding any other provision of law, the Secretary of Education shall take such steps as are necessary to provide for the orderly transition to, and implementation of, part E of the Education Science Reform Act of 2002, as enacted by subsection (a), from research activities carried out under section 672 of the Individuals with Disabilities Education Act (as such section was in effect on the day before the date of enactment of this Act).

(2) CONTINUATION OF AWARDS.—The Secretary of Education shall continue research awards made under section 672 of the Individuals with Disabilities Education Act (as such section was in effect on the day before the date of enactment of this Act) that are in effect on the day before the date of enactment of this Act in accordance with the terms of those awards.

(d) EFFECTIVE DATES.—Notwithstanding any other provision of law—

(1) the amendments made by subsections (a) and (b) of this section shall take effect on October 1, 2004; and

(2) section 672 of the Individuals with Disabilities Education Act (as such section was in effect on the day before the date of enactment of this Act) shall remain in effect through September 30, 2004.

SEC. 302. NATIONAL BOARD FOR EDUCATION SCIENCES.

Section 116(c)(9) of the Education Sciences Reform Act of 2002 (20 U.S.C. 9516(c)(9)) is amended by striking the third sentence and inserting the following: ''Meetings of the Board are subject to section 552b of title 5, United States Code (commonly referred to as the Government in the Sunshine Act).''.

SEC. 303. REGIONAL ADVISORY COMMITTEES.

Section 206(d)(3) of the Education Sciences Reform Act of 2002 (20 U.S.C. 9605(d)(3)) is amended by striking ''Academy'' and inserting ''Institute''.

TITLE IV—COMMISSION ON UNIVERSAL DESIGN AND THE ACCESSIBILITY OF CURRICULUM AND INSTRUCTIONAL MATERIALS

SEC. 401. COMMISSION ON UNIVERSAL DESIGN AND THE ACCESSIBILITY OF CURRICULUM AND INSTRUCTIONAL MATERIALS.

(a) ESTABLISHMENT AND PURPOSE.—

(1) ESTABLISHMENT.—There is established a Commission (hereafter in this section referred to as the ''Commission'') to study, evaluate, and make appropriate recommendations to the Congress and to the Secretary on universal design and accessibility of curriculum and instructional materials for use by all children, with a particular focus on children with disabilities, in elementary schools and secondary schools.

(2) PURPOSE.—The purpose of the Commission is—

(A) to survey the issues related to improving access to curriculum and instructional materials for children with disabilities, with and without assistive technologies;

(B) to study the benefits, current or potential costs, and challenges of developing and implementing a standard definition of the term universal design as a means to achieve accessibility of curriculum and instructional materials, and as the Commission determines necessary, to recommend a definition for the term universal design, or other terms, taking into consideration educational objectives, investment of resources, state of technology, and effect on development of curriculum and instructional materials;

(C) to examine issues related to the need for and current availability and accessibility of curriculum and instructional materials for use in elementary schools and secondary schools by children with disabilities, gaps in or conflicts among relevant technical standards, educational quality, availability of instructional materials, technical standards, intellectual property rights, and the economic and technical feasibility of implementing any recommended definitions; and

(D) to provide the Congress and the Secretary, not later than 24 months after the date of enactment of this Act, the report described in subsection (d).

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 21 members, of which—

(A) 3 members shall be appointed by the Majority Leader of the Senate;

(B) 2 members shall be appointed by the Minority Leader of the Senate;

(C) 3 members shall be appointed by the Speaker of the House of Representatives;

(D) 2 members shall be appointed by the Minority Leader of the House;

(E) 8 members shall be appointed by the Secretary including representatives of States, local educational agencies, publishers of instructional material, individuals with disabilities, technical standard setting bodies, and authorized entities as defined in section 121(c)(1) of title 17, United States Code; and

(F) 3 members shall be appointed by the Registrar of Copyrights.

(2) EXPERTISE OF COMMISSIONERS.—All members of the Commission shall be individuals who have been appointed on the basis of technical qualifications, professional expertise, and demonstrated knowledge and shall include at least 4 representatives of each of the following:

(A) publishers of instructional materials, including of textbooks, software, and other print, electronic, or digital curricular materials;

(B) elementary and secondary education, including teachers, special educators, and State and local education officials or administrators;

(C) researchers in the fields of disabilities, technology, and accessible media;

(D) experts in intellectual property rights; and

(E) advocates of children with disabilities, including parents of blind, visually impaired, deaf, hearing impaired, physically challenged, cognitively impaired, or learning disabled, or representatives of organizations that advocate for such children.

(3) DATE.—The appointment of the members of the Commission shall be made not later than 60 days after the date of enactment of this Act.

(4) PERIOD OF APPOINTMENT AND VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(5) INITIAL MEETING.—Not later than 45 days after the date on which all members of the Commission have been appointed, the Commission shall hold the Commission's first meeting.

(6) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(7) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(8) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a chairperson and vice chairperson from among the members of the Commission.

(c) DUTIES OF THE COMMISSION.—The Commission shall study and make recommendations to Congress and the Secretary regarding—

(1) the purposes of the Commission described in subsection (a)(2);

(2) priority topics for additional research;

(3) the availability and accessibility of curricula and instructional materials, including print, software, CD–ROM, video, and Internet, for use in elementary schools and secondary schools by children with disabilities, including—

(A) the numbers of affected children with disabilities, by grade, age, and type of disability;

(B) the technical and other means by which such materials are made accessible, such as assistive technologies, electronic versions, large print, closed captioning, video description, and Braille, and any conflicts between relevant technical standards by which instructional materials are made accessible;

(C) the steps taken by State and local educational agencies to support accessibility, including through State adoption and procurement policies, the acquisition and integration of assistive technology, and any State and local requirements or standards;

(D) timeliness of receipt of such materials by children with disabilities; and

(E) continued barriers to access to such materials; and

(4) the potential and likely effects of providing accessible or universally designed materials for all students in elementary schools and secondary schools, with a particular focus on children with disabilities, including—

(A) an analysis of the current and potential costs to develop and provide accessible instructional materials, with and without specialized formats, to publishers, States, local educational agencies, schools, and others, broken down by—

(i) type of disability, including physical, sensory, and cognitive disability;

(ii) type of instructional materials, including by grade and by basal and supplemental materials; and

(iii) type of media, including print, electronic, software, web-based, audio, and video; and

(B) an analysis of the effects of any recommended definitions regarding—

(i) the availability and quality of instructional materials for nondisabled students, and innovation in the development and delivery of these materials;

(ii) State learning content standards that are media-, skill-, or pedagogically-based and may therefore be compromised;

(iii) prices of instructional materials and the impact of the definitions on State and local budgets; and

(iv) intellectual property rights in connection with the development, distribution, and use of curriculum and instructional materials.

(d) PUBLIC HEARINGS.—As part of the study conducted under this subsection, the Commission shall hold public hearings, including through the use of the Internet or other technologies, for the purposes referred to in subsection (a).

(e) REPORT.—

(1) INTERIM REPORT.—Not later than 12 months after the establishment of the Commission, the Commission shall provide to the Secretary and Congress an interim report on the Commission's activities during the Commission's first year and any preliminary findings.

(2) FINAL REPORT.—Not later than 24 months after the establishment of the Commission, the Commission shall submit a report to the Secretary and Congress that shall contain—

(A) recommendations determined necessary regarding definitions of the terms described in subsection (a)(2)(B);

(B) recommendations for additional research; and

(C) a detailed statement of the findings and conclusions of the Commission resulting from the study of the issues identified in subsection (a)(2)(C).

(f) POWERS OF THE COMMISSION.—

(1) AUTHORITY OF COMMISSION.—The Commission may hold such hearings, convene and act at such times and places, take such testimony, and receive such evidence, as the Commission considers necessary to carry out the responsibilities of the Commission.

(2) USE OF MAIL.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(3) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(4) COMPENSATION.—Except as provided in paragraph (5), each member of the Commission who is not an officer or employee of the Federal Government shall serve without compensation. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(5) PER DIEM.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(6) EMPLOYMENT AND COMPENSATION OF EMPLOYEES.—Except as otherwise provided in this section and consistent with section 3161 of title 5, United States Code, the Chairperson may appoint, fix the compensation of, and terminate an executive director and such additional employees as may be necessary to enable the Commission to perform the Commission's duties.

(7) DETAILING OF FEDERAL EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(8) TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(g) TERMINATION OF THE COMMISSION.—The Commission shall terminate on the date that is 90 days after the date on which the Commission submits its final report under subsection (e)(2).

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION.—There are authorized to be appropriated $750,000 for fiscal year 2004, and such sums as necessary for fiscal year 2005 to carry out the provisions of this section.

(2) AVAILABILITY.—Any sums appropriated under the authorization contained in this subsection shall remain available, without fiscal year limitation, until expended.

TITLE V—MISCELLANEOUS

SEC. 501. AMENDMENT TO CHILDREN'S HEALTH ACT OF 2000.

Section 1004 of the Children's Health Act of 2000 (42 U.S.C. 285g note) is amended—

(1) in subsection (b), by striking ''Agency'' and inserting ''Agency, and the Department of Education''; and

(2) in subsection (c)—

(A) in paragraph (2), by striking ''and'' after the semicolon;

(B) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(4) be conducted in compliance with section 444 of the General Education Provisions Act (20 U.S.C. 1232g), including the requirement of prior parental consent for the disclosure of any education records, except without the use of authority or exceptions granted to authorized representatives of the Secretary of Education for the evaluation of Federally-supported education programs or in connection with the enforcement of the Federal legal requirements that relate to such programs.''.

SEC. 502. GAO REVIEW OF CHILD MEDICATION USAGE.

(a) REVIEW.—The Comptroller General shall conduct a review of—

(1) the extent to which personnel in schools actively influence parents in pursuing a diagnosis of attention deficit disorder and attention deficit hyperactivity disorder;

(2) the policies and procedures among public schools in allowing school personnel to distribute controlled substances; and

(3) the extent to which school personnel have required a child to obtain a prescription for substances covered by section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) to treat attention deficit disorder, attention deficit hyperactivity disorder, or other attention deficit-related illnesses or disorders, in order to attend school or be evaluated for services under the Individuals with Disabilities Education Act.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to Congress a report that contains the results of the review under subsection (a).

Mr. KENNEDY. I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE SPECIAL EDUCATION REAUTHORIZATION BILL

Mrs. FEINSTEIN. Mr. President, I would like to take a few minutes today to talk about the special education reauthorization bill, S. 1248, that was passed on the Senate floor today.

I start by thanking Senators GREGG and KENNEDY, in particular, for their hard work in crafting this bill over the course of the last two Congresses. This reauthorization process has truly been a bipartisan effort and is an example of what happens when partisan differences are set aside to work toward common goals. There are few more appropriate issues on which to work together than ensuring all children, regardless of their lot in life, are guaranteed an education that suits their needs.

I support this bill because it is a step in the right direction. It is not perfect, but it reaches a fair compromise by giving States and schools greater administrative and fiscal flexibility, while continuing to provide parents with disabled children the assurances that their children will continue to get an appropriate education.

This bill focuses on two main concepts: aligning special education law with No Child Left Behind and ensuring greater mechanisms are in place to allow disabled students to transition into mainstream society after high school graduation.

No Child Left Behind requires States and school districts to ensure that all students are learning and are reaching their highest potential. Special education students should not be left out of these accountability mechanisms. They should have the same level of support and guidance as nondisabled students, and have the same opportunities to enter the workforce and continue their education after high school. The goal of this reauthorization bill was to put provisions in place to allow teachers and parents to plan early for special education students to make a life for themselves after graduation.

I believe it is going to really help my State and other States around the country by giving teachers more guidance and support to do their jobs, and

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Kentucky.

MORNING BUSINESS

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

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

The Senator from Nevada.

ORDER OF BUSINESS

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

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

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

The PRESIDING OFFICER. The Senator from Kentucky.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

50-YEAR ANNIVERSARY OF BROWN v. BOARD OF EDUCATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

THE FAIRNESS IN ASBESTOS INJURY RESOLUTION ACT

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

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

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

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

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

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

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

And, further:

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

There was:

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

Judge Becker noted that:

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

And noted further:

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

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

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

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

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

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

If the matter goes back to committee, it will not have the input from all of the stakeholders which is so important and so vital in understanding all the issues and trying to come to agreement. The parties may be motivated by reconstituting negotiations because of their desire to find a way to have agreement as opposed to having the Senate impose decisions that are not agreed to by the parties.

I think it would be unfortunate if the Senate imposed the judgment as to where we stand on these complex issues because I think they require a lot more detail and a lot more study than the Judiciary Committee can give them. It is a much better forum to have the parties continue to work. As to the amount of money, it is my hope there will be flexibility on all sides.

We ought not to consider this as a matter for extracting the last dollar one way or another because there are so many thousands of injured workers who have mesothelioma, which is deadly, who are not being compensated because their companies are bankrupt. There are some 70 companies in bankruptcy. It would be an enormous help to the economy if there could be a resolution of this very troublesome problem.

I ask unanimous consent the full text of Judge Becker's memorandum to me, dated May 11, be printed in the RECORD following my comments.

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

MEMORANDUM

Date: May 11, 2004.
To: Senator Arlen Specter.
From: Judge Edward R. Becker.
Re: Pending Asbestos Legislation S. 2290 (Fairness in Asbestos Injury Resolution Act; Status Report on Mediation).

You have asked that I update my previous evaluation of the status of the efforts to achieve a consensus among the manufacturers and other defendant companies, the insurers, the reinsurers, organized labor, and the trial lawyers, i.e., the stakeholders concerned with S. 2290, so as to facilitate consideration of the legislation by the Senate and make possible its ultimate passage in a form satisfactory to the stakeholders and the Senate. I am pleased to do so.

You and I began the mediation process in the summer of 2003, and intensified it in the early months of 2004, leading to significant agreement among the stakeholders on a number of major issues, most notably on an administrative structure for processing claims, and on provisions for judicial review. We also achieved agreement on a number of other significant matters such as the definition of exigent claims, the timing of payments, and we reached some consensus on certain concepts such as the anatomy of the ''start up'', though details remained to be worked out.

As you know, I have just concluded six days of intensive mediation under the auspices of Majority Leader Frist, and Minority Leader Daschle, focused on the critical issues of claims values, projections, and the overall funding necessary to sustain a viable National Trust. These sessions were attended by the top representatives of all the stakeholders, including a large cadre of CEO's and corporate general counsels. This process served a number of highly useful purposes. At the threshold, as the result of a session attended by four leading experts, we came to a much clearer understanding of the troublesome issue of projecting disease incidence and, more importantly, claim filings over the next forty to fifty years. There are still some loose ends to be tied down, especially on the issue of distribution of non-cancer asbestosis claimants with increasing degrees of lung impairment claims (S. 2290 levels III, IV and V), but in other respects we have a good handle on the issues. While the confidentiality attendant to the mediation process cautions me against memorializing the details of the parties' positions on claim values, projections, and the size of the fund, I can fairly state that major progress was made in all these areas. There was also a significant breakthrough on the related issue of partial ''sunset'' of claims by lung cancer victims with significant asbestos exposure, but without x-ray evidence of pleural thickening or asbestosis, if and when these claims exceed an agreed upon number. . . . In short, the parties are significantly closer than they had been before. Additionally, on the vital issue of the size of the up-front funding (during the first 5 years of the fund), major strides have also been made.

While there is still a good deal of distance between the positions of the stakeholders on these matters, I am optimistic that, with further discussions with the right intermediary, the gap might be closed. Such a ''gap closure'' would not, I must add, seal a consensus in the absence of agreement on a number of other issues of great importance to the parties, most of which are inextricably intertwined with the financial issues just described. The most important items on this list are: (1) treatment of pending claims and bankruptcies; (2) subrogation of workers' compensation payments; and (3) the venue of any revision to the tort system as a vehicle for ''sunset'' in the event that the fund becomes insufficient to make the required payments to victims. But if the claims values, projections and funding issues can be resolved, I believe that these latter issues would fall into place.

I am encouraged by the joint statement made today by Senator Frist and Senator Daschle that they ''are committed to working together to determine whether a compromise can be reached that would provide sufficient payments to asbestos victims and certainty to companies.''

Mr. SPECTER. In the absence of any Senator on the floor seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Madam President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. ALEXANDER. Madam President, I ask unanimous consent to speak for up to 15 minutes as in morning business.

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

COMPUTING AND SCIENCE

Mr. ALEXANDER. Madam President, yesterday Secretary Abraham of the Department of Energy announced that Oak Ridge National Laboratory in my home State of Tennessee was selected the winner of the Department of Energy's competition to develop a leadership class computational facility.

To put that in plain English, that means the Oak Ridge Laboratory, being one of the most famous names in science in the world, will lead an effort that includes many of the brightest minds in our country to try to regain leadership in high-speed and advanced computing for the United States of America.

Oak Ridge, because of this competition, will receive $25 million in funding from the Department of Energy this year for developing this leadership class facility, and the Department has requested an additional $25 million for this activity for next year.

Secretary Abraham's decision will put the United States back in the leadership position in high-performance computing by supporting the development of a 50-teraflop high-end computing facility capable of performing 50 trillion calculations per second.

Why is that important to us? It will permit us in this country to address many scientific problems. For example, we have great debates in this Chamber about global warming and climate change. We base a lot of important policy decisions about clean air regulations—decisions that cost us money—on what is happening in the Earth's climate. This high-end, advanced computing will help us simulate the Earth's climate and have better science upon which to make our policy decisions about global warming.

High-performance computing is also required to model and simulate the plasma phenomena to examine whether fusion power can become a reality. We have enormous debates, and we have not resolved the energy picture. If fusion were an option, we would have a completely different energy picture in the world today because it would offer the promise of virtually no-cost or low-cost energy for people all around the world. Nanoscience has the possibility of revolutionizing chemistry and materials sciences. Yet the full benefit of nanoscience may not be achieved without detailed simulation of quantum interactions.

Advanced manufacturing: We have great debates in this Chamber about how to keep our manufacturing jobs from moving overseas. One way to do that is to lower manufacturing costs and advance our technology, and we should be able to do that. Having advanced computing would help us do it.

I was in Japan about a month ago. One of my purposes for going there was to get a briefing on what Japan calls the Earth Simulator. The Earth Simulator is Japan's high-speed, advanced computing technology. It is currently 2.5 times more powerful than anything else in the world. It has held this distinction for 2 years. The United States is not No. 1 in advanced computing; Japan is. Two years is a very long time to hold the top spot in the computing field.

We are very fortunate Japan is one of the strongest allies we have on this Earth. With our scientists working with Japan's scientists, we will have an opportunity to learn more about climate together and more about manufacturing together.

But the United States needs to be first in high-speed advanced computing. It is one of the critical science fields in which we need to be the world's leader. This is because high-performance computing produces scientific discoveries which were once thought only possible through experimentation.

In other words, instead of actually doing the scientific experiments, we simulate those experiments with high-speed, advanced computers and are able to do calculations scientists once thought never would be possible.

The $25 million in funding that was announced yesterday will put the Oak Ridge National Laboratory and all of its associates at laboratories and universities around America working together on a path to deliver a supercomputer with a sustained performance of 50 trillion calculations per second.

With the Secretary's announcement, the Cray computer will be expanded to exceed sustained performance of the Earth Simulator.

In other words, what is happening in Oak Ridge, if we stay on this path, will put us ahead of Japan's Earth Simulator, and the performance of this Cray architecture at Oak Ridge will be evaluated by the Oak Ridge scientists on a host of problems, including climate science, materials science, chemistry, astrophysics, and fusion. The decision by the Secretary is very timely.

Recently, on May 3, the New York Times published a front-page article stating the United States is losing its dominance in the sciences. This article basically points out the foreign advances in basic science rival or exceed those of U.S. scientists. Japan's Earth Simulator was one of the best examples of our loss of scientific leadership.

The article stated impacts of the advances in other countries can be seen by the increases in U.S. patents that are held by foreign companies, and the dominance of foreign scientists in publishing articles in the physical sciences and the reduction in the number of U.S. recipients of Nobel Prizes. These changes need to be understood.

Since World War II, at least half our jobs in the United States of America have come because of advances in science and technology. We are entering an even more competitive era. We are entering it at a time—I was thinking about this while I was in Japan—when our country and Japan, those two countries, have 43 to 45 percent of all the gross domestic product in the world. We are 5 percent of the people in the world, and we have a third of the dollars. Add Japan to that, and we are 43 to 45 percent; those two countries have 43 to 45 percent of the dollars.

We are not going to keep our standard of living even in a world that grows greatly in wealth unless we have some secret weapon. That secret weapon has to be brainpower, computer power, and scientific power. Our secret weapons are our national laboratories and our great research universities. That has been true before and it is true for the future.

Some have suggested the current administration, the Bush administration, has neglected basic research. I think we need to put this in context. The Bush administration and this Congress have followed through with the effort to double the funding for the National Institutes of Health. The NIH budget increased nearly 44 percent from 2000 to 2003.

Furthermore, since coming into office, President Bush has significantly increased funding for the National Science Foundation. That science budget increased by a factor of nearly 27 percent in the last 3 years. But despite these accomplishments by the Bush administration and by this Congress and the previous Congress, the physical sciences and engineering fields historically have been neglected. This systemic neglect has occurred for more than a decade.

The Department of Energy's Office of Sciences is the largest supporter of basic research in physical sciences and engineering.

While this office and its predecessor are responsible for many of our scientific advances, including significant contributions to mapping the human genome, the office has largely been neglected over the last 10 years. In fact, when adjusting for inflation, the Office of Science received more funding in 1992 than it has in any other year over the past 12 years. The most significant decline in funding for the Office of Science occurred during the Clinton administration.

So let's spread the blame all around, and let's spread the credit, too. We have done a good job in funding the health sciences. We have done a good job at the National Science Foundation. We have done a poor job on the physical sciences. Our future depends on the physical sciences just as much, maybe more, than it does on the other sciences.

Our great research universities, our national laboratories, and our industry leaders have urged the funding for the physical sciences and that engineering be brought to parity with that of the life and medical sciences. The President's Council of Advisors on Science and Technology made the same recommendation last year.

Some argue we cannot expect to be the leader in every field. That is correct, but we need to be among the world leaders in most fields and need to lead in some fields. One of those critical fields is high-performance computers. Computing is seen by many as the third pillar of science—right after theory and experimentation. Secretary Abraham's announcement is the first step in developing and sustaining our Nation's leadership in high-performance computers.

I have sponsored the High-End Computing Revitalization Act of 2004 along with Senator BINGAMAN. This would authorize the Secretary to carry out research and development to keep our Nation on the forefront of high-performance computing. The act authorizes the Energy Secretary to establish scientific computing facilities and would authorize a minimum of $100 million per year for 5 years to establish these facilities. It would authorize the Secretary to establish a high-end software development center and would authorize a minimum of $10 million a year for 5 years for this activity. If we want to regain the lead in high-speed computing, high-performance computing, this is what we must do. We know exactly how to do it. We have the laboratories to do it. We have the research universities to do it. Oak Ridge has now been selected as the coordinator of that effort. If we fund it, we will regain it. It is up to us to do it.

I have also sponsored the Energy and Scientific Research Investment Act of 2003 with Senators LEVIN, WARNER, and BINGAMAN. This would essentially double funding for the Department of Energy Office of Science to keep our Nation among the leaders of science. The authorizations for this bill became part of the Energy bill.

We must act to put our Nation back at the forefront of science. We have a lot of discussions in the Senate. Most of them have to do with our high standard of living. They take for granted the fact that we live in an increasingly well-educated world and that most of our ability to maintain that standard of living has to do with whether we have good schools, whether we have great universities, and whether we have great energy laboratories.

We talk about outsourcing. In Europe, the outsourcing they talk about is the outsourcing of brains being attracted by our universities and our national laboratories. Mr. Schroeder in Germany and Mr. Blair in Great Britain are challenging their higher education system because they are falling behind our higher education system.

Our research universities and our national laboratories are our secret weapons for our national defense, for our standard of living, and for our improved health care. They have been for 50 years, and they will be in the future.

I am delighted to see the Secretary of Energy has made his decision to center an attempt to regain the lead for the United States in advanced computing facilities by focusing that effort at Oak Ridge. However, I hope this Congress on both sides of the aisle will now begin to pay attention to proper funding of the physical science over the next 5 years. We should double it, as we have doubled funding for the health sciences. If we do so, it is the surest path to maintaining our standard of living, our national defense and our health care.

I ask unanimous consent the article from the New York Times to which I refer from Monday, May 3, be printed in the RECORD.

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

UNITED STATES IS LOSING ITS DOMINANCE IN THE SCIENCES

(By William J. Broad)

The United States has started to lose its worldwide dominance in critical areas of science and innovation, according to federal and private experts who point to strong evidence like prizes awarded to Americans and the number of papers in major professional journals.

Foreign advances in basic science now often rival or even exceed America's, apparently with little public awareness of the trend or its implications for jobs, industry, national security or the vigor of the nation's intellectual and cultural life.

''The rest of the world is catching up,'' said John E. Jankowski, a senior analyst at the National Science Foundation, the federal agency that tracks science trends. ''Science excellence is no longer the domain of just the U.S.''

Even analysts worried by the trend concede that an expansion of the world's brain trust, with new approaches, could invigorate the fight against disease, develop new sources of energy and wrestle with knotty environmental problems. But profits from the breakthroughs are likely to stay overseas, and this country will face competition for things like hiring scientific talent and getting space to showcase its work in top journals.

One area of international competition involves patents. Americans still win large numbers of them, but the percentage is falling as foreigners, especially Asians, have become more active and in some fields have seized the innovation lead. The United States' share of its own industrial patents has fallen steadily over the decades and now stands at 52 percent.

A more concrete decline can be seen in published research. Physical Review, a series of top physics journals, recently tracked a reversal in which American papers, in two decades, fell from the most to a minority. Last year the total was just 29 percent, down from 61 percent in 1983.

China, said Martin Blume, the journals' editor, has surged ahead by submitting more than 1,000 papers a year. ''Other scientific publishers are seeing the same kind of thing,'' he added.

Another downturn centers on the Nobel Prizes, an icon of scientific excellence. Traditionally, the United States, powered by heavy federal investments in basic research, the kind that pursues fundamental questions of nature, dominated the awards.

But the American share, after peaking from the 1960's through the 1990's, has fallen in the 2000's to about half, 51 percent. The rest went to Britain, Japan, Russia, Germany, Sweden, Switzerland and New Zealand.

''We are in a new world, and it's increasingly going to be dominated by countries other than the United States,'' Denis Simon, dean of management and technology at the Rensselaer Polytechnic Institute, recently said at a scientific meeting in Washington.

Europe and Asia are ascendant, analysts say, even if their achievements go unnoticed in the United States. In March, for example, European scientists announced that one of their planetary probes had detected methane in the atmosphere of Mars—a possible sign that alien microbes live beneath the planet's surface. The finding made headlines from Paris to Melbourne. But most Americans, bombarded with images from American's own rovers successfully exploring the red planet, missed the foreign news.

More aggressively, Europe is seeking to dominate particle physics by building the world's most powerful atom smasher, set for its debut in 2007. Its circular tunnel is 17 miles around.

Sciene analysts say Asia's push for excellence promises to be even more challenging.

''It's unbelievable,'' Diana Hicks, chairwoman of the school of public policy at the Georgia Institute of Technology, said of Asia's growth in science and technical innovation. ''It's amazing to see these output numbers of papers and patents going up so fast.''

Analysts say comparative American declines are an inevitable result of rising standards of living around the globe.

''It's all in the ebb and flow of globalization,'' said Jack Fritz, a senior officer at the National Academy of Engineering, an advisory body to the federal government. He called the declines ''the next big thing we will have to adjust to.''

The rapidly changing American status has not gone unnoticed by politicians, with Democrats on the attack and the White House on the defensive.

''We stand at a pivotal moment,'' TOM DASCHLE, the Senate Democratic leader, recently said at a policy forum in Washington at the American Association for the Advancement of Science, the nation's top general science group. ''For all our past successes, there are disturbing signs that America's dominant position in the scientific world is being shaken.''

Mr. DASCHLE accused the Bush administration of weakening the nation's science base by failing to provide enough money for cutting-edge research.

The president's science adviser, John H. Marburger III, who attended the forum, strongly denied that charge, saying in an interview that overall research budgets during the Bush administration have soared to record highs and that the science establishment is strong.

''The sky is not falling on science,'' Dr. Marburger said. ''Maybe there are some clouds—no, things that need attention.'' Any problems, he added, are within the power of the United States to deal with in a way that maintains the vitality of the research enterprise.

Analysts say Mr. Daschle and Dr. Marburger can both supply data that supports their positions.

A major question, they add, is whether big spending automatically translates into big rewards, as it did in the past. During the cold war, the government pumped more than $1 trillion into research, with a wealth of benefits including lasers, longer life expectancies, men on the Moon and the prestige of many Nobel Prizes.

Today, federal research budgets are still at record highs; this year more than $126 billion has been allocated to research. Moreover American industry makes extensive use of federal research in producing its innovations and adds its own vast sums of money, the combination dwarfing that of any other nation or bloc.

But the edifice is less formidable than it seems in part because of the nation's costly and unique military role. This year, financing for military research hit $66 billion, higher in fixed dollars than in the cold war and far higher than in any other country.

For all the spending, the United States began to experience a number of scientific declines in the 1990's, boom years for the nation's overall economy.

For instance, scientific papers by Americans peaked in 1992 and then fell roughly 10 percent, the National Science Foundation reports. Why? Many analysts point to rising foreign competition, as does the European Commission, which also monitors global science trends. In a study last year, the commission said Europe surpassed the United States in the mid-1990's as the world's largest producer of scientific literature.

Dr. Hicks of Georgia Tech said that American scientists, when top journals reject their papers, usually have no idea that rising foreign competition may be to blame.

On another front, the numbers of new doctorates in the sciences peaked in 1998 and then fell 5 percent the next year, a loss of more than 1,300 new scientists, according to the foundation.

A minor exodus also hit one of the hidden strengths of American science: vast ranks of bright foreigners. In a significant shift of demographics, they began to leave in what experts call a reverse brain drain. After peaking in the mid-1990's, the number of doctoral students from China, India and Taiwan with plans to stay in the United States began to fall by the hundreds, according to the foundation.

These declines are important, analysts say, because new scientific knowledge is an engine of the American economy and technical innovation, its influence evident in everything from potent drugs to fast computer chips.

Patents are a main way that companies and inventors reap commercial rewards from their ideas and stay competitive in the marketplace while improving the lives of millions.

Foreigners outside the United States are playing an increasingly important role in these expressions of industrial creativity. In a recent study, CHI Research, a consulting firm in Haddon Heights, NJ., found that researchers in Japan, Taiwan and South Korea now account for more than a quarter of all United States industrial patents awarded each year, generating revenue for their own countries and limiting it in the United States.

Moreover, their growth rates are rapid. Between 1980 and 2003, South Korea went from 0 to 2 percent of the total, Taiwan from 0 to 3 percent and Japan from 12 to 21 percent.

''It's not just lots of patents,'' Francis Narin, CHI's president, said of the Asian rise. ''It's lots of good patents that have a high impact,'' as measured by how often subsequent patents cite them.

Recently, Dr. Narin added, both Taiwan and Singapore surged ahead of the United States in the overall number of citations. Singapore's patents include ones in chemicals, semi-conductors, electronics and industrial tools.

China represents the next wave, experts agree, its scientific rise still too fresh to show up in most statistics but already apparent. Dr. Simon of Rensselaer said that about 400 foreign companies had recently set up research centers in China, with General Electric, for instance, doing important work there on medical scanners, which means fewer skilled jobs in America.

Ross Armbrecht, president of the Industrial Research Institute, a non-profit group in Washington that represents large American companies, said businesses were going to China not just because of low costs but to take advantage of China's growing scientific excellence.

''It's frightening,'' Dr. Armbrecht said. ''But you've got to go where the horses are.'' An eventual danger, he added, is the slow loss of intellectual property as local professionals start their own businesses with what they have learned from American companies.

For the United States, future trends look challenging, many analysts say.

In a report last month, the American Association for the Advancement of Science said the Bush administration, to live up to its pledge to halve the nation's budget deficit in the next five years, would cut research financing at 21 of 24 federal agencies—all those that do or finance science except those involved in space and national and domestic security.

More troubling to some experts is the likelihood of an accelerating loss of quality scientists. Applications from foreign graduate students to research universities are down by a quarter, experts say, partly because of the federal government's tightening of visas after the 2001 terrorist attacks.

Shirley Ann Jackson, president of the American Association for the Advancement of Science, told the recent forum audience that the drop in foreign students, the apparently declining interest of young Americans in science careers and the aging of the technical work force were, taken together, a perilous combination of developments.

''Who,'' she asked, ''will do the science of this millennium?''

Several private groups, including the Council on Competitiveness, an organization in Washington that seeks policies to promote industrial vigor, have begun to agitate for wide debate and action.

''Many other countries have realized that science and technology are key to economic growth and prosperity,'' said Jennifer Bond, the council's vice president for international affairs. ''They're catching up to us,'' she said, warning Americans not to ''rest on our laurels.''

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Madam President, I ask unanimous consent I be allowed to extend my remarks of 20 minutes as in morning business.

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

BROWN v. BOARD OF EDUCATION

Mr. HOLLINGS. Mr. President, right to the point. A lot of exercises are going on with respect to Brown v. Board of Education. Most of the comments, of course, are lamenting the fact we have not proceeded too far, or sufficiently, with respect to the integration of public education in America.

That misses the point. The point is this decision itself more or less removed the lid off the punch bowl of segregation and allowed all Americans, regardless of race, creed, or color, to become, for the first time, full Americans, full citizens. Yes, if you please, Rosa Parks could know, in not moving from that front seat in the bus, down in Montgomery in 1955 after the 1954 Brown decision, that she was a full citizen, she was a full American. That in and of itself is the real significance of this history-making decision in the last century. It certainly is the most significant judicial decision of that century in that it amended the Constitution and gave us pride, all of us, in full citizenship in this land.

I rise because of the emphasis nationally with respect to the Brown case, while the truth is the leading case was from the State of South Carolina. In December of 1952, the arguments before the U.S. Supreme Court, let the record show that Thurgood Marshall, chief counsel for the NAACP, did not argue the Brown case; he argued the Briggs v. Elliott case of South Carolina. This is not to take in any sense away from the Kansas situation, but everyone should realize the State of Kansas had only a 7-percent minority population. People did not understand that. There was a law to the effect that all cities in excess of 15,000 population could either opt for segregated schools or for integrated schools. Under that particular law, it more or less devolved down to where the elementary schools were segregated and the secondary schools were integrated. But it was not a matter of societal significance—so much so that, in essence, the State of Kansas had already decided not even to argue the case before the Supreme Court. They were going to just submit it on written briefs.

I speak advisedly. I was not the lawyer in the Briggs v. Elliott case. I was admitted to practice before the U.S. Supreme Court when we made our arguments in December 1952. I was sent at the last minute by Governor James Francis Byrnes, who formally occupied this desk as a Senator, as did John C. Calhoun, and Governor Byrnes said: Fritz, you wrote that 3-percent sales tax for the schools that we enacted in 1951 under his leadership. He said: You know all the elements of the equalization of the teachers' pay, the transportation, and the construction of public schools in South Carolina. You know that issue of separate but equal, how we equalized everything and what we had done to the extent of over 3-percent sales tax to finance it and everything else, so it was real and not just what we intended. He said: You have to go up there with Robert McC. Figg, the active counsel at the local level in Briggs against Elliot, and with John W. Davis, former Solicitor General, candidate for President in 1924. According to Governor Byrnes, a former associate justice who sat on the Supreme Court, the constitutional mind of the legal profession is John W. Davis of West Virginia. I have called him and he is going to make the arguments pro bono for the State of South Carolina that he believes so vehemently in Plessy vs. Ferguson, the 1896 decision of the Supreme Court that enunciated the separate but equal doctrine. That was my participation.

Let me go back to the earliest part because that is the real significance of this change in our culture, society, and Constitution.

It was back in 1947 that a group in Summerton, SC, which is in Clarendon County, and had gotten together an old, discarded bus. Levi Pearson was the principal mechanic. He fixed the engine and got that bus all ready to go. They went to the school board for a little gasoline money. The school board said: No, we are not giving you any gasoline money. They said: Well, you have it for the White children. They have the money. We have to walk to the Scotts Branch School—which was a 9-mile walk for some of them—down a dirt road.

We get this big yellow bus full of White children passing us in the dust or in the rain—whichever of the two. They said: And we just fixed up the bus. It won't cost you anything.

They said: No. You folks don't pay taxes and we don't have any money for gasoline for you to have a ride to school.

When you hear this, you begin to understand the significance of the change in our society and what we call equal rights under the law. That is somewhere along the ceiling up here.

So Pearson got together with Rev. Joseph De Laine. Reverend De Laine was an AME preacher and also a schoolteacher, and later a superintendent. They went up to Columbia and they got the case going. On a technicality, if you please—they found out the plaintiff in the case lived just over the line. His children were attending school in the district where the case was brought, but on a technical thing they had it thrown out. They could always find something to prohibit any kind of relief for the African Americans at that particular time.

So Reverend De Laine went and talked, in Columbia, to James M. Hinton, the NAACP director. He said: Look, Reverend, if you go down to Summerton and you get 20 plaintiffs, I can get that lawyer Marshall, up there in Washington, DC, to bring a class action.

So Reverend De Laine came back down to Summerton, got the 20 parents, and some 46 children, and that gives the genesis of the famous ''Summerton 66.'' Anywhere you talk, in the African-American community in America, they know of that ''Summerton 66.'' Mind you me, this started 8 years before Rosa Parks.

Incidentally, and I am grateful to the Senate, they unanimously endorsed the Congressional Gold Medal for Levi Pearson, for Harry and Eliza Briggs, as well as for Rev. Joseph De Laine. That is one of the reasons why this afternoon, when we are not too busy, I am speaking. I had intended to speak on Monday, which is May 17, the actual 50-year anniversary of Brown v. Board of Education, but I have to be at an event in South Carolina. I do not know that I will get back in time.

But be that as it may, it is important that the record be made about these valiant Americans who changed history.

When they got there, sure enough, Thurgood Marshall took up the case. Then, as the expression goes, all hell broke loose. I could go into the details, but that is why I speak without notes. I could tell you just when and where and how Reverend De Laine's home was shot, and later it was burned. He escaped to a church down in Lake City

some 35 miles away, where, again, his church was burned and he escaped with his life, never to return to the State of South Carolina. They held a warrant out on him for 45 years. He had fired back at the car the first time when they shot his home in order to identify the car, but he never got a chance. They held on to the warrant on him for some 45 years.

Harry Briggs, the plaintiff, he ran a filling station there in Summerton. Nobody would buy gas from him anymore. He escaped down to Florida to make a living with his wife. Others who were just dirt farmers there could not, all of a sudden, buy seed to plant. They lost their livelihoods and everything of that kind.

I could go down throughout the years. They stuck with it for a good 5- or 6-year period, until that decision was made. Every pressure in the Lord's world was made to try to threaten, coerce, and make them remove their names from that particular petition. But the famous ''Summerton 66''—the 20 parents and 46 kids—stuck with it, and they made history.

When I came to Washington, it was on a Saturday morning. Robert McC. Figg, a distinguished lawyer—a Columbia University law graduate—had handled the case at the local level under Judge Waring in the Fourth Circuit Court of Appeals. We came up, obviously, on the appeal of the NAACP and Thurgood Marshall. We got here on a Saturday morning. You will begin to understand what we learned, to our shock, that our Briggs v. Elliott case, the lead case, all of a sudden had been set aside, and the lead case was made Brown v. the Board of Education in Topeka. Roy Wilkins was a friend of the Solicitor General, and they moved the case up because they knew that Kansas was not really disturbed and did not have a strong case one way or the other; it could care less. That was proved by that they were not going to even send an attorney to argue the case.

I will never forget, on a Saturday afternoon and evening, Governor Byrnes was on the line with the Governor of Kansas, finally persuading him to send someone. Late on Sunday evening they sent Paul Wilson—an Assistant Attorney General. They did not send the Attorney General or anybody to handle it; they sent the Assistant Attorney General, and we helped brief him over at the Wardman Park.

But I am getting ahead of my story. This morning I noticed in the Washington Post a Brown v. Board of Education decision whereby it is quoted that Thurgood Marshall thought that once they had won on May 17, 1954, there would be complete integration within 5 years. Absolutely wrong. False. I know, and the reason I know is because we were at Union Station here in the District. We were having breakfast—that is Dean Figg, who was later the dean of our law school—Dean Figg and myself. And in walked Mr. Marshall. He sat down and they began to exchange stories. Incidentally, they had the highest respect for each other. They got along. I will never forget when they were hanging a portrait of Jimmy Byrnes over in the Supreme Court, and Figg came in the doorway and Associate Justice Marshall hugged him and almost lifted him off the floor. And all the other Justices wondered what in the world was going on. They thought the world of each other.

Thurgood Marshall turned and said: Now, Bob, let's assume I have won the case. How long do you think before there will be any real integration?

And I will never forget it. Figg said: Thurgood, you are not going to like my answer, but it is going to be a good 25 years before there is any real integration.

Marshall looked at him and said: No, you're wrong. It will be nearer 50 years.

And here we are today, 50 years later, where the Scott's Branch School in the Briggs v. Elliott case is still 95-percent segregated. When that decision came out on May 17, we had 16 private schools in my little State of South Carolina. Now we have 372 private schools. Do you know why charter schools, tax credits, all that there malarkey is coming along? That is the drive to finance segregation. That is all it is. And they all know it. But you don't see that printed.

We ought to test this to see how the schools can work.

I wish they would go back to Horace Mann, when the greatness of America was public education, where all people of all classes and creeds were all put together, and they came and studied and graduated together and became one strong society. That is why I cosponsored the draft, yes, on the inequality of those who have to serve, but more than anything else, the strength of the draft itself in the building of America.

There was another story that some will say is not politically correct, but I will never forget Marshall turned to Figg, and he said: By the way, Bob, you know—at that time they were referred to not as African Americans—that Negro family in Cicero, they are having near riots and everything else like that. So he said: Do you know what I had to do? I had to go down to Springfield and see Governor Adlai Stevenson. I got Governor Stevenson to send that family back to Mississippi for safekeeping. And he said: But for Heaven's sake, don't tell anybody that. That will ruin me.

I said: Thurgood, don't tell anybody I am eating breakfast with you. I will never get elected to another office.

I was a young Speaker pro tempore back over 50 years ago in 1952. Now we Democrats are begging to eat breakfast with African Americans, but not then. Oh, no. You folks in this Chamber have to understand the changes that have come about over America.

But be that as it may, when we left that morning after breakfast, we found out that they had moved that case up for known reasons, and we had to fight all weekend to get Wilson. And Wilson teed off on Monday morning as the first argument in Brown against the board. He literally shocked the other side because he made a splendid argument. There were 3 days of arguments.

Fred Vinson was the Chief Justice at the time. All of the lawyers were talking about the value of association under the Vinson decision of Sweatt v. Painter and making appeals, knowing that the court would once again confirm Plessy v. Ferguson.

Governor Byrnes, incidentally, told me: Don't worry about that case. I have talked to some friends up there.

He wouldn't want to say he talked to the Court. He said: I talked to some friends, and we will win that case. And there is no question that they probably would have.

But what happened was that a few months later, Chief Justice Vinson passed away and Earl Warren was appointed Chief Justice. That changed history because Warren said: Come back and don't argue.

So Warren made us come back, reargue not separate but equal, but the fundamental that segregation in and of itself was unconstitutional.

So we went back and we reargued that case. On May 17, a unanimous court decision came down which changed America. There is no question in my mind that was for the good. I had my doubts at that particular time. Still as a young southern politician, I said: Good gosh, how are we going to do this?

Well, it is very interesting. Thurgood Marshall, Bob Figg, Roy Wilkins, the NAACP lawyers, they all got together. And the Court, on May 17, said: desegregate with all deliberate speed. So Wilkins and Marshall had agreed to this—they said what we will do is the first year we will integrate the first grade. The second year we will integrate the first grade again, and of course the second grade is already integrated, then on up the line over a 12-year period, and we will have, with all deliberate speed, all the elementary grades integrated, beginning with the little ones playing together.

That was Marshall's answer to Felix Frankfurter when Frankfurter asked him: What happens when you have won your case? What happens?

He said: Well, the little children, if Your Honor please, who play together and go off to separate schools will come back and play together, and they will have freedom of choice. They can go to whatever school they want. What we are trying to remove is the State-imposed separation of race in public education.

Our Constitution and the law of South Carolina, unlike Kansas, which was local option, our Constitution and law required separate but equal.

We had it all worked out until the lawyer up in New York for the NAACP said: No, sir. We are not going to be

given our constitutional rights on the installment plan.

And the rest is history. We had the white citizens councils on the one hand. We had Martin Luther King, Jr., and burn baby burn on the other hand. And we literally had some 20 years—Malcolm X and everything else of that kind—of trauma, upset, burning here in Washington. I will never forget the riots in 1968. It has been quite a history over that period of time.

What has happened is not integrated public education. That is agreed to. But it really made legitimate Rosa Parks and everybody else coming south, the freedom riders and everything else like that. For the first time officially everyone became a full citizen under the Constitution and under the law in America on May 17, 1954.

So we made a lot of progress in the United States since that time. It was done through the valiant effort of the Summerton 66 that literally lost their lives—one was attributed to having lost his life as a result of the discord. But whatever it might be, Reverend De Laine could not return to South Carolina. The United States Senate and the House of Representatives unanimously have agreed now to present them the Congressional Gold Medal.

It had been my hope that next Monday afternoon, May 17, we would have a ceremony in the Rotunda, but we will look forward to the time later this year when we can honor Reverend De Laine, Harry and Eliza Briggs, and Levi Pearson, who really understood the Constitution in America better than this particular Senator, who at that time was only a fledgling Democratic politician. That is the history. I will be glad to go into it sometime with my colleagues about some of the arguments made.

I yield the floor.

Mr. REID. Mr. President, did I hear the Senator say that the first arguments took 3 days?

Mr. HOLLINGS. Three days, yes.

Mr. REID. Now, in the Supreme Court, if you get an hour, you are lucky.

Mr. HOLLINGS. That is right, it took 3 days. I will never forget, Henry Fonda was over at the National Theater, and I was sitting right inside the rail with John W. Davis and Mr. Briggs right at the table, and I got Fonda to sit up there with me during the 3 days. He didn't leave. He wanted to hear all the arguments. That was in December of 1952.

Mr. REID. Mr. President, I say to the Senator, what a great history lesson we had today. We have only heard a short bit of the knowledge of the Senator from South Carolina. The Senator from South Carolina was one of the originals who decided things were not the way they should be in the South. He has been able to work through the process and stand for what he believed, and because of this, the people of South Carolina have elected him time after time. It is obvious why. He is a man who is a World War II combat veteran, someone we admire so much. We are all disappointed that he has indicated he is not going to seek reelection. It is a disappointment to me.

I cannot express in words what a role model he has been for me. Not only can he stand and speak, as he did today, about the most serious subjects that face the world, but he has one of the best senses of humor of anyone I have dealt with.

Mr. HOLLINGS. I thank the distinguished Senator.

AWARDING MEDALS TO SERVICE MEMBERS

Mr. REID. Mr. President, we don't have anybody from the majority in the Chamber. I want to reiterate what I said earlier in the day. We are basically in morning business today. There is no legislative business on the floor. Senator BINGAMAN—I am speaking for him and for everyone on this side of the aisle—badly wants to do Calendar No. 507, H.R. 3104 on the Calendar of Business, which is a piece of legislation to provide for the establishment of separate campaign medals to be awarded to members of the uniformed services who participated in Operation Enduring Freedom in Afghanistan and members of the uniformed services who participated in Operation Iraqi Freedom, of course, in Iraq. I cannot imagine why we cannot do this bill, which passed the House unanimously.

I hear on the other side that ''we are trying to clear it.'' What in the world does that mean? Is somebody opposing bringing this bill to the floor? The problem we have is that the day is winding down. As we all know, people have things to do in their States and around the country. They are going to be leaving. If we don't get something within the next 35 minutes or so, there won't be enough Senators here to allow a vote to take place.

So, again, I say to the majority, why can we not do this piece of legislation? It is something Senator BINGAMAN has worked on for more than a year. It is important legislation, something we should do. I am terribly disappointed that I am told they are trying to clear it. I don't understand what that means. Clear what? Is someone going to vote against medals for people who participated in those two theaters of war? Is it just because it is Senator BINGAMAN's idea. I don't know what it is. I hope we get real and move forward on this legislation. I apologize for making my friends wait.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

(The remarks of Mr. PRYOR pertaining to the submission of S. 2419 are printed in today's RECORD under ''Statements on Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Georgia.

MORE OUTRAGED BY THE OUTRAGE

Mr. MILLER. Mr. President, here we go again, rushing to give aid and comfort to our enemies—pushing, pulling, shoving, and leaping over one another to assign blame and point the finger at ''America the terrible,'' lining up in long lines at the microphones to offer apologies to those poor, pitiful Iraqi prisoners.

Of course, I do not condone all the things that went on in that prison, but I for one refuse to join in this national act of contrition over it. Those who are wringing their hands and shouting so loudly for heads to roll over this seem to have conveniently overlooked the fact that someone's head has rolled, that of another innocent American brutally murdered by terrorists.

Why is it there is more indignation over a photo of a prisoner with underwear on his head than over the video of a young American with no head at all? Why is it some in this country still do not get it, that we are at war, a war against terrorists who are plotting to kill us every day, terrorists who will murder Americans at any time, anyplace, any chance they get.

Yet here we are, America on its knees in front of our enemy, begging for their forgiveness over the mistreatment of prisoners, showing our enemy and the world once again how easily America can get sidetracked, how easily America can turn against itself.

Yes, a handful of soldiers went too far with their interrogation. Clearly some of them were not properly trained to handle such duty, but the way to deal with this is with swift and sure punishment and immediate and better training.

There also needs to be more careful screening of who it is we put in these kinds of sensitive situations—and no one wants to hear this, and I am reluctant to say it, but there should also be some serious questioning of having male and female soldiers serving side by side in these kinds of military missions. Instead, I worry that the HWA, the ''hand wringers of America,'' will add to their membership and continue to bash our country ad nauseam and, in doing so, hand over more innocent Americans to the enemy on a silver platter.

So I stand with Senator INHOFE of Oklahoma who stated that he is more outraged by the outrage than by the treatment of those prisoners. More outraged by the outrage, that is a good way of putting it. That is exactly how this Senator from Georgia feels.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

HONORING OUR SERVICE MEN AND WOMEN

Mr. BINGAMAN. Mr. President, I rise to express my strong hope that we can get agreement today to move ahead

with H.R. 3104 and pass that legislation before we adjourn this week. This is legislation which has passed the House unanimously and has come over to the Senate. In my opinion, this should now pass the Senate and go to the President for signature. This is legislation that would honor those service men and women in Iraq and in Afghanistan who have served their country there or continue to serve there.

Obviously, over the last couple of weeks the reputation of our military has been stained by the horrific events at Abu Ghraib prison and every level of our military has been affected by the actions of the few who have been identified. I think all of us are looking to see the extent of the problem. All of us are anxious to ensure the problem does not continue in the future.

At this point, it is important to recognize and honor the thousands of fighting men and women who serve this Nation every day with commitment, courage, integrity, and professionalism both in Iraq and in Afghanistan.

That is the purpose of the legislation I am urging us to bring up and to pass today. We have a Senate version of this same bill that has been introduced. It has 24 cosponsors. I have introduced this legislation with Senators LUGAR and LOTT, LANDRIEU, INHOFE, GREGG, JOHNSON, ROCKEFELLER, PRYOR, REID, DASCHLE, LINCOLN, BOXER, DURBIN, BIDEN, AKAKA, EDWARDS, KERRY, CLINTON, BAYH, FEINGOLD, NELSON, CONRAD, KENNEDY, STABENOW, and DOLE. So this is a broadly supported piece of legislation on both sides of the political aisle.

I particularly want to thank the chairman of the Armed Services Committee, Senator WARNER, for his support of this important measure.

This has been a dangerous and a brutal period for our troops in Iraq in particular, but also in Afghanistan. There have been nearly 3,000 Americans injured in these 2 conflicts in recent months. More than a year after the initial Iraq invasion, the administration has announced plans to maintain a force of at least 135,000 troops in Iraq through next year, through 2005.

We will have many debates as we proceed with the Defense authorization bill next week and then later with the Defense appropriations bill, on the right level of funding, on how quickly to proceed with funding. President Bush has recently asked for another $25 billion to be included in the defense budget for the operations in Iraq and I know there will be discussion about whether that is the appropriate amount. But clearly the liberation of Iraq is turning out to be the most significant military occupation and reconstruction effort this country has engaged in since World War II. We must not underestimate the importance of the work that is involved here. I think it is important that we recognize those whose lives are on the line to accomplish this very difficult task.

Let me talk a minute about what is at stake in this legislation. The Defense Department has decided in their view what is appropriate is to award to the brave men and women who are serving in those two conflicts the Global War on Terrorism Expeditionary Medal and no other medal. This is despite the fact the Global War on Terrorism Medal is meant for any individual who served overseas during this war on terror and may have come within a few hundred miles of a combat zone. The dangers of serving in Iraq and in Afghanistan are far greater. Therefore, along with my colleagues, I propose to correct what I considered a mistake by authorizing that we issue the Iraq and Afghanistan Liberation Medals in addition to the Global War on Terrorism Expeditionary Medal.

When the President was defending Secretary Rumsfeld earlier this week, he noted Secretary Rumsfeld was involved in leading the military in ''two wars.'' If the President is willing to acknowledge the fact we are engaged in two wars, then his decision about how to award medals should be consistent with that. The policy we are currently following, that the Pentagon is currently following, is not consistent with that.

While some of us in this body have not shared the administration's view on the wisdom of going to war in Iraq, we are united when it comes to supporting our troops. These young men and women from Active Duty, from National Guard, and from Reserves are all volunteers. They exemplify the very essence of what it means to be a patriot. We believe what they are doing in Iraq and what they are doing in Afghanistan today differs from military expeditionary activity such as peacekeeping operations or enforcement of no-fly zones.

They continue to serve even though they do not know when they will return home to their family, to their friends. They continue to serve despite the constant threat which they face to their own lives and the tremendous hardship many of them face.

There is a difference between an expeditionary medal and a campaign medal and it is a well-recognized difference that goes back throughout our military history. We only need to look at an excerpt from U.S. Army Qualifications for the Armed Forces Expeditionary Medal and the Kosovo Campaign Medal. In order to receive the Armed Forces Expeditionary Medal, you did not need to go to war; you only needed to be ''placed in such a position that in the opinion of the Joint Chiefs of Staff, hostile action by foreign Armed Forces was imminent even though it does not materialize.''

However, to earn the Kosovo Campaign Medal, the standard was higher. A military member was required to:

> Be engaged in actual combat or duty that is equally hazardous as combat duty, during the Operation with armed opposition, regardless of time in the Area of Engagement. Or while participating in the Operation regardless of time [the service member] is wounded or injured or requires medical evacuation from the Area of Engagement.

Many within the military agree there is a difference. According to the Army Times, and let me quote their statement, they say:

> Campaign medals help to establish immediate rapport with individuals checking into a unit.

An expeditionary medal like the Global War on Terrorism Medal does not necessarily denote the individual with that medal has ever been involved in combat. A campaign medal is designed to recognize military personnel who have risked their lives in combat.

Campaign medals matter. Let me give another quotation here.

> When a marine shows up at a new duty station, commanders look first at his decorations and physical fitness score, the first to see where he has been, the second to see if he can hang [tough]. They know what you have done and how serious you are. . . . If you are a good marine, people are going to award you when it comes time. . . .

That is the statement of a sergeant, as quoted in the Army Times.

In my view it is time we agreed with the rank and file in the military, recognize the sacrifice of our young men and women who are fighting to assist in Iraq, including great Americans such as Army SP Joseph Hudson from my home State, from Alamogordo, NM, who was held as a prisoner of war. The Nation was captivated as we watched Specialist Hudson several months ago being interrogated by the enemy. Asked to divulge his military occupation, Specialist Hudson stared defiantly into the camera and said, ''I follow orders.''

Those of us whose sons and daughters were united in worrying about Specialist Hudson's family—and the entire Nation rejoiced when he was liberated—that same circumstance has played out with regard to many other men and women who have served and are continuing to serve our Nation in those conflicts.

We have also asked a great deal from the Reserve and National Guard forces in our States. The reconstruction of Iraq would not be possible without the commitment and sacrifice of the 170,000 guard and reservists currently on active duty.

In my view it is absolutely essential we go ahead and act on this legislation. I know there may be some who say this legislation has been incorporated, or the same provisions have been incorporated in the Defense authorization bill which will be considered on the Senate floor next week, and therefore we need not take action today. The problem with dealing with it on the Defense authorization bill as part of the Defense authorization bill is all of us who have been around the Senate know that bill will not get to the President's desk for signature until late this summer or maybe fall. What I am urging is we take the bill the House has passed unanimously, without a dissenting vote, we pass that same legislation,

and send it to the President for signature, so these two campaign medals, one for Iraq and one for Afghanistan, can begin to be awarded to these brave men and women.

I hope we can get the needed clearance on the Republican side. All Democratic Senators have agreed to this course of action so we can bring up this legislation and pass it.

I am informed there is objection at this point; at least clearance has not been achieved. I hope that can be remedied and we can act on this bill before we leave town this week.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. CRAIG. Mr. President, I inquire, is there currently business before the Senate?

The PRESIDING OFFICER. The Senate is in morning business with a 10-minute time limit.

U.S. ENERGY MARKET

Mr. CRAIG. Mr. President, I come to the Senate floor once again today, as I have on three different occasions over the last 2 weeks, to visit with my colleagues about the State of the U.S. energy market and what is happening out there that I am afraid some of my colleagues are not yet understanding in a way that will cause them to act to help us shape a national energy policy for our country.

When I was on the floor of the Senate 2 weeks ago, I mentioned that gas at the pump in California had hit $2.25 a gallon. A few days later, I announced that gas had hit $2.50 a gallon in the State of California. Yesterday, gas hit over $3 a gallon in the Los Angeles market—a historic high not only for this Nation but most assuredly for the State of California. In our State of Idaho—I say ''our'' State because my colleague, MIKE CRAPO, is presiding at this moment—in some instances, gas has gone over $2 per gallon. For those of us who travel the miles across Idaho to get from one small community to another, that begins to have a very real impact upon the ability of our citizens to simply move across the State of Idaho, let alone those businesses and industries that use large volumes of chemicals, gasoline, and diesel for the conduct of their businesses.

So while I was accused by some of our folks on the other side of being a little bit too much of an alarmist a week ago in speaking about this, I will simply hold my tone down today. But I have to think that the average consumer who swiped his credit card with a $50 limit and found out that before he could get his SUV filled, he had ran out the limit of the credit card and had to swipe it one more time because the gas pump shut down got a very rude awakening this week in the Los Angeles basin.

Who ever thought it would cost $45 or $50 to fuel your automobile? That is what it is costing today. I said a couple weeks ago that the average citizen this fiscal year would spend $300 to $500 just for gasoline than a year ago. I need to update that a little bit. Now we are up to about $560 instead of $400. That has happened just within the course of a week and a half. Yet, the Senate still cannot get its act together. It cannot produce a national energy policy that we have been debating and refining in this Chamber and in the appropriate committees for the last 5 years. Somehow it just isn't quite perfect.

In the course of those years, we quit producing as a country. We kept demanding and growing, and our growth, in large part, is based on surplus energy that was built into our system over the last two decades. But as our economy comes back on line, that surplus is gone.

Let's remember what happened at the last peak of an economic cycle in the State of California, when the State of California went dark, and businesses and industries had to curtail production because they didn't have electricity—or very little—or it wasn't reliable or stable. Have we done anything to correct that, to create sustainability and reliability in the system?

The answer is that we have not done anything. We have debated it loudly and clearly, but we really could not get our political act together to solve the problem in California and the region. We have not drilled any more oil wells in the United States. We have not been allowed to drill where we think there are literally billions of barrels of oil in Alaska because somebody said it might damage the environment. Yet we have already proved by drilling in Alaska that proper procedure in the 1970s didn't damage the environment. Our abilities now, in 2004, are so much enhanced that we know we will not damage the environment. But it became the clarion call of the environmental movement in this country not to touch ANWR. So, politically, we did not; we could not. The votes simply were not here to do it.

What would happen today if ANWR were developed and the production was on line, even though it wasn't pumping at the moment? We could say to OPEC, to other countries around the world, that we are going to turn the valve of ANWR on and flow the oil through the pipeline of Valdez and fill our tankers and bring them down to Anacortes, WA, and to the refineries of California, and begin to refine the oil of Alaska.

I bet OPEC would scratch its head and say: Maybe we better change our ways a little bit. Maybe getting $30 to $35 a barrel is not realistic because we forced the United States to be less reliant on us and more reliable on themselves. It is called fungibility in the oil market.

We cannot do that today because politically we have not been allowed to do the right kind of exploration and environmentally sound development in Alaska.

We are hoping this economy keeps going, keeps growing, keeps rebounding the way it currently is, but what is putting a phenomenal amount of pressure on it at this moment in the form of greater input costs into almost every aspect of the economy is the cost of energy, whether it is the average home and consumer or whether it is our farmers in the State of Idaho who this past February, when they sat down with their banker to develop their line of credit for the year, penciled in an energy cost and a fertilizer cost, little knowing what they penciled in was 30 to 40 percent inadequate from what it was actually going to cost them. They have today found out their fertilizer costs doubled. Why? Because phosphate is made from natural gas, natural gas processes, and natural gas went from $2.50 a million cubic feet to $6.50 to $7 a million cubic feet, and the cost of fertilizer went through the roof.

So fertilizer got applied less in some areas and where it did not get applied, the farmer rolled the dice and gambled, hoping somehow the value of the crop produced would increase 25, 30, or 40 percent, which, of course, won't happen. That is agriculture alone.

What about the chemical industry? What about those kinds of industries up and down the east coast of America that produce the chemicals for this country? Many of them have already shut down, and they have taken their production to Europe. It has cost us thousands of jobs.

I must tell those men and women who are out of work: Why don't you pick up the phone and call your Senators and ask your Senators how they voted on the Energy bill, and if they voted no, why did that vote cost you your job because the cost of energy went through the roof and your company had to shut down. That is, in part, the reality America is facing today.

While all of us are excited about the growth of the economy and the thousands of new jobs that are being created at this moment, there is a cloud hanging over Wall Street and the investment community. They openly say that cloud is the unpredictable high cost of energy and the impact it will have on certain segments of the economy that are highly dependent upon it.

What did we do when we crafted S. 2095? We built a broad-based, incentivized bill that said we ought to be producing in all segments of the energy market. It was not selective. It said America would grow and America would prosper with an abundance of energy at a reasonable price that was reliable and available. Therefore, our bill, S. 2095, encouraged domestic oil

production, encouraged the development of more natural gas, encouraged the building of necessary infrastructure, such as the Alaska natural gas pipeline. Oh, I didn't tell you? We are pumping trillions of cubic feet of gas back into the ground in Alaska as we speak from the currently developed oilfields. Why? Because we cannot get it to the lower 48. We produce it, it comes up, we segregate it from the oil, we put the oil in the pipeline, and we pump the gas back into the ground.

So we said: Why don't we build a pipeline? And industry said: Because it is so expensive, we cannot afford to build it unless you give us certain consideration. This week we gave them that consideration. We gave them the tax incentives to build the pipeline to bring the gas to the lower 48 to supply our business and industry, to bring down the cost of fertilizer, and S. 2095 did just that. It encouraged and incentivized the building of a natural gas pipeline out of Alaska.

Our Senate bill encouraged use of renewable fuels, such as ethanol. It encouraged more renewable energy. Wind—you bet we are all for wind and more of it as a generating source for electricity and photovoltaics, energy cells, taking the energy of the Sun. This bill promotes that where it can fit and does work. We have strengthened the future of nuclear energy as an option by, again, trying to incentivize getting into what we call generation 4 reactor development.

Our State of Idaho might well be the place where a prototype is built. This week in the State of Idaho, five representatives from five different nations around the world visited our national laboratory as the site where a new reactor prototype will be built, called generation 4. It is a high-pressure reactor, safe to operate, that can produce a phenomenal abundance of nonemitting electricity and even hydrogen for a hydrogen economy and a hydrogen fuel cell transportation market. That is in S. 2095. That is part of what we have been working on.

Clean coal technology, that phenomenal energy resource of the Senator from Kentucky, who is sitting here beside me at the moment, could be used without the risk of pollution.

There is hydrogen promotion, hydrogen fuel cell development, and I spoke of the generation 4 reactor and the production of hydrogen. Of course, there is conversation, using energy more wisely so we use less, research and development in new technologies, mandatory reliability rules for the electrical grid that moves our electricity across the country, the promotion of advancement and the expansion of that grid. That is the full package.

It is also very interesting that when George Bush was President-elect George Bush, before he had taken the oath of office, I will not forget meeting with him for the first time just down the hall from the Senate Chamber in the office of the majority leader of the Senate. He said: My most important priority beyond education, the economy, and tax cuts to get the economy going again will be a national energy policy.

At that time, he said: I will task the Vice President to put the best minds in the country together and make recommendations to you, the Congress, to develop a national energy policy based on what we see is necessary in the market. Our President did that.

It is interesting that a lot of people criticized him for it: Gee, who was that who was meeting with you? Did they meet behind closed doors? What did they recommend? And all of that.

They recommended a first-class list of things to do and what I have mentioned. What is embodied in S. 2095 is, in large part, what the President of the United States recommended to us as a national energy policy.

Why isn't it law? Why hasn't this country turned toward producing energy instead of simply consuming and being more reliant on a foreign producer than a U.S. producer? Because this Senate could not get its act together. It is not big oil you ought to be blaming anymore, it is big Government and big politics. It is the politics of energy, it is the politics of the environment, and it is the denial of the responsibility that every Senator in this body has to the home folks, to the consumer, to the producer, to the farmer, to working men and women who are now paying more for energy than at any other time in this Nation's history.

If you don't think $3 a gallon for gas at the pump in the L.A. basin does not have an impact on the economy of this country, then think again. If you think $2 a gallon for gas at the pump in Idaho today does not have an impact on the consumer, does not have an impact on the farmer, the producer, the working men and women, then think again.

Our economy is a whole. It is just as I said, and if that average working family has to spend $400, $500, $600 or more or $1,000 or more a year on energy, that is $1,000 less they have to put food on their table, buy clothes for their kids, or even go out in the evening and have a dinner.

It is that extra income that rolls across America that makes this country and this economy as strong as it is. When it is going to an OPEC nation to pay for the oil for the gas or the oil we burn here instead of going to our own producers, somehow that just is not right. But that is exactly what we are doing today, and we are doing it for one simple reason alone: Because politically we could not function. Politically we did not get our act together.

Many of us tried. We produced a bipartisan bill, but it was not quite perfect for some. Now the tragedy of that story is that the American consumer pays an unprecedented price. That is the bad news.

There is a glimmer of good news. In a bill that we passed this week, we passed a piece of this energy bill. We passed the tax incentives. A couple of Senators came to the floor and said: Oh, all that money is just being given to big oil, which is a big rich industry and shame on you for doing that.

Do my colleagues know what the rate of return on investment in the oil industry was last year? Mr. President, 6.3 percent. Banking was 19.5 percent. Starbucks was 8 percent. In other words, it was more profitable last year to invest in a Starbucks coffee shop than to invest in a major oil company. Why? Cost of production, Federal regulations, Clean Air Act, all of those Government hurdles that the oil industry has to jump over that cost hundreds of millions of dollars to bring a new refinery online or to bring a new oilfield into production.

So good money just does not go there when money can go elsewhere with less risk to make greater return. That is what we passed this week. With the tenacity of the leadership, we got it through. That is a piece of a total picture of getting this country back into the business of producing.

Somebody said, well, we could tap SPR, the Strategic Petroleum Reserve, the salt domes down in the south where we store crude oil in the case of an emergency. So if we tap those, then we would have more oil and therefore more gas and the gas at the pump would cost less.

What they did not say is that was the strategy that Bill Clinton used during a period of high gas prices and it changed the price at the pump by one cent. The reason it changed the price at the pump by only one cent is because our refinery capacity in this country is so limited today.

Twenty years ago, we had 324 gas and oil refineries in this country. Today, we have 135 or 140. It was not cost effective to retrofit them and rebuild them to meet the standards of the Clean Air Act. They simply tore them down and they went away. So with our gas and oil refineries operating at 95- to 98-percent capacity, as we speak at this moment, adding more total supply does not change the equation.

Well, would you leverage down the Saudis and OPEC? Probably not that much, because they know that ultimately we will have to come back to buy oil from them because we are not producing it for ourselves.

So before we adjourn this final session of the 108th Congress, whether it occurs in late September or early October, there is one thing we ought to do, and that is we ought to pass a national energy policy for this country. It is written. It is refined. It has been through conference. It is laying at the desk of the Senate, ready for an up-or-down vote. It is that simple.

It will not change gas at the pump overnight, but it will set us on a path of conserving, of producing, and of creating new technologies, alternatives, and fuel sources that are clean and nonemitting. Most importantly, it will say to the American consumer that the

Senate of the United States on energy, for the first time, acted responsibly; instead of kowtowing to an environmental community or to another community of interests, it put it all together, it did the right things, and S. 2095 does, in my opinion, all of the right things and it puts us on a path of getting back to the business of producing, being more self-reliant on our own ability, less reliant and less dependent on nations elsewhere in the world that have become the primary producers of crude oil for the whole of the world.

That is the mission we ought to be about, but somehow politically we just cannot get there. So pick up your phone, call your Senator. I have called mine. I am talking to my Senator, who is the Presiding Officer. He and I agree that it is time this country get back into the business of producing energy, and it is important that the Senate respond.

I have one request of my colleagues this weekend when they are home. Take your car out, drive up to a gas pump at the local service station and fill it up and watch the face of the gas pump. Then watch your wallet because, if the tank is empty and you are filling it, it will drain your wallet, as it is draining the wallets of the working men and women of America.

Shame on us for having allowed that to happen, but it is this Senate and its inability to get a policy together that has in large part caused the problem our consumers now face.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM of Florida. I thank the Chair.

(The remarks of Mr. GRAHAM of Florida pertaining to the introduction of S. 2420 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. GRAHAM of Florida. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. COLLINS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

IRAQ

Mr. LAUTENBERG. Mr. President, all of us in the Senate, and in the Government generally, are terribly upset with the events of these last days and weeks because the shock and awe that we all experienced in the beginning days has been diminished when compared to what we are seeing now.

Now we are seeing the ultimate degradation of human conduct. Unfortunately, some part of it comes from us, from Americans. We are embarrassed, apologetic, humiliated by what we have seen.

I, like all of my colleagues, had a chance to view the pictures the Pentagon sent to Congress yesterday. They were sick, perverted images from the Abu Ghraib prison. Shameful, perverted, degraded images that made Members feel ill. But we could tell from the images there were many soldiers present at these scenes. This was not a soldier or two; there were many. The photographs demonstrated complete disintegration of discipline. Unfortunately, while it would be a lot easier if this were just the case of a few bad apples, it indicates a breakdown in leadership.

I am a World War II veteran. I experienced the stress of being in a combat zone. I understand the psychological wear and tear. I also know it is the responsibility of a soldier's leaders all the way to the top of the chain of command to supervise, to manage as best they can the conduct of the troops.

Regarding the current case of prison abuse, it is premature to rush to court-martial individual soldiers before all of the facts are known. I understand the administration seeks a public, visible court-martial trial to demonstrate the United States commitment to justice, but before we simply lay all the blame on the soldiers at the bottom of the chain of command, we need to understand where the directives were and what they were when they came down from the top. How clear is it now that well-dressed men in charge have let the soldiers in uniform down?

The top civilian leadership at the Pentagon has failed. In my view, replacing Secretary Rumsfeld will change little at the Pentagon if his discredited team of advisers remain in their high-level position. A series of bad decisions by the top civilian leadership at the Pentagon has severely undermined our operations in Iraq. In my view, the Pentagon's trio of civilian leaders needs to be replaced. I am speaking specifically of the Secretary of Defense, Donald Rumsfeld, Deputy Secretary Paul Wolfowitz, and the Under Secretary for Policy, Douglas Feith. All three of those officials ought to be replaced. They all work very closely together, and I am sure not one, not even the Secretary himself, made all of the decisions. The trio's poor planning and miscalculations have undermined the troops serving on the ground in Iraq.

We are proud of those who have served so generously and nobly. That does not mean we cannot have some bad actors, but it also does not mean those at the top are free of responsibility. Their negligence regarding reports of prisoner abuses which were alleged to take place as early as last October is the last straw in a record of missteps and miscalculations that have compromised the safety and effectiveness of our military operations.

These civilian leaders have dismissed the views of people in uniform numerous times. For example, in early 2003, Four Star General Eric Shinseki disagreed with Secretary Rumsfeld's plans for a light battlefield force for Iraq. He said—and it was a courageous statement—that at least 300,000 troops would be needed during the war, particularly in the aftermath of the war. Now we know that General Shinseki was right. The security situation in Iraq is deteriorating in exactly the way he said it would if there were not enough troops.

So how was General Shinseki handled by the trio of civilian leaders at the Pentagon? He was fired. Fired for telling the truth. It tells us something about the character of those decision-makers who said, no, no, we can get this done in much easier fashion. He was fired for knowing what he was talking about.

That is just one of the many miscalculations and mistakes made by this trio at the Pentagon. Despite the urging of the Joint Chiefs of Staff not to do so, the Pentagon civilian leadership disbanded the Iraqi army after the invasion. We left 400,000 armed and trained Iraqis unemployed—I am not trying to give them jobs—and resentful, and now these men are contributing significantly to the massive security problems American troops are facing.

The civilian leadership at the Pentagon also ignored postwar plans drawn up by the Army War College and the State Department Future of Iraq Project, which predicted most of the security and infrastructure problems that America faced in the early days of the Iraq occupation.

We have heard plenty of speeches from Secretary Rumsfeld and Deputy Secretary Wolfowitz and Under Secretary Feith. They talk tough about supporting the soldiers, sailors, marines, air men and women, but in reality they fail to provide adequately for our U.S. commanders as they requested in Iraq such things as sufficient interceptor body armor or adequate protection from Humvees.

I learned that on my trip to Iraq last month when I asked a young soldier—a captain, as a matter of fact—what it was he needed to better conduct his soldiers in our Army there. He said: Senator, the flak jacket you are wearing is the latest. It is the most protective. I don't understand, he said to me, why we do not have them when I have seen those in the coalition wearing those vests.

He said to me: You see this rifle? This big, heavy rifle is bigger than the one I carried in World War II; I carried a carbine. He said: There are better weapons out there with better sighting mechanisms, lighter to carry. He said: We do not have them, and I don't understand why, Senator. He said: We have seen those in coalition hands.

Recently, Acting Secretary of the Army Les Brownlee and Army Chief of Staff GEN Peter Schoomaker recently told Congress that the Army currently

only has 2,000 armored Humvees even though it needs at least 5,000 to adequately protect our troops. And the sight of those vehicles burning leaves out what happened to those people who were in those vehicles.

When asked why the Army did not have enough of these vehicles, General Schoomaker said the Pentagon policymakers had not foreseen the need for these standard fighting vehicles.

Despite their academic credentials, Wolfowitz and Feith horribly misjudged the post-invasion situation in Iraq, and it has cost American lives.

Under Secretary Feith dismissed all dissent to his view that U.S. forces would be greeted as liberators and quickly win the lasting gratitude of the Iraqi people. Despite the current quagmire, he continues to cling to his delusional view of the situation.

In addition, before the invasion, these civilian leaders also told the American people that Iraq would pay for its own reconstruction through oil revenues. As we now know, not only has that not happened, but U.S. taxpayers are paying virtually all of the costs of the reconstruction of Iraq.

We cannot pass a highway bill in this Congress for America, but we are unloading U.S. taxpayer dollars to rebuild Iraq's highway system. Why do we have to go to our taxpayers over and over again for billions of dollars for Iraq? Why does the President need to take another $25 billion that could be used for Medicare, education, and American highway construction?

The reason is the administration marginalized the international community before the war, and Pentagon civilian leaders refused to cede any control of post-invasion Iraq to the international community. As a result, we have paid more than 80 percent of all of the reconstruction funds in Iraq.

I want to make it perfectly clear, I do not think we can cut and run. I think we have a responsibility there that we have developed through our own decisionmaking and through the fate that war has brought us. So I do not say cut and run. But I do say it would help us an awful lot if we were not, at this point in time, arguing to give people who have been successful in business or in life greater tax breaks when we desperately need the money.

Furthermore, there is little hope that European allies or international donors will cough up the over $30 billion that Iraq still needs for rebuilding, according to World Bank estimates.

U.S. taxpayers will have shelled out almost $200 billion by the end of 2004. As a result of this unilateralism, we barely cobbled together a meager coalition of the willing, but our men and women make up over 87 percent of the troops fighting in Iraq.

Secretary Rumsfeld, Deputy Secretary Wolfowitz, and Under Secretary Feith all have to be replaced. We need new leadership at the Pentagon, leadership that will listen to the military experts, leadership that will not cling to discredited ideologies.

Perhaps the best illustration of the ineptitude of this team was their gross underestimate of the length of the Iraqi operation. They created false hopes for troops and their families, especially the reservists, many of whom are now facing more than a year's worth of duty away from their homes, away from the ability to pay their mortgages, away from the comfort children need from a father. They created the false hopes, especially of the reservists, who expected much shorter battlefield tours of duty.

In February 2003, Secretary Rumsfeld said the war ''could last six days, six weeks.'' And he said: ''I doubt [that it could last] six months.''

It is well over a year from the beginning of this war, and now our own generals are publicly questioning whether we can win. We have to win. We have no choice. But in order to win, we have to make sure our troops have the tools to do the job with, and that we have sufficient help from other places. We have to make sure we pursue that mission.

I am not sure the current Pentagon team has the ability to direct our needs now. We need new leadership. Secretary Rumsfeld, Deputy Secretary Wolfowitz, and Under Secretary Feith need to resign. And if they do not do so, then the President would be wise to ask them to go.

I yield the floor.

AAA AWARD WINNERS

Mr. DASCHLE. Mr. President, I am proud to announce to the Senate today the names of the young men and women who were selected to receive special awards from the American Automobile Association. Eight safety patrollers will receive the 2004 AAA School Safety Patrol Lifesaving Medal Award, the highest honor given to members of the school safety patrol. Another safety patroller will receive the special honor of the AAA National Patroller of the Year. They will receive their awards this weekend and I want to say how proud we are of them.

There are roughly 500,000 members of the AAA School Safety Patrol in this country, helping in over 50,000 schools. Every day, these young people ensure that their peers arrive safely at school in the morning, and back home in the afternoon.

Most of the time, they accomplish their jobs uneventfully. But on occasion, these volunteers must make split-second decisions, placing themselves in harm's way to save the lives of others. The heroic actions of this year's recipients exemplify this selflessness.

The first AAA Lifesaving Medal recipient comes from Centereach, NY. His name is Shawn Rooney.

On the afternoon of November 18, 2003, Shawn, age 13, was on patrol in front of St. Joseph School. A 9-year old boy, Zachary Chase, ran into the street to catch up with his class as a mini school bus was approaching. Shawn noticed that Zachary was in danger, grabbed his backpack, and pulled him back. Zachary was only one step away from the front of the bus.

This year's second AAA Lifesaving Medal honoree comes from Manassas, VA.

Josh Wampler, age 11, of Weems Elementary School, was approaching his bus stop on October 9, 2003, when he heard a woman yelling to a young body. Josh saw that a 3-year-old, Isaac, was standing in the middle of the street as a car was approaching. Josh carefully checked the traffic and met Isaac in the middle of the street. The driver of the car saw the patroller and child and was able to stop in time. Josh escorted Isaac safely to the side of the road and out of harm's way.

The next AAA Lifesaving Medal winner comes from Bristow, VA.

On the afternoon of October 14, 2003, Andrew Deem, age 11, was at his patrol station at Bristow Run Elementary School, when he saw a 2-year-old, Anthony D'Areagelis, walking with his mother. His mother was pushing a small child in a stroller, and Anthony ran away from his mother, down a hill, and into the busy street. Andrew quickly saw that Anthony was in danger, grabbed him, and brought him back to safety. Andrew also stopped Anthony's mother from running out into the street after her child.

The fourth AAA Lifesaving Medal recipient is also a student at Bristow Run Elementary School in Bristow, VA.

On October 14, 2003, John Hickey, age 10, witnessed the event that took place with Patroller Andrew Deem. As Mrs. D'Areagelis ran after her 2-year-old, Anthony, the stroller that she had been pushing with Patrick D'Areagelis aboard began rolling into the street. John Hickey acted quickly and placed his foot into the street to stop the stroller from rolling any further. As he did this, an SUV drove by at a considerable speed, grazed Anderw's shoe, and did not stop.

The next AAA Lifesaving Medal honoree comes from Culpepper, VA.

Vincent Verardo, age 10, is a patroller at Epiphany Catholic School. On a morning in April, 2003, Vincent was at his patrol station in the school's parking lot, when he saw 4-year-old Paul Thomas run back to his car to retrieve something he had left behind. Paul ran in front of a car leaving its parking space, and Vincent quickly ran to the car, took Paul by the arm, and brought him back to safety. The driver of the car attested that they had not seen the 4-year-old until Vincent was present.

The sixth AAA Lifesaving Medal winner is from Harrah, WA.

Martay Gunnier, of Harrah Elementary School, was at her post on the afternoon of October 28, 2003, when she saw Raymond James, age 7, run out into the street to meet his mother on the other side without stopping to wait for a clear crossing. Martay acted

quickly by taking Raymond by the arm and pulling him back to safety and out of the way of two oncoming vehicles.

This year's seventh AAA Lifesaving Medal recipient is from Milwaukee, WI.

Michael Chobanian, age 13, is a student at James Fennimore Cooper Elementary School. Michael was at his post on December 3, 2003, when he saw a 6-year-old, Chantal Hill, approach the street. Michael told her not to cross it, but she did not hear him and darted out into the street just as a parked car pulled away from the curb and began approaching quickly. Michael realized that the driver of the moving vehicle would not be able to see Chantal because their view was blocked by another parked car. He quickly yelled, ''Watch out!'' and reached to pull her out of the path of the moving car. The driver of the car swept by and slowed farther down the street, after realizing what could have happened.

The eighth AAA Lifesaving Medal winner is from Akron, OH.

On the morning of October 23, 2003, Robert H. Clement, age 10, was at his post at Pfeiffer Elementary, when he saw Aidan Robertson, a 2-year-old, slip away from his mother and run out into the street. Robert immediately dropped his patrol flag and ran into the street to help Aidan. Robert returned Aidan to his mother after narrowly escaping oncoming traffic by an estimated margin of only 4 feet.

In addition to honoring safety patrollers with the Lifesaving Medal Award, AAA also recognizes the School Safety Patroller of the Year. This award is presented to patrollers who perform duties above and beyond their normal responsibilities and demonstrate outstanding leadership, dependability, and academic strength.

This year, the Safety Patroller of the Year is Katie Wright, age 11, a safety patroller at Randolph Howell Elementary School in Columbia, TN.

Katie was selected because of her leadership abilities, academic achievement, and involvement in numerous school and civic activities. Katie wrote an essay on her school safety patrol experience and said, ''Safety Patrol has provided me with several qualities that have helped me in becoming a leader.'' Among the qualities she mentions are patience, compassion, self-respect, charisma, responsibility, and self-discipline.

She and all of the other AAA winners deserve our thanks and admiration.

On behalf of the Senate, I extend congratulations and thanks to these young men and women. They are assets to their communities, and their families and neighbors should be very proud of their courage and dedication.

I would also like to recognize the American Automobile Association for providing the supplies and training necessary to keep the safety patrol on duty nationwide.

Since the 1920s, AAA clubs across the country have sponsored student safety patrols to guide and protect younger classmates against traffic accidents. Easily recognizable by their fluorescent orange safety belts and shoulder straps, safety patrol members represent the very best of their schools and communities. Experts credit school safety patrol programs with helping to lower the number of traffic accidents and fatalities involving young children.

We owe AAA our gratitude for their tireless efforts to ensure that our Nation's children arrive to and from school safely and soundly. And we owe our thanks to these exceptional young men and women for their selfless actions. The discipline and courage they display deserves the praise and recognition of their schools, their communities, and the Nation.

BURMA

Mr. MCCONNELL. Mr. President, I want to take a brief moment to update my colleagues on the situation in Burma.

In short: there has been no progress: Burmese democracy leader Aung San Suu Kyi remains under house arrest; 1,300 prisoners of conscience remain in Burmese jails—with others threatened by arrest for speaking out against the convention; and the SPDC nightmare of rape and repression continues unabated in Burma.

I expect that the junta may again release Suu Kyi in the houses leading up to the State Peace and Development Council, SPDC, orchestrated May 17 constitutional convention charade. The world must hold the applause.

The generals in Rangoon need to do much more to prove they are serious about reconciliation than staging bad political theater in which they control every line and cue.

What should the SPDC do? First, release all political prisoners including those rounded up in the anticipation of the convention. Second, permit the NLD to operate freely, including immediately reopening all party offices. Third, allow NLD members to meet with ethnic leaders without threats of harassment, imprisonment or worse. Finally, provide the international press with unfettered access to Burmese democrats, throughout the country.

While the NLD will decide whether or not to attend the constitutional charade, the international community bears the responsibility to condemn a fundamentally flawed process that offers little in the way of transition to democracy. I remain deeply concerned that the regime has not rescinded their order which imposes lengthy prison sentences on anyone who speaks out against the national convention. What more evidence of a Potemkin village is needed?

As we think about Burma, it is important to consider the comments of Tashika Elbegdorj, former Mongolian Prime Minister, who wrote in a recent op-ed on Burma:

That the regime attempts to justify its behavior by talking about ''managed democracy'' and the ''Asian way to democracy'' is an outrage. The fact that Burma's regional neighbors look the other way while making pretenses about ''internal affairs'' is a stain on all Asians, and this must change.

Tashika Elbegdorj speaks the truth and I commend his interest in the struggle of freedom for Burma. I encourage other democrats in the region to find their voices in support of Suu Kyi and the NLD in the days, weeks, and months to come.

I close by highlighting yesterday's Baltimore Sun editorial on Burma entitled ''Window Dressing'' that encouraged the U.S. Senate to ''. . . act quickly to renew import sanctions. . . . And this time sanctions must be followed by a U.S. diplomatic campaign—with the generals, their Southeast Asian apologists and the U.N. Security Council—that will be more strongly focused on forcing the junta to begin sharing power. Ms. Suu Kyi has deservedly gained world renown as a symbol of the Burmese quest for freedom, but she is also just one of 50 million people who remain under this regime's lock and key.''

The Sun editors got it right: the Senate must act quickly to pass S.J. Res. 36, which renews import sanctions against Burma. By doing so, we send a clear message that America continues to stand with the people of Burma. It is my hope that we can get agreement to consider and pass this resolution before the May recess.

I ask unanimous consent that the former Prime Minister's op-ed, which appeared in The Nation, an English-language newspaper in Thailand, and the Baltimore Sun editorial be printed in the RECORD following my remarks.

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

[From the Baltimore Sun, May 12, 2004]

WINDOW DRESSING

On Monday, 14 years after a pack of generals stole control of Myanmar from a legally elected democracy party, the still-ruling military junta will convene a national constitutional convention to which it has invited its long-suppressed opponents. In advance, the National League for Democracy, which won those last parliamentary elections in 1990, has been allowed to reopen an office. And there's mounting anticipation that its leader, Nobel laureate Aung San Suu Kyi, will be released from house arrest to participate in the national political conference.

If this sounds all too familiar, it should. Those concerned with the brutal suppression of freedom in the national once known as Burma have been down this road before—in 1996 and, more recently, last year, when the indomitable Ms. Suu Kyi and her supporters, briefly free to speak out, came under violent ambush leading to her last rearrest. Her release now—it would be her third since her first arrest in 1989—would be welcome, but it also would impart credibility to a political process that Sen. Mitch McConnell has aptly denounced as ''window dressing.''

All but a few of the more than 1,000 convention delegates are said to be hand-picked supporters of the generals. Even as the illegal regime talks of a new road map to resolving this long standoff with the NLD, 1,300 political prisoners remain jailed, and in recent

weeks more dissidents reportedly have been receiving long sentences. Ms. Suu Kyi's party is in a tough spot: It can boycott the convention as a sham and be accused by the regime of being noncooperative, or it can legitimize a sham. Either way, the Yangon generals again seem to be stringing along the world.

All this speaks to the need for the U.S. Senate to act quickly to renew import sanctions placed on Myanmarese goods after Ms. Suu Kyi was rearrested last year. And this time, sanctions must be followed by a U.S. diplomatic campaign—with the generals, their Southeast Asian apologists and the U.N. Security Council—that will be more strongly focused on forcing the junta to begin sharing power.

Ms. Suu Kyi has deservedly gained world renown as a symbol of the Burmese quest for freedom, but she also is just one of 50 million people who remain under this regime's lock and key.

[From the Nation]

NOW IS THE TIME FOR ACTION ON BURMA

(By Tashika Elbegdorj)

Nobody should be clinking champagne glasses over the recent announcement that Burma's National League for Democracy (NLD), lead by Aung San Suu Kyi, has tentatively accepted an invitation to attend the national convention being organized by the ruling State Peace and Development Council (SPDC). If this is to be a credible process, the regime must first meet a number of reasonable demands by the NLD—something the ruling junta has never done in the past. Now is the time to step up pressure on Rangoon to ensure the NLD's demands are met and to prevent another attempt by the SPDC to place a veneer of democracy over their brutal rule.

Beginning a so-called process of national reconciliation and charting a way out of Burma's political impasse without the full participation of Suu Kyi and the NLD (as a party and not as individuals) is destined to failure. The legitimacy of the NLD cannot be denied. The Burmese people overwhelmingly elected NLD candidates in 1990 to represent them in parliamentary elections the SPDC refuses to recognize.

Few regimes in the world are as repugnant as the SPDC led by Senior General Than Shwe. Human rights reports and documentation by international organizations such as the United Nations have catalogued a long series of horrors the ruling regime inflicts on its people. For example, the SPDC demands forced labor from its citizens, uses rape as a weapon of fear and intimidation against ethnic groups, fills its jails with political prisoners and torture and summary executions are common. In one of the greatest crimes against our youth, Human Rights Watch reports that nearly 70,000 child soldiers, some as young as 11, have been dragooned into the Burma army.

That the regime attempts to justify its behavior by talking about ''managed democracy'' and the ''Asian way to democracy'' is an outrage. The fact that Burma's regional neighbors look the other way while making pretenses about ''internal affairs'' is a stain on all Asians—and this must change.

The SPDC's national convention continues a process begun in 1995 to guarantee a future constitution that cements the military's role in power. Statements by senior SPDC officials that this convention will pick up where the last one left off demonstrates a striking lack of sincerely and strongly indicates that this exercise has nothing to do with democracy and everything to do with dictatorship.

The Burmese people are not the only victims of the regime. Burma's neighbors also suffer. In Thailand, the junta's actions have forced tens of thousands of refugees across the Thai-Burma border. Methamphetimines, or *ya ba* as it is known locally, wash into Thailand from Burma, saddling Thai social services with skyrocketing addiction rates and increased crime. China is battling an HIV–AIDS epidemic that has its roots in Burma's opium smuggling. Regionally, Association of Southeast Asian Nations (Asean), who have long provided Burma's generals with political cover, are forced to pick up the tab for the regime's behavior. Meetings with the U.S. and EU officials that should be focused on enhancing economic, security and social ties are instead devoted to explaining the outrageous actions of a brutal regime. This tension is a drag on the region.

It is time for Asian governments to realize that it is time to get tough with Burma's thugs. After expending considerable political capital and prestige, Prime Minister Thaksin Shinawatra received a slap in the face when the junta refused to participate in a second meeting of the Bangkok Process, a mechanism he put in place to allow the regime to brief the international community on its road map to democracy and national convention.

Thaksin has bent over backwards to curry favor with Burma's generals by cracking down on Burmese refugees and democracy activists promoting non-violence in their opposition to the SPDC. Thaksin should communicate strongly to the regime that they will not find solace or cover with his government. Allowing Burmese democracy activists to meet and organize in Thailand would serve to demonstrate his commitment to freedom in Thailand as well as sending a strong signal to the regime that their actions are unacceptable and their support waning. Asean could take the step of suspending Burma's membership in the regional grouping putting the SPDC on notice they are unwilling to foot the rising political and financial bill for the regime's acts of violence and abuse.

A peaceful Burma holds the promise of returning refugees, addressing narcotics smuggling, and investing in a social infrastructure that can unleash the talents and potential of the people. This will create a huge new economic market for Asean and be a catalyst for further development in an environment of peace and stability. None of this will exist under the SPDC.

It is testimony to the bravery of the Burmese people that despite the regime's oppression and terror they are unable to subdue the country's democracy movement. The strength of the movement lies in its legitimacy and the demand by the country for governance derived from the will of the people. It is long past time for Asian governments to hear their call and take the actions necessary for a peaceful transition of power that can begin to heal this torn land.

MURDER OF NICHOLAS BERG

Mr. FEINGOLD. Mr. President, I join my colleagues and the American people in expressing outrage at the vicious murder of American citizen Nicholas Berg in Iraq. I extend my sincere sympathy to Mr. Berg's family and friends, who have had to confront a terrible loss in the context of a barbaric public display.

No one should be misled by the claims of the terrorists responsible for this atrocity. They purport to be retaliating for the abuse of Iraqi prisoners by American soldiers. But this is a lie. These people seek to kill us and kill our children because that is at the core of their agenda, because they derive power from inspiring fear and horror. They do not need a pretext for their brutality.

We express our disgust at the scandalous treatment of Iraqi prisoners because our country stands for basic principles, for the rule of law, for the dignity of the individual. We hold ourselves to high standards, and generations of Americans have shed blood to protect those standards and uphold our principles. We do not call for an investigation of these prisoner abuses in the hopes of placating terrorists. We call for an investigation and for full accountability because that is the right thing to do.

And in the broader fight against terrorism, we speak, wisely, of the need to win hearts and minds in the Arab and Muslim worlds, where millions of good and decent people question American intentions and actions. We insist, quite rightly, that the basic norms and standards of conduct embodied in the Geneva Convention not be undermined, because those same Conventions protect our own troops when they are in harm's way. But our efforts are not aimed to influence the behavior of terrorists. No one has any illusions about the nature of these people. We will not change their minds, or win their hearts, or convince them to uphold basic standards in their conduct. One has only to recall the horror of September 11, or consider the murder of Nicholas Berg, to be certain about that.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On April 6, 2000, in Ashland, OR, Michael Susee was charged with intimidation and assault for allegedly attacking three gay men while yelling antigay remarks.

Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. By passing this legislation and changing current law, we can change hearts and minds as well.

PEACE OFFICERS MEMORIAL DAY AND NATIONAL POLICE WEEK

Mr. DOMENICI. Mr. President, I rise today to remember and pay tribute to those from my home State who have made the ultimate sacrifice in the line of duty. I sincerely believe we must never forget those who have given their lives to protect us all.

Each and every day, law enforcement officers risk themselves to protect the rights and freedoms we enjoy as citizens of this great country. Their commitment and sacrifice make our streets and homes safer, our communities stronger, and keep our families secure.

On October 1, 1962, President John F. Kennedy signed Public Law 87–726, proclaiming May 15 of each year as Peace Officers Memorial Day and the calendar week of each year during which May 15 occurs as National Police Week. The week is a time to honor Federal, State and municipal officers who have been killed or disabled in the line of duty. This law was amended by the 103rd Congress as part of the Violent Crime Control and Law Enforcement Act in 1994 to order the United States flag on all government buildings displayed at half-staff on May 15.

Since the turn of the last century, more than 60 law enforcement officers have been killed in the line of duty in New Mexico ten since 1996. I would like to bring special attention to two events in particular, while realizing that all are nonetheless significant. One occurred long ago, and the second just this past year.

The first took place the year prior to my election to this body. On the night of November 8, 1971, New Mexico State Police Officer Robert Rosenbloom was gunned down after he stopped a vehicle on Interstate 40 west of Albuquerque. Three murder suspects—Charles Hill, Ralph Lawrence Goodwin, and Michael Robert Finney—fled to Albuquerque. On November 27, they forced an Albuquerque tow truck operator at gunpoint to drive them to the runway of Albuquerque International Airport. Once there, the hijackers seized control of a commercial jet and forced the pilot to fly to Havana, Cuba.

Under the protection of Fidel Castro, they have avoided American justice. It has been reported that one suspect died in Cuba; however, there are still outstanding warrants for all three suspects. These men have been given asylum in Cuba and we continue to seek the extradition of these men for trial. Today, I renew my call for Cuba and Fidel Castro to return these fugitives. This shall also serve notice that those of us from New Mexico have not forgotten, and we will forever hold out desire for due justice.

I would also like to remember Patrick K. Hardesty. Patrick grew up in Artesia, NM, where he established himself as a talented musician and Eagle Scout. In fact, he was one of my military academy nominees years ago. While making a career in the U.S. Marine Corps and Reserve, Patrick earned a college degree and joined the Tucson, AZ police force after retiring from the military. On May 26, 2003, about this time last year, he was brutally shot and killed while investigating a minor hit-and-run in midtown Tucson.

I take this opportunity to pay tribute to the unselfish dedication of Robert Rosenbloom and Patrick Hardesty, and all the brave men and women who have devoted their lives to public protection and service.

We remember their dedication to protect and serve, and the tragic price they paid for that devotion. We also remember the families of these two officers and the sacrifices they have incurred because of a deep-seated commitment to duty and public service. All of us from New Mexico owe a debt of gratitude to each and every officer who has lost their lives in the line of duty.

We would do well to remember to express our gratitude to the officers who continue to serve us day to day. The men and women of law enforcement, through their service, are most worthy of our thanks and highest respect. To all who have paid the ultimate price and to those who continue to serve, may we forever be grateful and never take for granted what you do. You have my utmost admiration.

IN COMMEMORATION OF POLICE WEEK

Mr. BIDEN. Mr. President, I rise to pay tribute to the 145 law enforcement officers who gave their lives in service to their communities last year. They are true heroes, and their families are owed our gratitude.

This is National Police Week. Tonight, the National Law Enforcement Officers Memorial Fund will host the 16th Annual Candlelight Vigil on the grounds of the National Law Enforcement Memorial here in Washington. Three hundred and sixty-two names will be added to the memorial tonight—145 officers who were killed in 2003, and 217 who were lost in prior years. Saturday, the Fraternal Order of Police will host the National Peace Officers' Memorial Day Service on the West Front of the Capitol. Together, these two events, along with other events throughout the city this week, should make us all pause and give thanks to police officers throughout the Nation who protect our communities against crime and terrorism.

We lost fewer officers in the line of duty last year than we have in years past, and the total is well below the 230 officers killed in 2001, when we lost 72 officers on September 11 alone. But the numbers of lost officers is still far too high. On average, one out of every 9 officers is assaulted per year, one out of every 25 is injured, and one out of every 4,400 is killed in the line of duty annually. Police risk their own lives in our service each and every day, and we should keep these sobering statistics in mind every week, not just during police week.

Law enforcement is an inherently dangerous undertaking, and police officers have become our front lines in the war on terror. I fear we are underfunding their efforts as we reorient Federal assistance to local law enforcement post 9/11, but that is a conversation for another day. Today, and this entire week, we give police officers our thanks, we remember those that paid the ultimate price while serving our communities, and we give comfort to the loved ones they have left behind.

Mr. KOHL. Mr. President, I rise to recognize nine extraordinary individuals from my home State of Wisconsin. Each of them dedicated, and ultimately sacrificed, their lives to protect their fellow citizens.

On Thursday, May 13, 2004, a candlelight vigil will be held at the National Law Enforcement Officers Memorial to add 362 more names to the memorial. Each day, law enforcement officers risk life and limb to serve the public. On average, 167 officers are killed each year in the line of duty. This memorial is a lasting tribute to these courageous individuals.

Nine of the names being added today belong to law enforcement officers who served throughout the State of Wisconsin. For the sacrifices they have made on our behalf, the citizens of Wisconsin owe these brave individuals and their families a debt that can never be repaid. I would like to honor them by placing their names in the RECORD, along with the date of their untimely passing.

They are: Harry O. Harris of St. Croix County—6/18/1904; Richard Meyer of Winnebago County—11/13/2003; Roland Silas Payne of Wisconsin Rapids—11/10/1939; Roy Sampson of La Crosse County—9/24/1952; Matt Schumacher of the Wisconsin Department of the Treasury—9/22/1934; Michael Eron Shannon of Adams County—3/7/2003; Charles Snover of Waukesha County—7/28/1935; Curtis Owen Starry of Viroqua—3/13/1953; and Bruce Allen Williams of Green Lake County—10/19/2003.

Every day, public safety officers around the country put themselves in harm's way to make our communities safer. It is important that we honor their dedication and commitment to making our country and our communities a better place in which to live. That is particularly true of those who have lost their lives in the line of duty, but it is also true of those who take that risk day after day. For their commitment and dedication to their profession, we are forever in their debt.

TO AUTHORIZE SEPARATE MEDALS FOR THE IRAQ AND AFGHAN MILITARY CAMPAIGNS

Mrs. LINCOLN. Mr. President. I rise in strong support of the legislation we are seeking an agreement to consider that would honor the service of our men and women in uniform who are defending our freedom honorably in Iraq and Afghanistan. This legislation would award separate campaign medals to members of the Armed Forces who participate in Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom.

The bill passed the House of Representatives unanimously in March and was reported by the Senate Armed Services Committee earlier this week.

I am proud to have worked with my colleague, Senator JEFF BINGAMAN, and others on a companion bill in the Senate.

I know after talking with service men and women from Arkansas that this is an important effort which will allow us to properly honor and recognize the individual sacrifice of those who put their lives on the line so far away from home to defend the freedom we cherish as Americans.

In an effort to demonstrate support for our men and women in the military, I am circulating a Soldiers Bill of Rights petition in Arkansas to demonstrate to my colleagues in Washington how important it is to honor the sacrifice of our veterans and their families. This legislation is one of ten priorities I have included in my Soldiers Bill of Rights and I hope we can pass this bill in the immediate future.

I close my remarks by commending my colleague, Congressman VIC SNYDER, who led this effort in the House. VIC is a good friend and a Vietnam Veteran, and I am very proud of his leadership on this issue on behalf of the constituents we represent in Arkansas.

GASOLINE FREE MARKET COMPETITION ACT

Mr. FEINGOLD. Mr. President, I would like to express my support as a cosponsor for S. 1737, the Gasoline Free Market Competition Act. Over the past few months, oil prices have skyrocketed $40 per barrel, the highest price since 1990. High gasoline prices are inextricably linked to high crude oil prices. And these high oil and gas prices hurt Americans across the Nation and from all walks of life. Farmers, teachers, and small business owners across the country and in Wisconsin in particular are getting hit hard by these outrageous costs.

The statistics are staggering. For gasoline, the increases in crude oil prices have resulted in an average national price of $1.96 per gallon. In Wisconsin, the current average price for a gallon of self-service regular unleaded gasoline in Wisconsin is $1.821, according to AAA's Fuel Gauge Report. The current average is 7.1 cents higher than a month ago at this time and 23.6 cents higher than a year ago at this time. These are the highest gas prices we have seen in 13 years.

Unfortunately, under current law, the Department of Energy can conduct investigations into gasoline prices, but it does have the power to enforce the law or sanction companies for price manipulation. On the other hand, the Federal Trade Commission, FTC, does have the power to protect consumers from gas price manipulation. The FTC is supposed to promote competition and free markets, but all too often, the FTC has not actively overseen energy markets to prevent price fixing and market manipulation.

Congress needs to direct the FTC to eliminate anticompetitive practices that currently cause a chokehold on the competitiveness of independent gas distributors and gas station owners. That is why I am supporting the Gasoline Free Market Competition Act, S. 1737. This legislation would modernize antitrust law to prohibit anti-ompetitive practices by single companies in the concentrated gasoline markets. The gasoline market in Wisconsin and at least 27 other States are now considered to be ''tight oligopolies'' with four companies controlling more than 60 percent of the gasoline supplies. We need to ensure that these concentrated markets are not subject to manipulation.

S. 1737 would address two major problems tied to gasoline price-fixing called ''redlining'' and ''zone pricing.'' In tightly concentrated markets, numerous studies have found oil company practices are driving independent wholesalers and dealers out of the market. One anticompetitive practice is called ''redlining,'' which limits where independent distributors can sell their gasoline. As a result, independent stations must buy their gasoline directly from the oil company, usually at a higher price than the company's own brand-name stations pay. With these higher costs, the independent station cannot compete. Investigations have also found large consolidated oil companies control not just the buying choices of local gas stations, but also the selling prices of gasoline distributors. This anti-competitive practice is called zone pricing. The company bases prices not on the cost of producing gasoline, but on the maximum a neighborhood will pay.

The Gasoline Free Market Competition Act, S. 1737, will do three things to address this problem. First, the bill would establish ''consumer watch zones'' for concentrated gasoline markets like Wisconsin. Where a few companies control a large part of the market, they can manipulate supplies and restrict competition with ease. Therefore, the FTC should watch consolidated markets more carefully.

The Gasoline Free Market Competition Act also shifts the burden of proof for price-fixing. If the FTC finds that an oil company is employing anticompetitive practices in a consumer watch zone, the company should have to prove it is not hurting consumers. Redlining and zone pricing would be presumptively illegal. Oil companies that engage in anticompetitive practices that manipulate supply or limit competition would have to prove these practices do not hurt consumers.

Finally, the act gives the FTC clear ''cease and desist'' authority to stop price-fixing. In consumer watch zones, the FTC could issue ''cease and desist'' orders to companies participating in these anticompetitive practices, forcing them to stop gouging consumers. The Congress needs to act now to ensure that anticompetitive practices do not lead to further gas price increases, as many energy analyst are predicting.

ADDITIONAL STATEMENTS

TRIBUTE TO MATTHEW ROSS

• Mr. NELSON of Florida. Mr. President, I rise to commend an outstanding young Floridian. Matthew Ross is an 11-year-old who has overcome tough circumstances and has succeeded. He recently won the prestigious national award, the Temple Grandin Award, for achievement in autism, became the first autistic child to serve as a page in the Florida House of Representatives and won the Special Olympics District Tournament Golfing Regionals in his area. What a year.

I had the privilege of meeting Matt recently. I was impressed by his polite demeanor and his interest in special education issues.

A little over a year ago, Matt was in special education classes because by his own words, he had ''trouble with the way my brain processes information.'' He had been diagnosed with Asperger's Syndrome and, earlier, his mother had even considered placing him in a group home. But, now just some 12–13 months later he has blossomed. He is no longer in special education classes, and as I understand it has political aspirations. I give high praise to his mother, Susan Ross, who has steadfastly stood by Matt and made it possible for him to succeed.

I wish Matt all the luck and blessings in the world. Keep it up, Matt.•

RECOGNIZING THE 50TH ANNIVERSARY OF THE ASIA FOUNDATION

• Mrs. FEINSTEIN. Mr. President, I rise today to recognize the Asia Foundation, a private, nonprofit organization based in San Francisco, CA, which is celebrating its 50th anniversary in 2004.

The Asia Foundation is a national asset that has contributed in significant ways to the mutual interests of the people of Asia and the United States for a halfcentury.

Through its programs, the foundation has been instrumental at key moments in these five eventful decades. Early in its life, the foundation contributed to democracy, freedom, peace and constructive relations in post-World War II Asia. Since then, the foundation has invested in Asia's future leaders, built the capacity of democratic institutions, provided support to civil society groups, promoted the rights of women and created opportunities for economic growth and development.

Today, the foundation is contributing to new initiatives in the region, building new governance and opportunity in Afghanistan, for instance, through support to the Constitutional Loya Jirga, helping new democratic institutions in Indonesia and programs with moderate Muslim leaders, and continuing to support human rights and prospects for reform in Cambodia, Nepal, and throughout Asia.

Through its 17 field offices in Asia, the Asia Foundation has made its positive mark. The foundation identifies and supports reform-minded people at every level of society, from presidents and parliamentarians, to grassroots nongovernmental leaders. The foundation has supported educational institutions and libraries, legislatures and judiciaries, civil society and the media, all with the aim of improving the lives and helping to meet the aspirations of the people of Asia.

In every corner of Asia, the foundation's impact is felt through the fellowships it has provided to thousands of Asia's leaders since its founding, the new government and nongovernmental institutions it has supported and the new ideas it has fostered to meet the challenges facing Asia today. In so doing, the Asia Foundation represents America at its best: a private organization working in partnership with government, advancing mutual interests of the U.S. and Asia in supporting vibrant democracies, open economies, and peaceful relations.

As the United States addresses new challenges and opportunities in U.S.-Asian relations, we celebrate the Asia Foundation's history of achievement, and look forward to its continued contributions to the region in the future.●

IN RECOGNITION OF MARY CONNELLY KEGELMAN, NATIONAL AND DELAWARE MOTHER OF THE YEAR

● Mr. CARPER. Mr. President, I rise today to recognize Mary Connelly Kegelman, recipient of the Delaware Mother of the Year and the National Mother of the Year awards. Mary has dedicated her life to raising her 10 children and to the thousands of school children whose lives she has touched.

Mary was born in Massachusetts in 1930. She received her Bachelor's degree in chemistry from Elms College in Massachusetts and went on to Fordham University in New York for her Master's degree in physical chemistry. It was during graduate school that she met her husband, Matthew. The two were married on October 12, 1953, in Massachusetts in front of their loved ones.

Shortly after graduation, Matthew was offered a job at the DuPont Company. The newlyweds moved to Delaware and have lived here for over 50 years. They have 10 children—John, Matthew, Jerry, Joseph, Thomas, Mary, Christine, Bernadette, James and Daniel, and 18 grandchildren.

Mary began teaching algebra part time at Ursuline Academy in Wilmington, DE in 1973. While her children were in middle school at Immaculate Heart of Mary, she saw a great need for algebra education. Two of her children were in seventh and eighth grade, and were not being taught algebra. Mary knew they were capable of learning it. She talked to the school, and began volunteering one day a week to teach algebra to the top students in the class. One day turned into two days, and soon thereafter, the school asked her to come aboard full time to teach and to start the advanced math program at Immaculate Heart of Mary. With the help and cooperation of students, teachers, administrators and faculty, the curriculum developed into a top-notch program, with each of the top 15 students in grades 6, 7 and 8 participating.

It was after a lifetime of dedication to her family and students that Mary was recognized for her selfless devotion. American Mothers Inc., a nonprofit group that promotes motherhood and family, awarded Mary with the Delaware Mother of the Year and the National Mother of the Year honors. The State award was presented to Mary in April, and the national award was announced in early May. Mary was honored for reading favorite bedtime stories, helping with homework and offering friendship when it was needed most. Those who know Mary describe her as embodying the spirit of what motherhood is supposed to be—nurturing, but strong.

Mary is an amazing woman. She has been committed to her family, her students, and her community. Even to this day, she spends several hours a week tutoring students who need help in math. She has helped shape the lives of thousands in the halls of the institutions she served, and in the hearts of those who have been lucky enough to call her their friend. I rise today to honor and thank Mary for her selfless dedication to the betterment of others. She is a remarkable woman and a testament to the community she represents.●

WE THE PEOPLE: THE CITIZEN AND THE CONSTITUTION NATIONAL COMPETITION

● Mr. GRASSLEY. Mr. President, I would like to congratulate the students from Central Academy in Des Moines, IA, who participated in the ''We the People: The Citizen and the Constitution'' national finals in Washington, D.C. The annual competition is the culmination of the students' extensive study of the American system of constitutional democracy. The team from Central Academy won the State competition, earning the honor of representing Iowa in the national finals on May 1–3. I am proud to say that performance of the Central Academy students in the national finals earned them the Regional Award for the central states, which is given to the best non-finalist team in each region. I offer my sincere congratulations to these exemplary students.

I had the opportunity to meet with these students when they were in Washington. They are a remarkable group of politically engaged young people and I am proud to have had them representing Iowa during the national competition.

The ''We the People: The Citizen and the Constitution'' program, run by the Center for Civic Education with the help of Federal funding, provides an outstanding curriculum that promotes civic competence and responsibility among elementary and secondary students. Students take away a solid understanding of the origin of American constitutional democracy as well as the contemporary relevance and application of our founding documents and ideals. In short, the We the People program produces better citizens.

In closing, I would like to personally recognize the Central Academy students who participated in this program, Oliver Borzo, Andrew Dahm, Andrew Eilts, Becki Gell, Andrew Greiner, Sean Noonan, Carole Peterson, Paige Richards, Maura Walsh, Shannon Wenck, Emma White, Molly White, Christopher Woods, Ru-Huey Yen, Ru-Shyan Yen and their teacher, Michael Schaffer. They can all be very proud of their knowledge and accomplishments. I would also like to recognize the ''We the People'' district coordinator, Ivette Bender, and the State coordinator for Iowa, Linda Martin, for all their work in getting an Iowa team to the national finals.●

IN SUPPORT OF LES BROWNLEE, ACTING SECRETARY OF THE ARMY

● Mr. SHELBY. Mr. President, I rise today to praise the Acting Secretary of the Army, Les Brownlee, for his wonderful leadership and great job he has done under very difficult circumstances as the Army copes with the stresses of heavy involvement in the Global War on Terrorism, especially in Afghanistan and Iraq, and as he juggles many demands and complex priorities as the Army continues to transform.

Acting Secretary Brownlee is indeed a highly distinguished public servant who has performed with great humility, energy and passion on behalf of all our active and reserve soldiers and their families. I was particularly impressed with the article ''Army of One'' by Katherine McIntire Peters which appeared in the latest edition of Government Executive magazine and believe that every member should take time to read it. I ask that this article be printed in the RECORD in its entirety.

The article follows.

ARMY OF ONE

Acting Secretary Les Brownlee once again leads troops through tumultuous times. On Christmas Eve 2001, Undersecretary of the Army Less Brownlee took an Air Force C–130 transport plane to Baghram Air Base in Afghanistan, where about 200 soldiers were battling al Qaeda and the terrorist organization's Taliban sponsors. It was a dangerous flight. To reduce their chances of drawing enemy fire, the pilots landed at night, with their lights extinguished. Brownlee spent the evening and following day meeting with soldiers, listening to their experiences and offering encouragement and praise for their service. He had been in office less than two

months when he made the Christmas visit, but it established a pattern. With little fanfare and no press attention, Brownlee has spent every holiday since then in the field with soldiers.

Brownlee's boss at the time, Army Secretary Thomas White, was the public face of the Army, testifying before Congress and participating in Pentagon press briefings with Defense Secretary Donald Rumsfeld, while Brownlee was quietly managing an expanding portfolio of responsibilities. In March 2002, Brownlee was made acting assistant secretary of the Army for civil works, taking on oversight responsibility for the Army Corps of Engineers, a position that would last until this past August, when President Bush appointed John Paul Woodley to the job. In the meantime, Rumsfeld fired White last April and Brownlee became acting Army secretary. For four months last year, Brownlee simultaneously held the positions of Army secretary. For four months last year, Brownlee simultaneously held the positions of Army secretary, undersecretary and director of civil works. During this time, the Army went to war in Iraq and began the biggest civil works project since World War II—the $18 billion program for rebuilding Iraq. Despite his enormous role in what is arguably one of the most profound shifts in U.S. military posture, Brownlee has received very little media attention, a fact that clearly suits him. ''He's a humble and completely dedicated man,'' says John Hamre, deputy Defense secretary during the Clinton administration and a former colleague of Brownlee's when both worked on the Senate Armed Services Committee, Brownlee for Republicans and Hamre for Democrats. ''He does not seek press. He refused to let me have a dinner in his honor when he became undersecretary. He just said, 'I don't think that's right.' Les is one of my best friends, and I said 'Les, please, this is for you,' and he said, 'Please don't do it. I know how much you care,'" Hamre recalls. ''He completely wants to dissolve his own personal identity into the good of the Army,'' Hamre says. ''Without question, he is one of the finest people I've ever worked with.''

A 'GET-IT-DONE FELLOW'

If a Hollywood producer were casting a film about the Army, the service secretary might very well look like Brownlee. In an interview in March he appeared tanned and fit, handsome, square-jawed, blue-eyed, silver-haired. He wore a navy suit, a white shirt French cuffs and a red, white and blue tie, the uniform of official Washington, but for the Silver Star pin in his lapel, a hard-earned award for valorous conduct on the battlefield nearly four decades ago. Brownlee earned two Silver Stars in Vietnam, along with three Bronze Stars and a Purple Heart. He may look like a politician or a banker, but he is a soldier's soldier. Brownlee's bearing is formal and gentlemanly and he speaks in a measured, low voice. After introducing himself at the beginning of an interview, his first comment is: ''I've never really done this before.'' A press hound he is not. Brownlee's résumé is remarkably suited to his responsibilities. A highly decorated infantry company commander in Vietnam, he served a full career in the Army before retiring as a colonel in 1984, after serving as executive officer to James Ambrose, one of the most dynamic Army undersecretaries in modern history. ''I though he was a real comer and a very effective fellow,'' recalls Ambrose. ''I think of Brownlee as a superb organizer—a get-it-done fellow.''

After leaving the Army, Brownlee went to work on the staff of Sen. JOHN WARNER, R–VA., a stalwart on the Senate Armed Services Committee. Three years later, Brownlee joined the committee staff, where he worked for 14 years, several years as staff director under the late Sen. Strom Thurmond, the committee chairman whose failing health greatly impaired his participation in Senate business. ''Les single-handedly ensured the authorization bills were produced in some very difficult years,'' recalls Hamre. ''Had it not been for Les to hold the committee together and move those bills forward . . . there were a couple of years we weren't going to have authorization bills. Les made it happen.

While working for the Senate, Brownlee oversaw some of the most profound changes in military posture since the Korean War. He was a major player in decisions surrounding the reduction in military forces and the cancellation of major weapons programs following the end of the Cold War, and he played a key role in establishing requirements aimed at helping the services navigate the strategically messy decade of the 1990s.

In the summer of 2001, Bush administration officials asked Brownlee if he would take the job as Army undersecretary. He was still mulling it over on the morning of Sept. 11, when he turned on the television in his Senate office in time to watch terrorists fly a second plane into the World Trade Center towers in New York. A short while later he spoke to his son, A U.S. attorney in Roanoke, VA., who told him: ''You know you have to take the job now.'' ''I knew he was right,'' says Brownlee.

SHUNNING PERKS

To get to Brownlee's Pentagon office a visitor must walk past an empty suite of offices designed for the Army secretary. When he became acting secretary a year ago, Brownlee declined to move into the secretary's spacious third-floor suite. Nor would he let his staff change the nameplate on his office door to reflect his position. ''The morning I signed the papers to become acting secretary I told my staff I would not be using the secretary's office, I would not use the secretary's car and I did not want my picture up on the wall [with other Army secretaries]. I assumed there would be a nominee. It didn't seem appropriate [to assume the perks of office]. It's a personal thing,'' he says, when asked about it.

Last July, months after Brownlee assumed the job of acting secretary, Bush nominated Air Force Secretary James Roche to become Army secretary. Some observers saw the move as another sign of Rumsfeld's widely reported discontent with the Army. Almost immediately, Roche's nomination ran into trouble in the Senate, where members have questioned both his role in promoting a controversial deal to lease air tankers from Boeing and his handling of sexual assault cases at the Air Force Academy. Last month, after it became clear the Senate would not move on the nomination, Roche withdrew his name from consideration.

Whether Brownlee or anyone else will be nominated for the Army secretary's position is a topic of speculation at the Pentagon, but in a contentious election year, many are doubtful. ''I don't think it really matters,'' says one senior Army officer who asked not to be identified. ''Brownlee is a workhorse. Soldiers respect him and he knows how the Hill works. He's doing the job far more effectively than many of his predecessors who didn't have 'acting' in front of their titles.'' Brownlee typically works 15 hours a day, six days a week. He says his expectations for the job were largely formed by his work for Ambrose. ''He had an enormous appetite for work. The first day I worked for him he came out of his office around 8:30 p.m. and apologized because he was leaving early. The next day we started at 4 a.m.'' Brownlee's hours are marginally better. One of his staff officers complains that working for Brownlee is like being on a deployment—he rarely sees his family. When asked what he thinks of Brownlee, he says, ''I think the world of him.''

SHAPED BY COMBAT

As a child growing up during World War II, Brownlee was fascinated by military history. Although no one in his family had served in the military—his father, an explosives expert, ran a bomb plant in West Texas during the war—Brownlee was drawn to service. He attended the University of Wyoming, a land-grant school where ROTC was compulsory. Brownlee enrolled in the Air Force ROTC program, but failed to pass the flight physical, so he switched to the Army ROTC program. He was commissioned as a lieutenant in the infantry in 1962 and in July 1965, he was a distinguished honor graduate of the intensely competitive U.S. Army Ranger Course. By year's end he was part of the 173rd Airborne Brigade, the first major ground unit to enter Vietnam.

''As a soldier, there's one thing worse than going to war—that's not going to war,'' he says. He wondered if he had what it took to lead men in battle. The rifle company commander got his chance soon enough after deploying to Vietnam. ''As we came under fire the first time I heard this steady, commanding voice, and I found it very reassuring. Then I realized it was my voice. It was very strange,'' he recalls.

The July 18, 1966, orders for his first Silver Star award give some measure of his experience in Vietnam. The award reads, in part: ''With complete disregard for his safety, Captain Brownlee dragged his fellow officer to the rear. While performing this heroic action he was seriously wounded in the arm and leg by intense hostile fire. Demonstrating outstanding courage and stamina, he continued to move his wounded comrade and lead his men to the rear. Though seriously wounded, Captain Brownlee refused evacuation until all the others wounded had been evacuated and an attempt at recovering missing equipment had been made.''

Pat Towell, the senior defense reporter at Congressional Quarterly for 25 years and now a visiting fellow at the Center for Strategic and Budgetary Assessments, says Brownlee brings a personal credibility to the job that is important. ''The [Army] is under a lot of stress. I think it's especially important for the institution that [soldiers] have the reassurance that the civilian who represents them in the leadership is one of them,'' Towell says.

Arnold Punaro, who was the Democratic staff director on the Armed Services Committee during the time Brownlee was Republican staff director, says, ''One of Les' strengths was that he always worked issues from what was in the interest of a strong national defense and the country and not from a partisan angle.'' A retired major general in the Marine Corps Reserve, Punaro adds, ''He's a true leader. I say that from having worked with him when he was still in uniform.''

Punaro says that when Brownlee worked in the Senate, he came up with an important plan, called the Soldier Marine Initiative, to get better fighting equipment to soldiers and Marines. ''We were always buying big airplanes and big ships and big submarines, and Les was asking 'What are we doing for the foot soldiers?' He was instrumental in improving body armor for troops and improving the helmet and head protection. He was in the minority at the time. That initiative stuck and has produced a tremendous amount of good for the soldiers and Marines.''

The improvements in body armor Brownlee championed while in the Senate proved so successful in saving lives in Iraq and Afghanistan that the Army in recent months faced a public maelstrom, forcing the service to field the protective gear more quickly and broadly than it had earlier planned. Brownlee recently visited an armor manufacturing plant to press managers to further ramp up production. According to one person who was at the meeting, Brownlee left no doubt about his seriousness that the production schedule would have to improve dramatically. ''If it involves force protection, then do it with the utmost urgency,'' Brownlee says. ''If you only get it out there one day early, you still might save a life,'' he says.

''Here's a guy that goes almost every day to visit troops at Walter Reed [Army Medical Center in Washington],'' says Punaro. ''I don't think many people know that about Les, and Les wouldn't want anybody to know about it. But this is a guy who cares deeply about men and women in uniform and their families. It's not just something that happened since he became acting secretary.''●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 1:36 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 352. Concurrent resolution recognizing the contributions of people of Indian origin to the United States and the benefits of working together with India towards promoting peace, prosperity, and freedom among all countries of the world.

H. Con. Res. 378. Concurrent resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thaddeus Nguyen Van Ly, and for other purposes.

H. Con. Res. 409. Concurrent resolution recognizing with humble gratitude the more than 16,000,000 veterans who served in the United States Armed Forces during World War II and the Americans who supported the war effort on the home front and celebrating the completion of the National World II Memorial on the National Mall in the District of Columbia.

MEASURES REFERRED

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 352. Concurrent resolution recognizing the contributions of people of Indian origin to the United States and the benefits of working together with India towards promoting peace, prosperity, and freedom among all countries of the world; to the Committee on Foreign Relations.

H. Con. Res. 378. Concurrent resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thaddeus Nguyen Van Ly, and for other purposes; to the Committee on Foreign Relations.

H. Con. Res. 409. Concurrent resolution recognizing with humble gratitude the more than 16,000,000 veterans who served in the United States Armed Forces during World War II and the Americans who supported the war effort on the home front and celebrating the completion of the National World War II Memorial on the National Mall in the District of Columbia; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–7555. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–7556. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, the report of a retirement; to the Committee on Armed Services.

EC–7557. A communication from the Assistant Director, Executive and Political Personnel, Department of the Army, transmitting, pursuant to law, a report relative to the position of Assistant Secretary for Installations and Environment, Department of the Army; to the Committee on Armed Services.

EC–7558. A communication from the Assistant Director, Executive and Political Personnel, Department of the Army, transmitting, pursuant to law, the report of a designation of acting officer for the position of Deputy Under Secretary of Defense for Logistics and Materiel Readiness, Department of Defense, to the Committee on Armed Services.

EC–7559. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Under Secretary of Defense, Comptroller, Department of Defense, to the Committee on Armed Services.

EC–7560. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination rejected, withdrawn, or returned for the position of Deputy Under Secretary of Assistant Secretary of the Army for Installations and Environment, Department of Defense, to the Committee on Armed Services.

EC–7561. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy for the position of Assistant Secretary of Defense for Networks and Information Integration, Department of Defense, to the Committee on Armed Services.

EC–7562. A communication from the Secretary of the Navy, transmitting, pursuant to law, a report of the increased cost of the Joint Strike Fighter Program; to the Committee on Armed Services.

EC–7563. A communication from the Principal Deputy for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, a report of the closure of the commissary located on Naval Station Roosevelt Roads, Puerto Rico; to the Committee on Armed Services.

EC–7564. A communication from the Director for Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, a report relative to the rotation of PFIAB Administrative Assistant; to the Committee on Armed Services.

EC–7566. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, the Department's 2003 inventory of activities that are not inherently governmental functions; to the Committee on Armed Services.

EC–7567. A communication from the Director, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the details of the Office's 2004 Compensation Plan; to the Committee on Banking, Housing, and Urban Affairs.

EC–7568. A communication from the Assistant Attorney General, Department of Justice, transmitting, pursuant to law, a report relative to accessibility for people with disabilities in the Information Age; to the Committee on the Judiciary.

EC–7569. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, the Annual Report to Congress pursuant to The College Scholarship Fraud Prevention Act of 2000; to the Committee on the Judiciary.

EC–7570. A communication from the Chief Executive Officer, Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, the Federal Prison Industries Fiscal Year 2003 Management Report and Independent Financial Audit; to the Committee on the Judiciary.

EC–7571. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report relative to the Foreign Intelligence Act of 1978; to the Committee on the Judiciary.

EC–7572. A communication from the Vice Chairs, United States Sentencing Commission, transmitting, pursuant to law, the Commission's amendments to the federal sentencing guidelines, policy statements, and official commentary; to the Committee on the Judiciary.

EC–7573. A communication from the Director of Engineering, Maintenance, and Operations, American Battle Monuments Commission, transmitting, pursuant to law, a report relative to the Freedom of Information Act for Fiscal Year 2003; to the Committee on the Judiciary.

EC–7574. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, twelve recommendations for legislative action; to the Committee on Rules and Administration.

EC–7575. A communication from the Office of Regulation, Policy, and Management, Board of Veterans' Appeals, Department of Veterans' Affairs, transmitting, pursuant to law, the report of a rule entitled ''Board of Veterans' Appeals: Rules of Practice—Notice of Procedures Relating to Withdrawl of Services by a Representative'' (RIN2900–AL45) received on May 10, 2004; to the Committee on Veterans' Affairs.

EC–7656. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, the Fiscal Year 2003 Defense Environmental Restoration Program report; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SHELBY, from the Committee on Banking, Housing, and Urban Affairs, with amendments:

S. 2238. A bill to amend the National Flood Insurance Act of 1968 to reduce loses to properties for which repetitive flood insurance claim payments have been made (Rept. No. 108–262).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1164. A bill to provide for the development and coordination of a comprehensive and integrated United States research program that assists the people of the United States and the world to understand, assess, and predict human-induced and natural processes of abrupt climate change (Rept. No. 108–263).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1721. A bill to amend the Indian Land Consolidation Act to improve provisions relating to probate of trust and restricted land, and for other purposes (Rept. No. 108–264).

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 331. A resolution designating June 2004 as ''National Safety Month''.

From the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1609. A bill to make aliens ineligible to receive visas and exclude aliens from admission into the United States for nonpayment of child support.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. WARNER for the Committee on Armed Services. Army nomination of Maj. Gen. David H. Petraeus.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. STEVENS (for himself and Ms. MURKOWSKI):

S. 2415. A bill to designate the facility of the United States Postal Service located at 4141 Postmark Drive, Anchorage, Alaska, as the 'Robert J. Opinsky Post Office Building'; to the Committee on Governmental Affairs.

By Mr. NELSON of Florida:

S. 2416. A bill to ensure that advertising campaigns paid for by the Federal Government are unbiased, and for other purposes; to the Committee on Governmental Affairs.

By Mr. COLEMAN:

S. 2417. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to furnish care for newborn children of women veterans receiving maternity care, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CAMPBELL:

S. 2418. A bill to amend chapter 83 and 84 of title 5, United States Code, to authorize payments to certain trusts under the Social Security Act, and for other purposes; to the Committee on Governmental Affairs.

By Mr. PRYOR (for himself and Mr. BAUCUS):

S. 2419. A bill to amend the Internal Revenue Code of 1986 to provide additional relief for members of the Armed Forces and their families; to the Committee on Finance.

By Mr. GRAHAM of Florida:

S. 2420. A bill to amend title XXI of the Social Security Act to make all uninsured children eligible for the State children's health insurance program, to encourage States to increase the number of children enrolled in the medicaid and State children's health insurance programs by simplifying the enrollment and renewal procedures for those programs, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY:

S. 2421. A bill to modernize the health care system through the use of information technology and to reduce costs, improve quality, and provide a new focus on prevention with respect to health care; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SMITH (for himself and Mr. CONRAD):

S. 2422. A bill to amend the Internal Revenue Code of 1986 to allow certain modifications to be made to qualified mortgages held by a REMIC or a grantor trust; to the Committee on Finance.

By Mr. DAYTON:

S. 2423. A bill to repeal the reduction in the tax rate for the top tax bracket and to express the sense of the Senate that revenue savings from the repeal should be used to improve benefits under the Montgomery GI Bill by $6,000,000,000 over 10 years, to fund Federal Pell grants at the full amounts authorized for fiscal year 2004, and to double the fiscal year 2004 funding for Perkins loans, Federal work-study programs, and Federal supplemental educational opportunity grants (SEOG); to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CORZINE (for himself, Mr. McCAIN, Mr. FEINGOLD, Mr. CORNYN, Mr. LEAHY, Mr. BINGAMAN, and Mr. LIEBERMAN):

S. Res. 360. A resolution expressing the sense of the Senate that legislative information shall be publicly available through the Internet; to the Committee on Rules and Administration.

By Mr. CHAMBLISS:

S. Res. 361. A resolution supporting the goals of National Marina Day and urging marinas to continue providing environmentally friendly gateways to boating; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAHAM of Florida (for himself, Mr. SPECTER, Mr. EDWARDS, Mr. LEVIN, Mr. REED, Mr. FEINGOLD, Ms. MURKOWSKI, Ms. CANTWELL, Mrs. MURRAY, Mr. CONRAD, Mr. BIDEN, Mr. CORZINE, Mr. DASCHLE, Ms. STABENOW, Mr. NELSON of Florida, Mrs. HUTCHISON, Mr. GRAHAM of South Carolina, Mr. TALENT, Ms. SNOWE, Mr. LUGAR, Mr. SANTORUM, Mr. SCHUMER, Mr. BOND, Mr. VOINOVICH, Mr. MILLER, Mr. INOUYE, Ms. LANDRIEU, Mr. STEVENS, Mr. FITZGERALD, Mr. CAMPBELL, Mr. BREAUX, Mr. LEAHY, Mr. DAYTON, Mr. DORGAN, Mr. COLEMAN, Mrs. DOLE, Mr. ALEXANDER, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mr. CRAPO, Mr. BAYH, Mr. BURNS, Mr. JEFFORDS, Mr. REID, Mr. SESSIONS, Mr. KERRY, Mr. SARBANES, Mr. CORNYN, Ms. COLLINS, Mr. WYDEN, Mr. THOMAS, Mr. CRAIG, Mr. BUNNING, Mr. KENNEDY, Mr. KOHL, Mr. WARNER, Mr. DEWINE, Mr. JOHNSON, Mr. BROWNBACK, Ms. MIKULSKI, Mr. NELSON of Nebraska, Mr. HARKIN, Mr. AKAKA, Mr. HAGEL, Mr. CHAFEE, Mr. HATCH, Mrs. BOXER, Mrs. CLINTON, Mr. GREGG, Mr. SHELBY, Mr. BAUCUS, Mr. DURBIN, Mr. McCAIN, Mr. CHAMBLISS, Mr. HOLLINGS, Mr. LIEBERMAN, Mr. SMITH, Mr. SUNUNU, Mr. NICKLES, Mr. McCONNELL, Mr. INHOFE, Mr. ENSIGN, Mr. CARPER, Mr. BINGAMAN, Mr. DODD, Mr. DOMENICI, Mr. GRASSLEY, Mr. ENZI, Mr. KYL, Mr. ALLEN, Mrs. LINCOLN, and Mr. ALLARD):

S. Res. 362. A resolution expressing the sense of the Senate on the dedication of the National World War II Memorial on May 29, 2004, in recognition of the duty, sacrifices, and valor of the members of the Armed Forces of the United States who served in World War II; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 253

At the request of Mr. CAMPBELL, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 253, a bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns.

S. 884

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. 884, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1292

At the request of Ms. LANDRIEU, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 1292, a bill to establish a servitude and emancipation archival research clearinghouse in the National Archives.

S. 1368

At the request of Mr. LEVIN, the names of the Senator from Maine (Ms. COLLINS) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of S. 1368, a bill to authorize

the President to award a gold medal on behalf of the Congress to Reverend Doctor Martin Luther King, Jr. (posthumously) and his widow Coretta Scott King in recognition of their contributions to the Nation on behalf of the civil rights movement.

S. 1645

At the request of Mr. CRAIG, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1645, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 1902

At the request of Mr. REED, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 1902, a bill to establish a National Commission on Digestive Diseases.

S. 2032

At the request of Mrs. BOXER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2032, a bill to provide assistance and security for women and children in Afghanistan and for other purposes.

S. 2049

At the request of Mr. SPECTER, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2049, a bill to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote remining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes.

S. 2059

At the request of Mr. FITZGERALD, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 2059, a bill to improve the governance and regulation of mutual funds under the securities laws, and for other purposes.

S. 2099

At the request of Mr. MILLER, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2099, a bill to amend title 38, United States Code, to provide entitlement to educational assistance under the Montgomery GI Bill for members of the Selected Reserve who aggregate more than 2 years of active duty service in any five year period, and for other purposes.

S. 2100

At the request of Mr. MILLER, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2100, a bill to amend title 10 United States Code, to increase the amounts of educational assistance for members of the Selected Reserve, and for other purposes.

S. 2158

At the request of Ms. COLLINS, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 2158, a bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

S. 2249

At the request of Ms. COLLINS, the name of the Senator from Ohio (Mr. VOINOVICH) 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. 2351

At the request of Ms. COLLINS, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 2351, a bill to establish a Federal Interagency Committee on Emergency Medical Services and a Federal Interagency Committee on Emergency Medical Services Advisory Council, and for other purposes.

S. 2363

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

S. 2365

At the request of Mr. COLEMAN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2365, a bill to ensure that the total amount of funds awarded to a State under part A of title I of the Elementary and Secondary Act of 1965 for fiscal year 2004 is not less than the total amount of funds awarded to the State under such part for fiscal year 2003.

S. 2393

At the request of Mr. HOLLINGS, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2393, a bill to improve aviation security.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor 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. RES. 357

At the request of Mr. CAMPBELL, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. Res. 357, a resolution designating the week of August 8 through August 14, 2004, as ''National Health Center Week''.

S. RES. 358

At the request of Mr. DASCHLE, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Res. 358, a resolution expressing the sense of the Senate that no later than December 31, 2006, legislation should be enacted to provide every individual in the United States with the opportunity to purchase health insurance coverage that is the same as, or is better than, the health insurance coverage available to members of Congress, at the same or lower rates.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENS (for himself and Ms. MURKOWSKI):

S. 2415. A bill to designate the facility of the United States Postal Service located at 4141 Postmark Drive, Anchorage, Alaska, as the ''Robert J. Opinsky Post Office Building,'' to the Committee on Governmental Affairs.

Mr. STEVENS. Mr. President, I send to the desk legislation to designate the U.S. Post Office located at 4141 Postmark Drive in Anchorage, Alaska after Robert J. Opinsky.

Bob Opinsky started his career with the Postal Service in 1956 as a $1.50-an-hour temporary clerk. Through hard work and dedication, he was able to work up the ranks of the Postal Service and become the District Manager of the Postal Service in Alaska.

During his 41 years with the Postal Service, Bob has proven his commitment to the Postal Service. In 1964 when the great earthquake hit Alaska, the local roads were torn apart and homes and buildings were destroyed. In addition, the earthquake created a large hole in the Anchorage post office building. However, despite the conditions of the Anchorage post office and roads, Bob Opinsky went to work on the Monday morning following the Friday quake.

Bob Opinsky introduced innovative methods to run the Postal Service. Under Bob's leadership in 1996, the Postal Service was awarded the Green Star Award; an award given in honor of environmental responsibility. The Postal Service in Alaska recycled more than 725,000 pounds of mixed paper and 100,000 pounds of cardboard. Not only was the Anchorage recycling program environmentally friendly, the Postal Service's efforts reduced their annual disposal cost by about $34,000.

After 41 years of employment with the Postal Service, Bob Opinsky retired from his District Manager position in 1996. Bob has poured his heart and soul into the Postal Service. It is only fitting we honor his commitment to the Postal Service by dedicating a post office in Anchorage, Alaska after him.

By Mr. COLEMAN:

S. 2417. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to furnish care for newborn children of

women veterans receiving maternity care, and for other purposes; to the Committee on Veterans' Affairs.

Mr. COLEMAN. Mr. President, the Veterans Administration has taken remarkable strides over the years to adapt to the increasing number of women veterans using VA facilities. As of 2002, there were approximately 1.5 million women in the Armed Forces and 20,000 of these women are from Minnesota. Many of these soldiers want to start families when they return home and will need to use their VA healthcare coverage for obstetrics care.

Currently, a woman can use her VA coverage for prenatal care, delivery and postnatal care. The VA will enter into a contract with a hospital to provide these services, but the VA cannot provide any coverage for the baby after it is born. The baby is uninsured until a hospital social worker or the parents can arrange for private healthcare coverage, or in most cases, for the baby to receive Medicaid assistance. This period of time, which in some cases can reach 2 weeks, is very stressful for all the parties involved.

Today, I have introduced a bill that will allow the VA to provide coverage for veterans' babies for up to 14 days after delivery in a VA hospital or VA contract facility. This will help care for these children during the time needed to secure long-term coverage outside of the VA system.

This bill will also make it easier for the VA to find willing hospitals. Today, many hospitals are reluctant to offer services to an insured mother and an uninsured baby. If both the mother and the baby were covered by the VA, hospitals in the veterans' local community would be more likely to accommodate them. Finally, I am hopeful that over time this legislation will save money for VA by eliminating extra surcharges and fees to hospitals which currently cover their liability for delivering an uninsured baby.

I firmly believe that veterans who have gone through the traumatic experiences of war should not have to worry about the health of their newborn babies because of bureaucratic glitches in the system. This bill will cut the red tape surrounding the delivery rooms and ease the burden on our veterans who want nothing more than to bring children into the free society which they helped protect and defend.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2417

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

SECTION 1. CARE FOR NEWBORN CHILDREN OF WOMEN VETERANS RECEIVING MATERNITY CARE.

(a) AUTHORITY TO FURNISH.—Subchapter VIII of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 1786. Care for newborn children of women veterans receiving maternity care

"The Secretary may furnish care to a newborn child of a woman veteran who is receiving maternity care furnished by the Department for up to 14 days after the birth of the child if the veteran delivered the child in a Department facility or in a non-Department facility pursuant to a Department contract for the delivery services.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 of such title is amended by adding at the end following new item:

"1786. Care for newborn children of women veterans receiving maternity care.".

By Mr. CAMPBELL:

S. 2418. A bill to amend chapters 83 and 84 of title 5, United States Code, to authorize payments to certain trusts under the Social Security Act, and for other purposes; to the Committee on Governmental Affairs.

Mr. CAMPBELL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2418

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

SECTION 1. AUTHORIZATION OF CERTAIN PAYMENTS UNDER THE CIVIL SERVICE RETIREMENT SYSTEM AND THE FEDERAL EMPLOYEES RETIREMENT SYSTEM TO CERTAIN TRUSTS UNDER THE SOCIAL SECURITY ACT.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—

(1) PAYMENTS.—Section 8345(e) of title 5, United States Code, is amended—

(A) by inserting "(1)" after "(e)"; and

(B) by adding at the end the following:

"(2)(A) In this paragraph, the terms 'dependent' and 'child' have the meanings given under section 8441 (3) and (4), respectively.

"(B) Payment due a minor, or an individual mentally incompetent or under other legal disability may be made to a trustee under a trust meeting the requirements of subparagraph (A) or (C) of section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4) (A) or (C)), if—

"(i) in the case of a minor, the minor is—

"(I) a child of the person upon whom the benefit for payment due is based; or

"(II) a dependent (who is a child) of the person upon whom the benefit for payment due is based; or

"(ii) in the case of an individual mentally incompetent or under legal disability—

"(I) the incompetency or disability occurred during the period that the individual was a child or a dependent (who was a child) of the person upon whom the benefit for payment due is based; and

"(II) that incompetency or disability has been continuous since that occurrence through the date of the payment due.".

(2) ASSIGNABILITY OF PAYMENTS.—Section 8346(a) of title 5, United States Code, is amended—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following:

"(2)(A) In this paragraph, the terms 'dependent' and 'child' have the meanings given under section 8441 (3) and (4), respectively.

"(B) Except as provided under paragraph (1), money payable under this subchapter to a minor or an individual mentally incompetent or under other legal disability is not assignable, either in law or equity, except to a trustee under a trust meeting the requirements of subparagraph (A) or (C) of section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4) (A) or (C)), if—

"(i) in the case of a minor, the minor is—

"(I) a child of the person upon whom the benefit for the money payable is based; or

"(II) a dependent (who is a child) of the person upon whom the benefit for the money payable is based; or

"(ii) in the case of an individual mentally incompetent or under legal disability—

"(I) the incompetency or disability occurred during the period that the individual was a child or a dependent (who was a child) of the person upon whom the benefit for the money payable is based; and

"(II) that incompetency or disability has been continuous since that occurrence through the date of the payment of the money.".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—

(1) PAYMENTS.—Section 8466(c) of title 5, United States Code, is amended—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following:

"(2)(A) In this paragraph, the terms 'dependent' and 'child' have the meanings given under section 8441 (3) and (4), respectively.

"(B) Payment due a minor, or an individual mentally incompetent or under other legal disability may be made to a trustee under a trust meeting the requirements of subparagraph (A) or (C) of section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4) (A) or (C)), if—

"(i) in the case of a minor, the minor is—

"(I) a child of the person upon whom the benefit for payment due is based; or

"(II) a dependent (who is a child) of the person upon whom the benefit for payment due is based; or

"(ii) in the case of an individual mentally incompetent or under legal disability—

"(I) the incompetency or disability occurred during the period that the individual was a child or a dependent (who was a child) of the person upon whom the benefit for payment due is based; and

"(II) that incompetency or disability has been continuous since that occurrence through the date of the payment due.".

(2) ASSIGNABILITY OF PAYMENTS.—Section 8470(a) of title 5, United States Code, is amended—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following:

"(2)(A) In this paragraph, the terms 'dependent' and 'child' have the meanings given under section 8441 (3) and (4), respectively.

"(B) Except as provided under paragraph (1), an amount payable under subchapter II, IV, or V to a minor or an individual mentally incompetent or under other legal disability is not assignable, either in law or equity, except to a trustee under a trust meeting the requirements of subparagraph (A) or (C) of section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4) (A) or (C)), if—

"(i) in the case of a minor, the minor is—

"(I) a child of the person upon whom the benefit for the amount payable is based; or

"(II) a dependent (who is a child) of the person upon whom the benefit for the amount payable is based; or

"(ii) in the case of an individual mentally incompetent or under legal disability—

"(I) the incompetency or disability occurred during the period that the individual was a child or a dependent (who was a child) of the person upon whom the benefit for the amount payable is based; and

"(II) that incompetency or disability has been continuous since that occurrence through the date of the payment of the amount.".

By Mr. PRYOR (for himself and Mr. BAUCUS):

S. 2419. A bill to amend the Internal Revenue Code of 1986 to provide additional relief for membes of the Armed Forces and their families; to the Committee on Finance.

Mr. PRYOR. Mr. President, our men and women serving in the military are the defenders of freedom and security around the world. The special role they play demands that they be ''on call'' to serve our Nation at points all over the globe.

The unique nature of their job has resulted in a unique and, I must say, very complex compensation package. The various types of compensation and benefits oftentimes create an especially difficult burden, especially when it comes to filing their tax return.

Through the years, Congress has periodically passed laws that recognize the special needs of our military and to lessen administrative burdens on them.

During consideration of such a bill last year, I approached the distinguished chairman of the Senate Finance Committee, Senator CHUCK GRASSLEY, and ranking member of that committee, Senator MAX BAUCUS, and asked them to join me in an effort to get a fresh look at the overall picture of how the Tax Code treats our military.

I was pleased when they agreed to join me in this work, and I was delighted to jointly request an expedited study by the GAO. It has been an honor to work with them and their staffs throughout this process, and I believe our work will produce good things for our military.

Yesterday, GAO released a report as a result of our request. The report raises many interesting findings, but there is one especially important issue that demands our immediate attention. Mr. President, I want to discuss the problem identified by GAO, and then I will introduce a bill to correct the inequity that has been documented.

The problem identified by GAO is the result of complex interactions between the combat zone exclusion under section 112 of the Internal Revenue Code and the earned-income tax credit and the child tax credit.

Under the combat pay exclusion, a very important benefit provided by Congress, military pay earned—including basic pay, bonuses, special pay and allowances—is excluded from taxable income while members of the military are serving in a designated combat zone.

That is right, Uncle Sam doesn't impose taxes on military pay for those serving our country in combat zones—and rightfully so.

However, income excluded under the combat pay provision is also excluded from income for the purpose of computing the earned-income tax credit and the child care credit.

As a result of this, thousands of men and women serving in combat, in places such as Iraq, Afghanistan, and other places around the globe, will see a reduction or elimination of their earned-income tax credit or the child tax credit and, in effect, because of how these interact, will lose money. In other words, the Tax Code has the impact of penalizing them because they are serving in combat zones. That is the opposite effect intended by Congress.

The GAO report characterizes this result as an ''unintended consequence.'' I call it a wrong, and I urge my colleagues to join me in fixing this glitch as soon as possible.

The urgency of this situation is highlighted especially when you focus on those of our troops which this affects.

We are talking about troops who tend to be in combat for more than 6 months, who are not making much money, who have families to provide for and have little or no savings or little or no spouse income.

I am going to repeat that. We are talking about a clear wrong in the Tax Code that takes money away from men and women serving this Nation heroically and in dangerous places such as Iraq and Afghanistan.

The GAO analysis suggests the amount of the tax benefit loss enlisted personnel could face is up to $4,500 and $3,200 for officers. This is real money, make-or-break money, to many of these families who are already under an enormous amount of stress. This money will make a real difference and we need to get about the business of fixing this problem as soon as possible.

To correct the unfairness of current law, I am introducing the Tax Relief for Americans in Combat Act. The bill allows men and women in uniform serving in combat to include combat pay for the purpose of calculating their earned income tax credit and their child tax credit benefits. In other words, they will be able to continue receiving their rightful combat pay exclusions while having the ability to take full advantage of other tax credits. I urge my colleagues to join me in this effort. It will make a real difference for thousands of military families across the Nation.

I thank Liz Liebschultz and Christy Mistr of the Finance Committee staff for their advice and counsel in helping me sort through this matter in generating this GAO report. They did the work in drafting the provisions of this bill to make sure these provisions could be adopted by the Senate as soon as possible.

Also I want to recognize the GAO team which put this report together, because they did a lot of work on this: Jim White, Derek Stewart, Lori Atkinson, Jennifer Gravelle, John Pendleton, Sonja Ware, and James Wozny. They did a great job in preparing this report and I appreciate their hard work.

While we found this tax breakdown in the GAO report, there is also a lot of good news in the report regarding the compensation of our military personnel and I hope my colleagues will take time to review what the GAO says in all the information provided.

During a time of war, I do not want to lose sight that the Senate Armed Services Committee chairman, Senator JOHN WARNER of Virginia, and the ranking member, Senator CARL LEVIN of Michigan, are taking care of our troops financially.

One thing we talked about in the Armed Services Committee is recruiting and retention. Are we going to be able to meet those two objectives for our military? Well, I think today with this bill we can send a clear message to our youth and our enlisted personnel that a military career is an amazing option, and the compensation is such that it can compete with the private sector.

There is a real problem with our Tax Code that needs to be fixed immediately and the good news is, it can be. The bill corrects a problem and lets our troops risking life and limb know while they are away fighting for us, fighting for freedom and democracy, we will be in the Senate fighting for them and fighting for their families.

I urge my colleagues to consider this legislation and also to consider cosponsoring this bill with me.

I ask unanimous consent that a GAO summary, and the text of the bill, be printed in the RECORD.

There being no objection, the additional material was ordered to be printed in the Record, as follows:

GENERAL ACCOUNTING OFFICE,
Washington, DC, May 7, 2004

Subject: Military Personnel: Active Duty Compensation and Its Tax Treatment.

Hon. CHARLES E. GRASSLEY,
Chairman,
Hon. MAX S. BAUCUS,
Ranking Minority Member, Committee on Finance, U.S. Senate,
Hon. MARK PRYOR,
U.S. Senate.

The Department of Defense's (DOD) total military compensation package for active duty members consists of both cash and noncash benefits. Since the late 1990s, Congress and the DOD have increased military cash compensation by increasing basic pay and allowances for housing, among other things. Military members also receive tax breaks, which are a part of their cash compensation. Moreover, active duty personnel are offered substantial noncash benefits, such as retirement, health care, commissaries, and childcare. In some cases, these noncash benefits exceed those available to private-sector personnel. DOD relies heavily on noncash benefits because it views benefits as critical to morale, retention, and the quality of life for service members and their families.

To better understand the military compensation system, you asked us to provide you information on active duty military compensation and its tax treatment. At the outset of this engagement, we agreed to keep you periodically informed of the status of our work. In January 2004, we briefed your staff on our preliminary observations. Because our work identified that the combat zone tax exclusion could impact some service members, you asked us to focus our work on military cash compensation and to do additional work to estimate the effect of the combat zone tax exclusion on service members' compensation. We provided your staff

subsequent briefings that estimated the effect of the combat zone exclusion. As requested, we have updated and combined the briefings for this report to (1) summarize active duty cash compensation and describe how military compensation varies at different career points for officers and enlisted members; (2) explain how military pay is taxed and any special tax treatment of military compensation; (3) estimate the effects of interactions between the combat zone exclusion and certain tax credits on military members' compensation; and (4) describe the benefits DOD provides active duty members as well as specific programs available to members that encourage wealth building (see enclosure I). To provide a rough estimate of the number of service members in 2003 who suffered a net tax loss because of the interactions between serving in a combat zone and certain tax credits, we used aggregate data compiled by the Defense Manpower Data Center on the number of members who served in a combat zone in 2003 and aggregate data on the percentage of spouses not in the workforce from the 2002 Active Duty Survey. We believe that the data is sufficiently reliable to estimate within a broad range the number of people affected. We conducted our review from October 2003 through April 2004 in accordance with generally accepted government auditing standards.

RESULTS IN BRIEF

The foundation of military cash compensation is what the DOD calls regular military compensation—the sum of basic pay, nontaxable allowances for housing and subsistence, and the associated federal tax savings. Some members also receive additional cash compensation in the form of special pays, incentives, and other allowances. In total, there are over 50 of these pays, incentives, and allowances, ranging from reenlistment bonuses to clothing allowances and family separation allowances. The annual amounts of these pays, incentives, and allowances range from a few hundred dollars to thousands of dollars, and some of these are also nontaxable. In general, regular military compensation progresses steadily with pay grade and years of service. For example, a junior enlisted member with 3 years of service might earn around $40,000 in cash compensation, while a senior officer with 22 years of service could earn cash compensation of about $130,000.

Military service brings with it significant tax advantages. Basic pay and most other pays are generally subject to federal income tax; however, certain allowances are not taxed, such as the basic allowances for housing and subsistence. DOD considers the federal tax advantage as the additional income military members would have to earn in order to receive their current take-home pay if their allowances for housing and subsistence were taxable. In fact, DOD views the federal tax advantage as part of service members' cash compensation when it compares military pay with civilian pay. In addition, pay earned—including basic pay, bonuses, special pays, and allowances—while members are serving in one of the 15 designated combat zones is excluded from taxes.

The complex interactions between the combat zone exclusion and certain tax credits (principally the Earned Income Tax Credit and the Additional Child Tax Credit) appear to be creating unintended consequences. Specifically, some low-income- earning service members who serve in a combat zone are worse off for tax purposes, while some higher-income-earning members are better off because they become eligible for a tax credit that is normally targeted to low-income workers. Low-income members with children qualify for refundable tax credits that can not only offset all of their tax liability but can also leave them with payments from the government. The combat zone exclusion can actually cause a reduction or elimination of these payments to some service members. For example, over certain income ranges the amount of Earned Income Tax Credit that a taxpayer earns increases as his or her income increases. Service in a combat zone reduces the amount of earned income that a member reports for tax purposes and, thus, can reduce or eliminate the refunded portion of the member's credit. These members actually suffer a net loss in tax benefits because they receive no offsetting advantage from the exclusion. Our analysis suggests that some of the roughly 430,000 members serving in a combat zone in 2003—between 5,000 and 10,000 members in one-earner households—suffered a net loss of tax benefits. Data limitations make it difficult to produce a comprehensive estimate of the number of members who suffered a net loss of tax benefits. In particular, it is more difficult to make a reliable estimate of the number of members with working spouses who had net losses of tax benefits. However, we believe that number is not likely to be much higher than several thousand and could be less than that. Additionally, the number of members losing tax benefits could be larger in 2004 depending on the how many service members are in a combat zone and how long they are there. The amount of the tax benefit loss varies considerably, with a maximum of about $4,500 or $3,200, for enlisted and officer members, respectively. In general, the members losing tax benefits tend to be those who are serving in a combat zone longer than 6 months; who are in the lower pay grades; who are married with children; and who have little to no investment or spousal income. On the other hand, some other low-income members earned larger earned income tax credits by serving in a combat zone than they otherwise would have. Moreover, it appears that a large number of service members who had incomes exceeding the normal upper limit for Earned Income Tax Credit eligibility and who served in a combat zone for at least 6 months could become eligible to receive that credit as a result of this income exclusion. DOD is aware of service members who are disadvantaged and advantaged by these tax provisions, and it is seeking remedies that would require changing the rules of the tax credits so that income earned in a combat zone would not be excluded when calculating eligibility for the tax credits.

Benefits are a substantial portion of noncash military compensation. DOD offers a wide range of benefits to active duty members, including health care, retirement, education assistance, and installation-based benefits—that is, services found on military installations, such as commissaries and child care. While the value of benefits to members varies depending on the members' needs, the cost to provide such benefits is substantial. Some of the benefits DOD provides encourage wealth building over a service member's career. Military retirement—a lifetime annuity generally provided to members who serve 20 years or more—is one of the primary wealth-building programs available to military members. However, DOD estimates that less than half of officers and only about 15 percent of enlisted members will become eligible for retirement. In addition, other savings programs are offered, such as the Thrift Savings Plan and the Savings Deposit Program. Since 2001, service members can contribute a percentage of their basic pay, before taxes, to be invested in one or more of the specific funds offered through the Thrift Savings Plan; about 21 percent of the active duty military participate. Service members deployed to a combat zone or other qualified areas can contribute to the Savings Deposit Program, earning a guaranteed 10 percent interest on their investment. However, less than 1 percent of the active duty force participates. Service members may also be eligible to participate in the Department of Veterans Affairs no-money down, mortgage-backed loan program. Moreover, military members can take advantage of a number of wealth-building tax provisions available to citizens, such as deductions for mortgage interest and tax credits for elective retirement accounts contributions.

MATTER FOR CONGRESSIONAL CONSIDERATION

If the Congress wishes to remedy the unintended tax consequences associated with the combat zone exclusion, it should consider revising the rules of the Earned Income Tax Credit and the Additional Child Tax Credit with respect to income earned in a combat zone.

SCOPE AND METHODOLOGY

Our audit work focused on military cash compensation and its tax treatment for active duty service members. To summarize the components of active duty military members' compensation, we reviewed policies, publications, and regulations governing military compensation. We interviewed officials from the Office of the Secretary of Defense and the Defense Manpower Data Center. We compiled 2003 data for basic pay tables, basic allowances for housing and subsistence rates, special pay amounts, incentive pay amounts, and allowance pay amounts. To describe how military compensation varies at different career points for officers and enlisted members, we created notional junior and senior enlisted service members and officers. We assigned these hypothetical service members typical years of service for their pay grades, locations across the United States, numbers of dependents, and special pays typical of their pay grades and locations. We discussed our examples with officials from the Office of the Under Secretary of Defense for Personnel and Readiness to ensure that our profiles were reasonable. We identified benefits offered to active duty military members and some associated values by reviewing past GAO reports, DOD documents, and the fiscal year 2002 DOD Actuarial Valuation Report.

To explain how military pay is taxed and any special tax treatment of military compensation, we reviewed DOD policies and regulations and the Internal Revenue Services' 2003 Armed Forces Tax Guide publication. To estimate the federal tax advantage of the exclusion of the housing and subsistence allowances from taxation, we estimated the tax liability for hypothetical members according to current tax rules as if the members' housing and subsistence allowances were taxable. We present the pre-tax value of this tax advantage—that is, the additional income the members would have to earn in order to receive their current take home pay if their allowances were taxable.

To estimate certain effects of the combat zone exclusion on military members' taxes, we estimated the number of members negatively affected and the number who may become eligible for Earned Income Tax Credit by the combat zone tax exclusion. For more detailed information on how we estimated the combat zone effect, see enclosure II.

To describe programs available to members that encourage wealth building, we reviewed documents and interviewed officials from the Office of the Secretary of Defense and the Department of Veterans Affairs. In addition, we also reviewed other documents to identify tax provisions that encourage wealth building for citizens.

AGENCY COMMENTS

In providing oral comments on a draft of this report, DOD representatives from the Office of the Under Secretary of Defense for Personnel and Readiness stated that they generally concurred with the content of the report. Technical comments were incorporated as appropriate. DOD officials told us that they have been seeking to remedy the unintended tax consequence related to the combat zone tax exclusion. We also received comments on the tax-related sections of our draft from Internal Revenue Service (IRS). In providing oral comments, IRS representatives from the Office of the Commissioner, Wage and Investment Division and the Office of Legislative Affairs said that the IRS could administer a change in law that would include combat pay in earned income for purposes of computing eligibility for the Earned Income Tax Credit. Since earned income used for computing Earned Income Tax Credit is not reported anywhere on the IRS form 1040 or Schedule EIC, IRS would modify the Earned Income Tax Credit worksheets and related instructions to account for the combat zone pay. In addition, they would work with DOD to develop a process for identifying and processing returns from taxpayers who would be affected by this provision. The representatives noted that, although at the outset the process would likely be primarily manual, IRS would explore options for automation. The IRS officials also provided technical comments relating to the child tax credit, which we incorporated as appropriate, and made the point that changes to the treatment of income earned in a combat zone for the purposes of the two credits could affect other tax benefits, such as the dependent care credit and the exclusion for employer-provided benefits under a dependent care assistance program, depending on the specific wording of the changes. We also spoke to the Department of Treasury staff about the tax-related sections of our briefing documents and incorporated their technical comments as appropriate.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from its issue date. At that time, we will send copies of this report to the Secretary of Defense and the Commissioner of the Internal Revenue Service. We will also make copies available to appropriate congressional committees and to other interested parties on request. In addition, the report will be available at no charge on our Web site at http://www.gao.gov.

If you or your staff have any questions about this report, please contact Derek Stewart, (202) 512–5559, or James White, (202) 512–5594, or e-mail them at stewartd@gao.gov or whitej@gao.gov, respectively. Key contributors to this report were Lori Atkinson, Jennifer Gravelle, John Pendleton, Sonja Ware, and James Wozny.

DEREK B. STEWART,
Director, Defense Capabilities and Management.

JAMES R. WHITE,
Director, Strategic Issues.

S. 2419

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 ''Tax Relief for Americans in Combat Act''.

SEC. 2. EARNED INCOME INCLUDES COMBAT PAY.

(a) CHILD TAX CREDIT.—Section 24(d)(1) of the Internal Revenue Code of 1986 (relating to portion of credit refundable) is amended by adding at the end the following new sentence: ''For purposes of subparagraph (B), any amount excluded from gross income by reason of section 112 shall be treated as earned income which is taken into account in computing taxable income for the taxable year.''.

(b) EARNED INCOME TAX CREDIT.—Subparagraph (B) of section 32(c)(2) of the Internal Revenue Code of 1986 (relating to earned income) is amended—

(1) by striking ''and'' at the end of clause (iv),

(2) by striking the period at the end of clause (v) and inserting '', and'', and

(3) by adding at the end the following:

''(vi) any amount excluded from gross income by reason of section 112 shall be treated as earned income.

Any taxpayer may elect to not apply clause (vi) with respect to any taxable year ending after the date of the enactment of such clause and before 2005.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

Mr. BAUCUS. Mr. President, I rise today to join my good friend from Arkansas, Senator PRYOR, in introducing the Tax Relief for Americans in Combat Act. I applaud Senator PRYOR for his commitment to our Armed Forces. The study and the bill that he has unveiled today provide just one example of that commitment.

Last year, Senator PRYOR asked me to join him in requesting a study on the compensation received by our military personnel, and the tax treatment of this compensation. This study has been completed. Many of the results are encouraging. But the study reveals one significant glitch in the tax law that is hurting many of our low-income military personnel.

For the most part, the compensation packages received by our military personnel are competitive with the private sector. And the Tax Code provides many incentives for military service. But as the GAO study reveals, some low-income military personnel are losing out because they have been called to serve in a combat zone.

Now this just does not make sense. Why would we penalize those military personnel who are serving our country in Afghanistan, Iraq, and elsewhere around the world?

Let me explain. Under current law, compensation earned by military personnel while they are serving in a combat zone is exempt from income tax. This provides most military personnel in these areas with a very significant tax benefit. Because of a glitch in the tax law, however, certain individuals may actually end up losing money because of this exemption.

This is because the law is preventing them from receiving the Earned Income Tax Credit and Refundable Child Tax Credit that they would otherwise been entitled to. These credits are based on earned income, and the law says that combat zone income does not qualify as earned income. GAO has found that as many as 10,000 men and women serving in combat will see a reduction or elimination of their EITC or child credit, they will, in effect, lose money.

This bill would fix that glitch in the law, and provide these individuals with the tax credits to which they are entitled.

Our brave men and women in the Armed Forces put their lives on the line for our Nation every day. It is the least we can do to ensure that they are being properly compensated and receiving all the tax benefits that are due to them under the law. Given the ongoing conflict in Iraq and the war on terrorism, it is more important than ever that we vigilantly oversee the tax system to ensure that our troops are being treated fairly.

I applaud Senator PRYOR for taking the lead. I am proud to join him in introducing legislation to correct these errors and ensure our service men and women receive the proper level of tax relief they deserve. Serving our country is one of the most honorable services a citizen can provide. Now it is up to us to provide them with the tax compensation they are due.

I hope that the Senate will take up and pass this bill at the earliest appropriate time, and make sure that our men and women in uniform receive the tax relief to which they are entitled.

By Mr. GRAHAM of Florida:

S. 2420. A bill to amend title XXI of the Social Security Act to make all uninsured children eligible for the State children's health insurance program, to encourage States to increase the number of children enrolled in the Medicaid and State children's health insurance programs by simplifying the enrollment and renewal procedures for those programs, and for other purposes; to the Committee on Finance.

Mr. GRAHAM of Florida. Mr. President, I rise to introduce the State Children's Health Insurance Program, SCHIP, Expansion Act of 2004. This Congress passed the Children's Health Insurance Program in the late 1990s. It has been a great success. There are 5 million American children today who have quality medical insurance because of this program; without this program there would be another 5 million Americans uninsured.

The expansion of this legislation in 2004 would allow States to expand health coverage under the SCHIP program to all uninsured children, regardless of their family income. It would also provide critical funding for this important program.

This week is Cover the Uninsured Week. This is a collaborative effort of the Robert Wood Johnson Foundation and many other organizations highlighting the vast number of uninsured in this country and the need to find a solution.

Yesterday, I introduced legislation with Senators DASCHLE and KENNEDY which will call for the Nation to cover all Americans by the year 2006. The goal of universal coverage is one that I believe every Member of this Senate

shares. Based on the experience of the last decade, it is my judgment that the road to achieving that goal of full coverage begins with a first step. We have not taken a significant first step on the road to closing the gap now in over 5 years. In that 5-year period, we have seen a dramatic increase in the number of uninsured Americans, including uninsured children.

We could take that first step by providing health coverage for all children. That step will be a large one.

Today, there are an estimated 9 million American children under the age of 19 who are uninsured for their health care. Over 640,000 of those children live in my home State of Florida. There are other large groups of uninsured Americans, however, and one might ask, why pick out children from this large group of uninsured Americans? The goal is to cover all Americans. The reality is the effort to accomplish that objective in one giant step has proven to be without success. Uninsured children, in my judgment, represent the group that we should start with, for the following reasons.

We know this about uninsured children: They are four times more likely to delay seeking care than insured children, and they are five times more likely than insured children to use an emergency room for regular medical care. Lack of timely treatment can turn a simple health problem into a serious childhood illness. Covering children is cost effective, and more important, it improves the lives of children. It can, in fact, save the lives of children. Let me give two common examples.

Ear infections are a very common affliction of young children and easily treated with an inexpensive antibiotic. However, if that ear infection is not diagnosed and not treated, the infection can mature into deafness and learning disabilities. What happens when an unvaccinated child is struck with bacterial meningitis? Failure to diagnose and treat this contagious disease with an antibiotic can lead to brain damage, even to death.

Our Nation's publicly funded health programs play a critical role in providing access to care in order to prevent such occurrences. As I said in the beginning, SCHIP has made an enormous difference in the health and lives of over 5 million American children, many of whom are from working families.

We know 8 out of 10 of the currently uninsured Americans come from a family in which one or both parents are working.

Despite the success of SCHIP, States have taken to such tactics as capping enrollment and placing limits on eligibility and benefits. I am sorry to have to report some of the things that have happened in my State, not because they are peculiar, but because they are increasingly representative of what is happening in States across America.

Until recently, Florida had amassed a waiting list of children who were eligible for the SCHIP program but who were not being served, primarily because of limitations on State funds to match the Federal funds. We had a waiting list of nearly 100,000 Florida children. Although most of these children have since been temporarily enrolled, the Florida SCHIP program has eliminated all outreach activities; that is, those activities that had informed families about the availability of these programs have been eliminated. Florida has also restricted eligibility for children in families whose employers offer any kind of dependent coverage, regardless of its cost.

If there is one thing we know, it is that one of the factors that is fueling the increase in the numbers of uninsured Americans is that even when employers provide at least the appearance of health insurance coverage but that coverage is so expensive that it amounts to more than 5, sometimes almost 10 percent of that family's income, and as available as it may appear, in real economic terms it is not available. Yet in my State, I am sad to report that a child who has fallen into that circumstance will not any longer be considered eligible for the SCHIP program.

Florida has eliminated its SCHIP waiting list. No one in the future will ever say that Florida has nearly 100,000 children who are eligible for but not receiving SCHIP coverage because there will not be any list of children who are waiting for their opportunity to be covered. This is a means by which knowledge of the number of uninsured children who are denied access to the program will be denied to the people of Florida, as will, therefore, their ability to influence public policy to increase the health care coverage of the children of Florida.

What would the legislation I introduce today do to address these problems? First, it would allow States to expand health coverage to uninsured children, regardless of the income, so that no child goes without necessary care.

Second, it would provide Federal financial support to assure the long-term stability of the SCHIP program. To meet congressional budget limits, Federal funding for SCHIP declined by over $1 billion a year, beginning in the fiscal year 2002, and running through the current fiscal year of 2004. That reduction, which is referred to as the CHIP dip, has brought the Federal funds available for children's health insurance from $4 billion annually down to $3 billion.

The consequence of this is that many States which had a fully operational SCHIP program—that is, they were using the full amount of the pre-2002 Federal funds—are now facing another component of their fiscal crisis.

The SCHIP Expansion Act would restore Federal funding allotments to their pre-2002 level, assurance that States could continue to cover more uninsured children.

The legislation would also invest additional resources in SCHIP, allowing States that are currently using all of their Federal funds to expand their programs, providing relief to many States that anticipate a shortage of funding in the near future.

The Center on Budget and Policy Priorities estimates that by 2007, on the current course, 39 States will have spent their entire funding allotments. Additional funds are necessary to allow these States to continue to reach new currently uncovered, uninsured children. Many of our uninsured children are, in fact, already eligible for coverage under SCHIP, but where you have limitations in Federal or State funds, they are not enrolled. Effective outreach and streamlined enrollment are keys to improving coverage.

SCHIP expansion will help States cover more children by increasing funds for outreach in States. That will simplify the enrollment process.

Finally, this legislation will prohibit States that have not exhausted all available Federal funds from capping enrollment in their SCHIP program. Where enrollment is capped, children are put on a waiting list—if the State has not done what Florida has done, which is to eliminate the waiting list, and they will go without coverage. Without coverage, their parents must choose between paying for rent and paying for medicine for their sick children.

Have we not reached a sad state of affairs in this Nation when many of our elder citizens have to make a choice between paying for prescription drugs or eating a nutritious meal three times a day, and that many of our parents of young children who are sick and without medical insurance must make a choice between paying the rent or paying for the medicine for their child?

My bill assures no family faces such a choice as a result of an arbitrary enrollment tax. States which choose to participate in SCHIP must be willing to participate fully and cover as many children as they can with the funds they have available. There is no reason in a nation of unsurpassed wealth and of unsurpassed medical talent that any child should be without health insurance coverage.

Investment in proven effective public programs is imperative.

Although our overall goal is universal coverage, assuring that all children have access to quality health care is a crucial first step. In my opinion, steps 2 and 3 should be to cover the working poor and the early retirees. These steps won't achieve the goal of full coverage even in conjunction with the full coverage of children, but they will significantly close the gap of those Americans today who are without health coverage.

The SCHIP expansion program represents a serious and long overdue commitment to expanding coverage for the most vulnerable in our society, our young boys and girls. This measure has

the support of the Children's Defense Fund, Catholic Charities USA, the Association of Maternal and Child Health Programs, and Families USA.

I ask unanimous consent that a letter of support be printed in the RECORD.

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

ASSOCIATION OF MATERNAL AND CHILD HEALTH PROGRAMS,
Washington, DC, May 13, 2004.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: The Association of Maternal and Child Health Programs (AMCHP) supports your efforts to ensure that children have access to health care coverage through the State Children's Health Insurance Program (SCHIP). All children deserve quality health care.

The SCHIP Expansion Act of 2004 highlights the vital importance of the SCHIP program in assuring the health of our nation's children. The bill provides states with financial incentives to continue to expand the number of children covered by SCHIP. At the same time, the bill prevents states from rolling back coverage by capping enrollment.

AMCHP is a national, nonprofit organization that represents state public health leaders administering family health programs. These family health programs serve over 27 million, children and youth, including almost 18 million children. Our members serve insured, underinsured, and uninsured women, children and their families.

Thank you again for your leadership on this important issue and we look forward to working with you to address the needs of the 8 million uninsured children in this country.

Sincerely,

DEBORAH DIETRICH,
Director, Center for Policy and Advocacy.

Mr. GRAHAM of Florida. I call upon this Congress to act and to act this year to pass this important legislation, and to remove from the rolls of the uninsured for health coverage Americans, at least those most fragile and vulnerable, those we love the most, our children.

By Mr. KENNEDY:

S. 2421. A bill to modernize the health care system through the use of information technology and to reduce costs, improve quality, and provide a new focus on prevention with respect to health care; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, the Health Care Modernization, Cost Reduction, and Quality Improvement Act addresses three serious and related problems in our health care system that affect every American family: Health care costs are too high and are rising too rapidly. The quality of care received by too many patients is well below the standard that we are capable of achieving. In fact, the gap between the care we actually provide and the care we should be providing is so great that the prestigious Institute of Medicine has referred to it as a ''quality chasm.'' Our system lavishes funds on sickness care and neglects the health promotion and disease prevention activities that are the most effective ways of reducing health costs and assuring good health for as many of our people as possible.

The legislation we are introducing is an effective way to modernize and improve the health care system, by using modern information technology, by paying for value and results and not simply for procedures performed or patients admitted to hospitals, and by focusing on improving quality and preventing disease.

Controlling the soaring cost of health care is essential. In the year 2000, health insurance premiums grew 8 percent—two and a half times the cost of living. In 2001, premiums went up 11 percent—six times the Consumer Price Index. They went up 13 percent in 2002, and 14 percent in 2003—almost eight times the cost of living increase. By any standard, increases like that are unsustainable.

We have to bring these costs under control—but there is a right way and a wrong way to do it. Arbitrary cutbacks for hard-pressed hospitals and physicians are the wrong remedy.

With emergency rooms bursting at the seams, nursing shortages threatening the quality of care, and physicians forced to spend less time with more patients, we have an obligation to all our health providers as well. They're the backbone of our health care system, and we have an obligation to help them provide the quality care that every patient deserves.

Fortunately, the right way to control costs is also the right way to achieve higher quality care. It's based on an emerging consensus of health experts and practitioners. It involves four fundamental principles—using information technology, paying for results, improving quality, and investing in prevention.

The gap is vast and growing between information technology and the current practice of medicine. Health care in America is the best in the world, but it is also one of the least efficient industries in America. We spend a staggering $480 billion a year on administration alone—more than 30 cents of every dollar spent on care. Over a quarter of all personnel in the health care system today are performing administrative tasks, not providing care.

The potential savings through modern technology are immense. Transactions in health care cost $12 to $25 apiece. Brokers and bankers used to have similar costs, but now, a transaction in these industries costs less than one cent.

Information technology can also improve the quality of care, at the same time it reduces costs. Automated patient record-keeping can help bring real coordination to what is often a frighteningly fragmented health care system.

Today, for one in five patients with significant health problems, various health professionals order duplicate tests and procedures. One in four patients arrive for a doctor's appointment and find that needed test results or records are not available. Information technology can end this waste of time and resources and also prevent the errors that reduce quality. Automated prescribing, for example, has reduced errors by 95 percent, and reduced hospital costs by an amazing 13 percent. It's time to end the disconnect between modern health care and modern information technology, and the savings will be immense.

The gap between the best standard of care and the care that too many patients receive is staggering. A quarter of all breast cancer patients receive substandard care. A third of all patients diagnosed with high blood pressure receive substandard care. Half of asthma patients receive substandard care. Sixty percent of patients with pneumonia receive substandard care. Almost 80 percent of patients with a hip fracture receive substandard care.

The Midwest Business Group on Health estimates that poor quality care costs employers $2,000 a worker every year. Improving quality can cut costs dramatically. But more important, it can reduce unnecessary suffering. For patients and their families, good quality care can truly mean the difference between life and death, and between disability and health.

One of the highest barriers to improving the quality of care is the backward incentive system embedded in the way we pay for care. We need to start rewarding the quality care by paying for results, and not just for the number of procedures performed or the number of hospital admissions. Too often, the incentives today are geared to doing more—not doing better. It makes no sense that doing better today can actually result in even greater financial hardship for health care institutions. If hospitals organize patient-tracking, home visits, and patient education to improve care for chronic diseases, they can reduce hospitalization dramatically. But the hospitals won't get paid much, if anything, for these improvements—and they will no longer receive the large reimbursements they would otherwise receive for inpatient care. Use of doctors specially trained to manage hospital intensive care units has been shown to reduce costs and improve outcomes. But fewer days in the ICU mean lower revenues for hospitals. That's wrong, and we need to correct it.

Hospitals in Boston have already negotiated terms with insurers under which they are paid for results, rather than days of care. Some business associations, such as the Leapfrog Group, have begun to make quality standards a condition for participation in their insurance plans. the Department of Health and Human Services is testing the use of incentive payments to hospitals that meet specific quality standards. These steps are hopeful, but we need to make payment for results the rule, rather than the exception, in all aspects of our health care system.

Another key step is to assure that the typical standard of care comes much closer to the best standard of care. We need to do far more to see that what we know how to do for patients is actually what is done.

Opportunities are immense for improvements by targeting specific diseases that have high incidence, high costs, and high impact on individuals and families. Diabetes, for example, afflicts 17 million Americans. Patients with the disease account for one in ten dollars of overall health expenditures and one in four dollars of expenditures by Medicare. By using proven methods of prevention and treatment, we can save 10 million Americans from diabetes-related amputations, disability, or blindness during their lives—and save more than 50 billion dollars a year as well.

Stroke is another example of the huge gap between what we could do and what we actually do. Stroke is the third leading cause of death and one of the major causes of disability. It strikes nearly 750,000 Americans each year. The economic cost is also staggering. The United States spends almost $50 billion a year in caring for persons who have suffered a stroke. Appropriate, timely intervention with clot-dissolving drugs has been shown to reduce disability and death by 55 percent but only three percent of patients receive the needed treatment.

Chronic illnesses are major costs in the current system. Medicare beneficiaries with three or more chronic conditions account for almost 90 percent of Medicare spending. Well-organized care for patients with chronic conditions such as congestive heart failure, diabetes, asthma, and depression produce significant reductions in costs and significant improvements in outcomes. But only a fraction of patients with chronic conditions have the opportunity to benefit from such treatment.

Finally, to cut costs and promote quality, we can do much more to stop illness before it starts. Health promotion and disease prevention must be central to our health system as hospital and physician care. Four hundred thousand Americans require medical treatment every year for diseases that are fully preventable by vaccination. Lack of exercise and poor diet cost almost $80 billion a year because of increased heart disease, cancer, and diabetes.

The legislation being introduced today is a recipe for a peaceful revolution in the way health care in the United States is delivered. Building on a growing expert consensus, it provides a blueprint for a better health care system that will be lower in cost, higher in quality, and more closely oriented toward prevention.

To assure that modern information technology will be fully utilized in health care, the legislation sets a goal of full implementation of a broad-based system of electronic medical records and automated bill-paying. It authorizes grants, loans and loan guarantees for health providers to install and implement clinical information systems that meet national technical standards for parameters such as security and interoperability.

The bill also offers larger reimbursements for providers who implement these types of information systems. Over a period of time, it reduces payments for large health care facilities that fail to do so. The legislation also encourages the use of information technology to reduce the administrative costs, by requiring insurance companies to adopt the same types of computerized transaction-processing systems that are the norm in other industries.

In these ways, the legislation begins the needed effort to enable the health care system to become a system that pays for value, rather than solely for procedures performed or illnesses treated. The Secretary of HHS is required to set quality standards for providers of services. Public and private payers will be required, through their reimbursement procedures, to reward the attainment of these quality standards, and are permitted to reduce reimbursements to providers who fail to meet the standards.

When a provider of services believes it can provide higher quality care at lower cost, but feels that existing reimbursement procedures will not fairly recognize these innovations, payers are required to enter into good faith negotiations with providers to reach agreement on an alternative payment system. The legislation also has special provisions for payment for chronic care services in recognition of the special role of coordination of care, patient education, tracking, and follow-up in achieving quality care for individuals with chronic diseases.

Finally, the legislation contains a number of important initiatives to improve the quality of care and strengthen health promotion and disease prevention. These include the establishment of a National Quality Council, and specific initiatives on diabetes, stroke, arthritis, nutrition, exercise, adult oral health, adult immunizations, and the provision of culturally and linguistically appropriate care for patients whose primary language is not English.

America's health care system cannot continue to lurch from crisis to crisis. Our people deserve affordable care, and when illness strikes, they deserve the best care our system can provide. This legislation lays out a number of important steps to achieve this objective, and I look forward to working with my colleagues in Congress and the broader health community to achieve the important goals we share.

By Mr. SMITH (for himself and Mr. CONRAD):

S. 2422. A bill to amend the Internal Revenue Code of 1986 to allow certain modifications to be made to qualified mortgages held by a REMIC or a grantor trust; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today to introduce the Real Estate Mortgage Investment Conduit Modernization Act. I am pleased to join my colleague and friend, Senator CONRAD, in introducing this legislation to accelerate economic growth for every American community.

A Real Estate Mortgage Investment Conduit (REMIC) is a tax vehicle created by Congress in 1986 to support the housing market and investment in real estate by making it simpler to issue real estate-backed securities.

By pooling real estate loans into mortgage backed securities, REMICs offer residential and commercial real estate borrowers access to large pools of capital that would not otherwise be available. REMICs allow commercial banks and other lenders to sell their loans in the capital markets, thus freeing up assets for additional lending and investments. Because they contribute to the efficiency and liquidity of the U.S. real estate markets, REMICs help to minimize the costs of residential and commercial real estate borrowing and to spur real estate development and rehabilitation.

REMICs play a critical role in providing capital for residential and commercial mortgages. As of September 30, 2003, the value of single-family, multifamily and commercial-mortgage backed REMICs outstanding was over $1.2 trillion. While the current volume of REMIC transactions reflects their important role in this market, certain changes to the tax code will eliminate impediments and unleash even greater potential. Current rules that govern REMICs often prevent many common loan modifications that facilitate loan administration and ensure repayment of investors.

The legislation that created REMICs has not been updated in nearly 20 years. Our legislation will update the REMIC provisions of the tax code. These proposed changes are simple, non-controversial, and will greatly enhance the ability of commercial real estate interests to obtain capital for financing new construction projects.

These changes would ultimately benefit the entire real estate community, including local real estate owners, builders, construction managers, the engineering, architectural and interior design firms that provide real estate services, as well as firms that offer services to support real estate sales. The changes would accelerate the creation of jobs and economic activity throughout the U.S., and would have a positive effect on federal and state tax revenues. By encouraging property renovations and expansions, these changes would strengthen the local property tax base in towns and cities across America.

We urge our colleagues to work with us to enact this legislation to spur economic and employment growth in real

estate, the construction trades, and the building materials industry.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 2422

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

SECTION 1. CERTAIN MODIFICATIONS PERMITTED TO QUALIFIED MORTGAGES HELD BY A REMIC OR A GRANTOR TRUSTS.

(a) QUALIFIED MORTGAGES HELD BY A REMIC.—

(1) IN GENERAL.—Paragraph (3) of section 860G(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(C) QUALIFIED MODIFICATIONS.—

''(i) IN GENERAL.—An obligation shall not fail to be treated as a qualified mortgage solely because of a qualified modification of such obligation.

''(ii) QUALIFIED MODIFICATION.—For purposes of this section, the term 'qualified modification' means, with respect to any obligation, any amendment, waiver, or other modification which is treated as a disposition of such obligation under section 1001 if such amendment, waiver or other modification does not—

''(I) extend the final maturity date of the obligation,

''(II) increase the outstanding principal balance under the obligation (other than the capitalization of accrued, unpaid interest),

''(III) result in a release of an interest in real property securing the obligation such that the obligation is not principally secured by an interest in real property (determined after giving effect to the release), or

''(IV) result in an instrument or property right which is not debt for Federal income tax purposes.

''(iii) DEFAULTS.—Under regulations prescribed by the Secretary, any amendment, waiver, or other modification of an obligation which is in default or with respect to which default is reasonably foreseeable may be treated as a qualified modification for purposes of this section.

''(iv) DEFEASANCE WITH GOVERNMENT SECURITIES.—The requirements of clause (ii)(III) shall be treated as satisfied if, after the release described in such clause, the obligation is principally secured by Government securities and the amendment, waiver, or other modification to such obligation satisfies such requirements as the Secretary may prescribe.''.

(2) EXCEPTION FROM PROHIBITED TRANSACTION RULES.—Subparagraph (A) of section 860F(a)(2) of such Code is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following new clause:

''(v) a qualified modification (as defined in section 860G(a)(3)(C)).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 860G(a)(3) of such Code is amended—

(i) by redesignating clauses (i) and (ii) of subparagraph (A) as subclauses (I) and (II), respectively,

(ii) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively,

(iii) by striking ''The term'' and inserting the following:

''(A) IN GENERAL.—The term'', and

(iv) by striking ''For purposes of subparagraph (A)'' and inserting the following:

''(B) TENANT-STOCKHOLDERS OF COOPERATIVE HOUSING CORPORATIONS.—For purposes of subparagraph (A)(i)''.

(B) Section 860G(a)(3)(A)(iv) of such Code (as redesignated by subparagraph (A)) is amended—

(i) by striking ''clauses (i) and (ii) of subparagraph (A)'' and inserting ''subclauses (I) and (II) of clause (i)'', and

(ii) by striking ''subparagraph (A) (without regard to such clauses)'' and inserting ''clause (i) (without regard to such subclauses)''.

(b) QUALIFIED MORTGAGES HELD BY A GRANTOR TRUST.—Section 672 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(g) SPECIAL RULE FOR CERTAIN INVESTMENT TRUSTS.—A grantor shall not fail to be treated as the owner of any portion of a trust under this subpart solely because such portion includes one or more obligations with respect to which a qualified modification (within the meaning of section 860G(a)(3)(C)) has been, or may be, made under the terms of such trust.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amendments, waivers, and other modifications made after the date of the enactment of this Act.

Mr. CONRAD. Mr. President, I am happy to join my friend and Finance Committee colleague, Mr. SMITH, to introduce The Real Estate Mortgage Investment Conduit Modernization Act. This is a measure that will help expand access to capital for real estate investment across the nation and especially in rural areas like my home State of North Dakota.

Growth in the commercial real estate market over the last decade has been fueled, in part, by a strong and growing secondary market for commercial mortgages. That market is structured through real estate mortgage investment conduits (REMICs). Created by Congress in 1986, REMICs are critically important to U.S. real estate finance, providing new capital and expanded access to that capital. They have proven to be a cost-effective method for the private sector to create pools of capital that are made available across the nation.

It is time to modernize the REMIC law because many borrowers have been stymied in attempts to make improvements to the mortgaged properties. For example, if a property is in a REMIC, the property owner is effectively precluded from adding a parking garage to an existing building. That is because the 1986 tax rules treat that improvement as a collateral modification triggering a deemed exchange of a new loan for the old loan thereby violating REMIC regulations.

Unlike home mortgages, which are rarely modified, commercial loans require flexibility in dealing with changing circumstances in order to support the borrower's ongoing business property. The bill we are introducing today will add this needed flexibility to the tax code, increasing the ability of property owners to invest in improvements.

I urge our colleagues to help us harness the full potential of mortgage-backed securities to provide improved access to capital to America's businesses—big and small. Please join us in working to enact the Real Estate Mortgage Investment Conduit Modernization Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 360—EXPRESSING THE SENSE OF THE SENATE THAT LEGISLATIVE INFORMATION SHALL BE PUBLICLY AVAILABLE THROUGH THE INTERNET

Mr. CORZINE (for himself, Mr. MCCAIN, Mr. FEINGOLD, Mr. CORNYN, Mr. LEAHY, Mr. BINGAMAN, and Mr. LIEBERMAN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 360

Whereas an open and free exchange of information about the legislative process is critical to ensuring the success and health of a democracy;

Whereas the public should have easy and timely electronic access to public records of Congress;

Whereas congressional documents that are placed in the Congressional Record are made available to the public electronically by the Superintendent of Documents of the Government Printing Office, under the direction of the Public Printer, but it is often difficult and time-consuming for the public to access and locate such documents;

Whereas many official congressional documents are not placed in the Congressional Record and are unavailable electronically to the public; and

Whereas the current system for electronic public access to legislative information and legislative resources, as maintained by the Library of Congress, could be improved, and should be continuously upgraded to keep pace with advances in website technology: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Library of Congress shall continue to provide and maintain a website for public access to legislative documents;

(2) the website shall provide access to as much information about current and historical legislative documents as is reasonably practicable;

(3) the Library of Congress shall provide sufficient financial and personnel resources to maintain the website at modern standards of accessibility and usability; and

(4) offices and personnel that develop and maintain congressional documents shall cooperate to the maximum extent practicable with the Library of Congress to ensure that the Library of Congress website has full and prompt access to all publicly available congressional documents.

Mr. CORZINE. Mr. President, today, along with Senators MCCAIN, FEINGOLD, CORNYN, LEAHY, and BINGAMAN, I am submitting a resolution designed to make it easier for the American people to get information about Congress from the Internet.

Almost 10 years ago, the Library of Congress started the THOMAS website, which was one of the first electronic references for the public to get up-to-date information about legislation. The

Library did a tremendous job getting THOMAS ready, and I commend their hard work in maintaining it over the past 10 years. However, THOMAS recently has begun to show its age. Although there have been some improvements over time, the Library has been unable to devote the resources necessary to keep THOMAS up to the level the public expects for today's websites. One reason is that the Library has never been formally told by either Chamber of Congress that it has a responsibility to maintain a website for public access to legislative information.

In contrast, the Congressional Research Service was given a mandate to maintain a legislative information website for Members of Congress and their staffs in the 1997 Legislative Branch Appropriations conference report. The Legislative Information System that Congress uses is vastly superior to THOMAS, both in terms of functionality and ease of use. For example, LIS users are able to search across multiple Congresses to find information about bills; THOMAS users must search each Congress individually. In LIS, links to committee reports, if available, are provided along with the basic information about a bill. In THOMAS, a user must make a separate search to find the report. In LIS, the names of bill sponsors can be clicked on to find other bills sponsored by that Member; that feature is not available in THOMAS. And anyone who has used both LIS and THOMAS has seen that the LIS site is much more attractive and usable, and has benefited from continual improvements that have not been matched on THOMAS. When it comes to obtaining the public legislative information of Congress, there should not be such a significant difference between what we use and what the public uses.

Obviously, the American people have the right to see all the public documents of Congress. And, if we are to be true to our nation's democratic values, this information should be as easy to find as possible. It is not sufficient that those who are truly interested can make the extra effort necessary to find what they need; we should be encouraging people to become interested. Americans should be able to easily go to the Internet and get legislative information directly from Congress, instead of having to rely on what they see and hear from others. We can facilitate this by creating a visually appealing, helpful, useful, and accessible public portal to the United States Congress.

Although THOMAS was a good start, it badly needs to be improved. This resolution will tell the Library of Congress that the Senate is paying attention, and that we will insist on that improvement.

I urge my colleagues to support this resolution and help ensure we have a public legislative information website we can be proud of.

Mr. LEAHY. Mr. President, government transparency is fundamental to democracy. This well-known truism is a staple of every sermon about democracy. We sometimes take it for granted, but we shouldn't—especially today. For one thing, the world is watching if and how we practice what we preach. For another, during this most partisan of political times, it is essential that citizens be able to judge us not only on what we say, but on what we do.

Therefore, I am particularly pleased to join today with Senators CORZINE, CORNYN, FEINGOLD, BINGAMAN and LIEBERMAN to submit a resolution that will provide citizens with expanded and more easily accessible information about legislation and the legislative process.

In particular, we are calling on the Library of Congress to improve its public website, called ''THOMAS,'' in order to provide as much legislative information as is reasonably practical. In addition, because Internet technology continues to advance so rapidly, we are asking the Library to maintain THOMAS in a manner that reflects current standards of accessibility and usability.

In December of 2003, together with Senator CORZINE and others, I wrote to Dr. James Billington, the Librarian of Congress, and asked him to redesign THOMAS to provide, as much as possible, information to the general public that is already available to congressional staff through the congressional Legislative Information System. Dr. Billington and his staff agreed to work with us to improve THOMAS, and the resolution we introduce today is a result of this constructive process. I would like to thank Dr. Billington and his staff for their cooperation and their appreciation of the importance of this effort.

The Library of Congress has a well-known and well-deserved reputation as a source of reliable, unbiased, and comprehensive information. Our resolution will harness the power of the Information Age to allow citizens to see more public records of the Senate in their official form, in context, and without editorial comment.

The taxpayers of this country, who pay millions of dollars a year to fund the Library of Congress, as well as to fund Congress itself, deserve speedy access to this public information. They have a right to see that their money is being spent well. As Thomas Jefferson wrote, ''Information is the currency of democracy.''

SENATE RESOLUTION 361—SUPPORTING THE GOALS OF NATIONAL MARINA DAY AND URGING MARINAS TO CONTINUE PROVIDING ENVIRONMENTALLY FRIENDLY GATEWAYS TO BOATING

Mr. CHAMBLISS submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 361

Whereas the people of the United States highly value their recreational time and their ability to access the waterways of the United States, one of the Nation's greatest natural resources;

Whereas in 1928, the National Association of Engine and Boat Manufacturers first used the word ''marina'' to describe a recreational boating facility;

Whereas the United States is home to more than 12,000 marinas that contribute substantially to local communities by providing safe and reliable gateways to boating;

Whereas the marinas of the United States serve as stewards of the environment and actively seek to protect the waterways that surround them for the enjoyment of this generation and generations to come;

Whereas the marinas of the United States provide communities and visitors with a place where friends and families, united by a passion for the water, can come together for recreation, rest, and relaxation; and

Whereas the Marina Operators Association of America has designated August 14, 2004, as ''National Marina Day'' to increase awareness among citizens, policymakers, and elected officials about the many contributions that marinas make to communities: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals of National Marina Day; and

(2) urges that the marinas of the United States continue to provide environmentally friendly gateways to boating for the people of the United States.

Mr. CHAMBLISS. Mr. President, I rise today to submit legislation designating August 14, 2004, as National Marina Day to honor America's marinas for their many contributions to local communities. This year's celebration will be held in Georgia on Lake Sidney Lanier, one of the largest U.S. Army Corps of Engineer lakes in the nation, and home to 10 marinas. National Marina Day was created by the Marine Operators Association of America to educate civic leaders, government leaders, and the public about the important role that the marina industry plays in cities and towns across America as family-friendly gateways to boating and outdoor recreation.

Georgia's Lake Lanier consists of 39,000 acres of water and 692 miles of shoreline. The lake was originally authorized by the United States Congress in 1946 for the purposes of power production, flood control, downstream navigation, and fish and wildlife management. Over the years, recreation has become a major factor in the lake's attraction to 8 million visitors each year. According to a recent study commissioned by the Metro Atlanta Marine Trade Association, Lake Lanier generates nearly $5.5 billion in annual economic impact from jobs created on and around the lake, restaurants, hotels and resorts, camping and recreation, real estate sales, boat and marine dealers, and marinas.

National Marina Day will be held for the third year in a row, is set to have its most successful year yet, in no small part by the tireless work of the President of the Marina Operators of Lake Lanier, Kirby Cay Scheimann, State Representative Stacy Reece of

Gainesville, Georgia, the President of the Marina Operators Association of America, Bill Anderson, and the President of the International Marina Institute, Gregg Kenney. I am grateful for all the hard work that everyone involved has contributed to making National Marina Day a huge success.

SENATE RESOLUTION 362—EXPRESSING THE SENSE OF THE SENATE ON THE DEDICATION OF THE NATIONAL WORLD WAR II MEMORIAL ON MAY 29, 2004, IN RECOGNITION OF THE DUTY, SACRIFICES, AND VALOR OF THE MEMBERS OF THE ARMED FORCES OF THE UNITED STATES WHO SERVED IN WORLD WAR II

Mr. GRAHAM of Florida (for himself, Mr. SPECTER, Mr. EDWARDS, Mr. LEVIN, Mr. REED, Mr. FEINGOLD, Ms. MURKOWSKI, Ms. CANTWELL, Mrs. MURRAY, Mr. CONRAD, Mr. BIDEN, Mr. CORZINE, Mr. DASCHLE, Ms. STABENOW, Mr. NELSON of Florida, Mrs. HUTCHISON, Mr. GRAHAM of South Carolina, Mr. TALENT, Ms. SNOWE, Mr. LUGAR, Mr. SANTORUM, Mr. SCHUMER, Mr. BOND, Mr. VOINOVICH, Mr. MILLER, Mr. INOUYE, Ms. LANDRIEU, Mr. STEVENS, Mr. FITZGERALD, Mr. CAMPBELL, Mr. BREAUX, Mr. LEAHY, Mr. DAYTON, Mr. DORGAN, Mr. COLEMAN, Mrs. DOLE, Mr. ALEXANDER, Mr. LAUTENBERG, Mr. ROCKEFELLER, Mr. CRAPO, Mr. BAYH, Mr. BURNS, Mr. JEFFORDS, Mr. REID, Mr. SESSIONS, Mr. KERRY, Mr. SARBANES, Mr. CORNYN, Ms. COLLINS, Mr. WYDEN, Mr. THOMAS, Mr. CRAIG, Mr. BUNNING, Mr. KENNEDY, Mr. KOHL, Mr. WARNER, Mr. DEWINE, Mr. JOHNSON, Mr. BROWNBACK, Ms. MIKULSKI, Mr. NELSON of Nebraska, Mr. HARKIN, Mr. AKAKA, Mr. HAGEL, Mr. CHAFEE, Mr. HATCH, Mrs. BOXER, Mrs. CLINTON, Mr. GREGG, Mr. SHELBY, Mr. BAUCUS, Mr. DURBIN, Mr. MCCAIN, Mr. CHAMBLISS, Mr. HOLLINGS, Mr. LIEBERMAN, Mr. SMITH, Mr. SUNUNU, Mr. NICKLES, Mr. MCCONNELL, Mr. INHOFE, Mr. ENSIGN, Mr. CARPER, Mr. BINGAMAN, Mr. DODD, Mr. DOMENICI, Mr. GRASSLEY, Mr. ENZI, Mr. KYL, Mr. ALLEN, Mrs. LINCOLN, and Mr. ALLARD) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 362

Whereas the National World War II Memorial is being dedicated on Saturday, May 29, 2004, on the National Mall in Washington, District of Columbia;

Whereas the National World War II Memorial, a monument of granite and bronze, has a fitting location on the National Mall situated between the Washington Monument and the Lincoln Memorial and flanked by memorials dedicated to the members of the Armed Forces of the United States who served and died in the Korean War and in the Vietnam era;

Whereas the National World War II Memorial is dedicated to the more than 16,000,000 individuals from the 48 States, the District of Columbia, and the territories and possession of the United States who served in the Army, Army Air Force, Navy, Marine Corps, Coast Guard, and Merchant Marine in World War II;

Whereas on May 29, 2004, hundreds of thousands of veterans, and their families and friends, from across the United States will gather on the National Mall to join in the dedication of the National World War II Memorial and to pay homage to the memory of the more than 400,000 members of the Armed Forces of the United States who died while serving during World War II and the more than 10,000,000 veterans of the Armed Forces of the United States in World War II who have died since the end of World War II;

Whereas on May 29, 2004, the Nation will pay tribute to all the members of the Armed Forces of the United States who served in World War II;

Whereas on May 29, 2004, the Nation will remember the duty, sacrifices, and valor of the members of the Armed Forces of the United States who served on land and sea and in the air in the more than 89 campaigns conducted in the European and Pacific theaters of operations in World War II;

Whereas on May 29, 2004, the Nation will acknowledge that the men and women who served in the Armed Forces of the United States in World War II came from all the States, the District of Columbia, and all the territories and possessions of the United States and represented men and women of all races, religions, ethnic groups, professions, educational attainments, and backgrounds, all united in the goal of serving their Country and preserving freedom; and

Whereas construction of the National World War II Memorial would not have possible without the donations of hundreds of thousands of individual Americans, as well as corporations, foundations, veterans groups, professional and fraternal organizations, communities, and schools, who all acknowledged that a memorial should be constructed in the National Capital to recognize and pay tribute to the duty, sacrifices, and valor of all the members of the Armed Forces of the United States who served in World War II: Now, therefore be it

Resolved, That it is the sense of the Senate—

(1) to express the grateful thanks of the Nation to the more than 16,000,000 individuals who served in the Army, Army Air Force, Navy, Marine Corps, Coast Guard, and Merchant Marine in World War II and to the millions of Americans on the home front who contributed to the war effort during World War II; and

(2) to recognize the dedication of the National World War II Memorial on the National Mall in Washington, District of Columbia, on May 29, 2004, as an occasion to acknowledge and pay tribute to the duty, sacrifices, and valor of all the members of the Armed Forces of the United States who served in World War II, a group known collectively as the ''Greatest Generation''.

Mr. GRAHAM. Mr. President, on Saturday, May 29th, we will dedicate a national memorial to the more than 16 million men and women who served from December 1940 to August 1945 in our Army, Army Air Force, Navy, Marine Corps, Coast Guard and Merchant Marines, as well as the 400,000 men and women who gave their lives during World War II.

The memorial is a fitting tribute to all who served and contributed to the war effort at home and abroad. When visitors enter the memorial, they are greeted with an inscription that puts the memorial, its placement on the National Mall and its importance to our nation into perspective: ''Here in the presence of Washington and Lincoln, one the 18th century father and the other the 19th century preserver of our nation, we honor those 20th century Americans who took up the struggle during the Second World War and made the sacrifices to perpetuate the gift of our forefathers entrusted to us: a nation conceived in liberty and justice.''

The memorial, composed of bronze and granite, has a memorial plaza and a rainbow pool as its main features. These features symbolize the totality of the war effort, both at home and overseas. Its two arches depict the two theaters of the war—the Atlantic and the Pacific. The fifty-six pillars represent every state and territory that committed men and women to the effort. A ''freedom wall'' with 4,000 sculpted gold stars commemorates the more than 400,000 Americans who died while serving in the armed forces during the war.

I hope that for generations to come, this memorial, will etch into the collective memory of all Americans who visit the sense of duty, patriotism, valor and sacrifice of the millions of citizens—men and women, from all walks of life, from America's farms and cities, made up of all races, religions and ethnicities—who served and who answered their nation's call in a time of great need.

This memorial is truly a shrine to democracy. World War II was a test of our Nation's democracy, against the forces of fascism and totalitarianism, which threatened to engulf the globe. Americans combated this evil as citizens of the world's bastion of democracy. It is only fitting that around each memorial flagpole—flying the symbol of a free and democratic people—is inscribed, ''Americans came to liberate, not to conquer, to restore freedom and to end tyranny.''

America's spirit was captured by President Franklin Roosevelt when he said of his countrymen, ''They have given their sons to the military services. They have stoked the furnaces and hurried the factory wheels. They have made the planes and welded the tanks, riveted the ships and rolled the shells.'' It was through the collective contribution of millions of Americans that victory was ultimately achieved.

At war's end, General Douglas McArthur said it best when accepting the surrender of the Japanese in Tokyo Bay, ''Today the guns are silent. The great tragedy has ended. A great victory has been won. The skies no longer rain death—the seas bear only commerce—men everywhere walk upright in the sunlight. The entire world is quietly at peace.''

I hope that when Americans visit this memorial and pay tribute to the millions of veterans who served to preserve our freedom, they will realize there was a time when the mission was clear, the cause was just and righteous and Americans were united in their quest for victory. As a nation, we honor the memory of ordinary Americans who were asked by their country

to perform extraordinary feats, rose to the challenge and will forever be remembered.

I urge my colleagues to support this resolution, that would resolve it to be the sense of the Senate to express the grateful thanks of the nation to the more than 16 million veterans who served in the Army, Army Air Force, Navy, Marine Corps, Coast Guard and Merchant Marine in World War II and to the millions of Americans on the home front who contributed to the war effort during World War II and to recognize the dedication of the National World War II Memorial on the National Mall in Washington, the District of Columbia, on May 29, 2004, as an occasion to acknowledge and pay tribute to the duty, sacrifices and valor of all members of the Armed Forces of the United States who served in World War II, a group known collectively as the ''Greatest Generation.''

AMENDMENTS SUBMITTED AND PROPOSED

SA 3150. Mr. GREGG (for himself and Mr. KENNEDY) proposed an amendment to the bill S. 1248, to reauthorize the Individuals with Disabilities Education Act, and for other purposes.

TEXT OF AMENDMENTS

SA 3150. Mr. GREGG (for himself and Mr. KENNEDY) proposed an amendment to the bill S. 1248, to reauthorize the Individuals with Disabilities Education Act, and for other purposes; as follows:

On page 382, line 21, strike ''or the post-surgical'' and all that follows through page 383, line 2, and insert ''or the replacement of such device.''.

On page 398, line 21, strike ''or the post-surgical'' and all that follows through page 399, line 2, and insert ''or the replacement of such device.''.

On page 408, between lines 11 and 12, insert the following:

''SEC. 610. FREELY ASSOCIATED STATES.

''The Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall continue to be eligible for competitive grants administered by the Secretary under this Act to the extent that such grants continue to be available to States and local educational agencies under this Act.

On page 451, line 19, strike the comma after ''consult''.

On page 453, line 25, strike ''affirmations'' and insert ''affirmation''.

On page 503, line 2, strike ''educational''.

On page 503, line 11, strike ''educational''.

On page 504, line 9, strike ''educational''.

On page 504, line 21, strike ''educational''.

On page 509, line 24, strike ''prereferral''.

On page 515, strike lines 10 through 15, and insert the following:

''(ii) are provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer;''.

On page 553, lines 13 and 14, strike ''*STATUTE OF LIMITATIONS*'' and insert ''*TIMELINE*''.

On page 553, line 14, strike ''statute of limitations'' and insert ''timeline''.

On page 615, line 13, insert ''and supervised'' after ''appropriately trained''.

On page 664, lines 11 and 12, strike ''administrators, principals, and teachers'' and insert ''personnel''.

On page 669, line 10, strike ''and'' after the semicolon.

On page 669, line 17, strike the period and insert ''; and''.

On page 669, between lines 17 and 18, insert the following:

''(C) encourage collaborative and consultative models of providing early intervention, special education, and related services.

On page 671, line 8, strike ''and administrators'' and insert '', administrators, and, in appropriate cases, related services personnel''.

On page 672, line 11, strike ''providing'' and insert ''provide''.

On page 672, line 14, strike ''and'' after the semicolon.

On page 672, line 17, strike the period and insert ''; and''.

On page 672, between lines 17 and 18, insert the following:

''(D) Train early intervention, preschool, and related services providers, and other relevant school personnel, in conducting effective individualized family service plan (IFSP) meetings.

On page 702, line 24, insert ''early childhood providers,'' after ''ability of''.

On page 702, line 25, insert ''related services personnel,'' after ''administrators,''.

On page 720, lines 5 and 6, strike ''alternate'' and insert ''alternative''.

On page 720, lines 22 and 23, strike ''*STUDENTS WITH SIGNIFICANT DISABILITIES*'' and insert ''*STUDENTS WHO ARE HELD TO ALTERNATE ACHIEVEMENT STANDARDS*''.

On page 721, strike lines 1 through 3, and insert the following:

''(1) the criteria that States use to determine—

''(A) eligibility for alternate assessments; and

''(B) the number and type of children who take those assessments and are held accountable to alternate achievement standards;

On page 721, strike lines 6 through 8, and insert the following:

''(3) the alignment of alternate assessments and alternative achievement standards to State academic content standards in reading, mathematics, and science; and

On page 753, line 16, insert ''(as appropriate when vocational goals are discussed)'' after ''participation''.

On page 756, line 6, insert ''vocational'' after ''school''.

On page 756, line 7, insert ''vocational'' after ''school''.

On page 764, line 13, strike ''(C)'' and insert ''(A)''.

On page 766, after line 20, insert the following:

SEC. 302. NATIONAL BOARD FOR EDUCATION SCIENCES.

Section 116(c)(9) of the Education Sciences Reform Act of 2002 (20 U.S.C. 9516(c)(9)) is amended by striking the third sentence and inserting the following: ''Meetings of the Board are subject to section 552b of title 5, United States Code (commonly referred to as the Government in the Sunshine Act).''.

SEC. 303. REGIONAL ADVISORY COMMITTEES.

Section 206(d)(3) of the Education Sciences Reform Act of 2002 (20 U.S.C. 9605(d)(3)) is amended by striking ''Academy'' and inserting ''Institute''.

On page 777, after line 15, insert the following:

TITLE ____—MISCELLANEOUS

SEC. ____01. GAO REVIEW OF CHILD MEDICATION USAGE.

(a) REVIEW.—The Comptroller General shall conduct a review of—

(1) the extent to which personnel in schools actively influence parents in pursuing a diagnosis of attention deficit disorder and attention deficit hyperactivity disorder;

(2) the policies and procedures among public schools in allowing school personnel to distribute controlled substances; and

(3) the extent to which school personnel have required a child to obtain a prescription for substances covered by section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) to treat attention deficit disorder, attention deficit hyperactivity disorder, or other attention deficit-related illnesses or disorders, in order to attend school or be evaluated for services under the Individuals with Disabilities Education Act.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall prepare and submit to Congress a report that contains the results of the review under subsection (a).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to conduct a hearing during the session the Senate on Thursday, May 13, 2004. The purpose of this hearing will be to conduct a review of the Commodity Futures Trading Commission regulatory issues. Dr. James E. Newsome, Chairman of the Commodity Futures Trading Commission, will testify before the committee.

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

COMMITTEE ON ARMED SERVICES

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on May 13, 2004, at 9:30 a.m., in open session to receive testimony on the contingency reserve fund request for fiscal year 2005.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 13, 2004 at 9:30 a.m. to hold a hearing on Combating Corruption in the Multilateral Development Banks.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 13, 2003 at 2:30 p.m. to hold a hearing on Challenges and Accomplishments as the European Union and the United States Promote Trade and Tourism in a Terrorism Environment.

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

COMMITTEE ON THE JUDICIARY

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized

to meet to conduct a markup on Thursday, May 13, 2004, at 10 a.m. in Dirksen Senate Building Room 226.

Agenda

I. Nominations

Henry W. Saad to be U.S. Circuit Judge for the Sixth Circuit.

II. Legislation

S. 1735, Gang Prevention and Effective Deterrence Act of 2003 (Hatch, Feinstein, Grassley, Graham, Chambliss, Cornyn, Schumer).

S. 1933, Enhancing Federal Obscenity Reporting and Copyright Enforcement (ENFORCE) Act of 2003 (Hatch, Feinstein, Cornyn).

S. 1635, A bill to amend the Immigration and Nationality Act to ensure the integrity of the L–1 visa for intracompany transferees (Chambliss).

S. 1609, Parental Responsibility Obligations Met through Immigration System Enforcement (PROMISE) Act (Hatch, Cornyn).

S. 1129, Unaccompanied Alien Child Protection Act of 2003 (Feinstein, DeWine, Feingold, Kennedy, Leahy, Specter, Edwards, Durbin, Kohl, Schumer).

S. 2013, Satellite Home Viewer Extension Act of 2004 (Hatch, Leahy, DeWine, Kohl).

S. Res. 331, A resolution designating June 2004 as ''National Safety Month''. (Fitzgerald, Feinstein, DeWine).

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

JOINT ECONOMIC COMMITTEE

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Joint Economic Committee be authorized to conduct a hearing in Room 628 of the Dirksen Senate Office Building, Thursday, May 13, 2004, from 10 a.m. to 1 p.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 13, 2004 at 2:30 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON CHILDREN AND FAMILIES

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Children and Families, be authorized to meet for a hearing on Parents Raising Children: Premature Babies during the session of the Senate on Thursday, May 13, 2004, at 10 a.m.

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

SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND PROPERTY RIGHTS

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on the Constitution, Civil Rights and Property Rights be authorized to meet to conduct a markup on Thursday, May 13, 2004, at 9:30 a.m., in the Dirksen Senate Building, Room 226.

Agenda

Bill

S.J. Res. 23, A joint resolution proposing an amendment to the Constitution of the United States providing for the event that one-fourth of the Members of either the House of Representatives or the Senate are killed or incapacitated. [Cornyn/Chambliss].

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

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support of the Committee on Armed Services be authorized to meet during the session of the Senate on May 13, 2004, at 2:30 p.m., in open session to receive testimony on acquisition policy issues in review of the defense authorization request for fiscal year 2005.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on Thursday, May 13, 2004, at 2:30 p.m. on Social Science Data on the Impact of Marriage and Divorce on Children.

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

PRIVILEGE OF THE FLOOR

Mr. ALEXANDER. Mr. President, I ask unanimous consent that Tim Valentine of my staff be allowed on the floor during these remarks.

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

UNANIMOUS CONSENT AGREEMENT—S. 2400

Mr. FRIST. Mr. President, I ask unanimous consent that on Monday, May 17, at 2:30 p.m., the Senate proceed to the consideration of calendar No. 503, S. 2400, the Department of Defense authorization bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—H.R. 3104

Mr. FRIST. Mr. President, I ask unanimous consent that on Tuesday, May 18, at a time to be determined by the majority leader, in consultation with the Democratic leader, the Senate proceed to the consideration of calendar No. 507, H.R. 3104; provided that there be 20 minutes of debate equally divided between the chairman and ranking member of the Armed Services Committee or their designees, with no amendments in order. I further ask consent that following the use or yielding back of the time the bill be read the third time and the Senate proceed to a vote on passage, with no intervening action or debate.

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

ORDERS FOR FRIDAY, MAY 14, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Friday, May 14. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

PROGRAM

Mr. FRIST. Mr. President, tomorrow the Senate will be in a period for the transaction of morning business throughout the day. There will be no rollcall votes tomorrow. As I mentioned, we will begin consideration of the Department of Defense authorization bill next week. Members should expect the next rollcall vote on Monday at approximately 5:30 p.m. The chairman and ranking member will be here Monday to work through amendments, and they have indicated they will be prepared for a vote on an amendment at 5:30 p.m.

We are also working on an agreement for consideration of the bioshield bill. We hope we will be able to lock in an agreement for that bill's consideration on Monday, and I will provide an update on that effort during tomorrow's session. We would debate that bill on Monday and have the vote on passage on Tuesday.

Also, as a reminder, we reached an agreement on the bill related to campaign medals for Operation Enduring Freedom and Operation Iraqi Freedom. That bill will be completed during Tuesday's session.

We are also expecting to begin consideration of some of the available judicial nominations that are on the Executive Calendar. Discussions are still underway as to how best to proceed to those nominations, and we will have more to say on this tomorrow.

I also congratulate Senator JUDD GREGG and the ranking member for passage of the IDEA reauthorization 95 to 3. It is a very important bill. We were able to deal with that bill in a very short period of time and in a very orderly way. I appreciate them bringing that to conclusion today.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:22 p.m., adjourned until Friday, May 14, 2004, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 13, 2004:

EXPORT-IMPORT BANK OF THE UNITED STATES

LINDA MYSLIWY CONLIN, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2007, VICE APRIL H. FOLEY, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DEPARTMENT OF TRANSPORTATION

LINDA MORRISON COMBS, OF NORTH CAROLINA, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION, VICE DONNA R. MCLEAN, RESIGNED, TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

THE JUDICIARY

JOHN O. COLVIN, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES TAX COURT FOR A TERM OF FIFTEEN YEARS. (REAPPOINTMENT)

DEPARTMENT OF STATE

CYNTHIA G. EFIRD, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ANGOLA.

TOM C. KOROLOGOS, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BELGIUM.

DEPARTMENT OF EDUCATION

EUGENE HICKOK, OF PENNSYLVANIA, TO BE DEPUTY SECRETARY OF EDUCATION, VICE WILLIAM D. HANSEN, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

EDWARD R. MCPHERSON, OF TEXAS, TO BE UNDER SECRETARY OF EDUCATION, VICE EUGENE HICKOK, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) STEVEN L. ENEWOLD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) JEFFREY A. BROOKS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) STANLEY D. BOZIN
REAR ADM. (LH) CHARLES T. BUSH
REAR ADM. (LH) JEFFREY B. CASSIAS
REAR ADM. (LH) WILLIAM D. CROWDER
REAR ADM. (LH) RICHARD K. GALLAGHER
REAR ADM. (LH) DAVID A. GOVE
REAR ADM. (LH) TIMOTHY L. HEELY
REAR ADM. (LH) GARY R. JONES
REAR ADM. (LH) JAMES D. KELLY
REAR ADM. (LH) THOMAS J. KILCLINE JR.
REAR ADM. (LH) SAMUEL J. LOCKLEAR III
REAR ADM. (LH) JOSEPH MAGUIRE
REAR ADM. (LH) ROBERT T. MOELLER
REAR ADM. (LH) ROBERT D. REILLY JR.
REAR ADM. (LH) JACOB L. SHUFORD
REAR ADM. (LH) PAUL S. STANLEY
REAR ADM. (LH) MILES B. WACHENDORF
REAR ADM. (LH) PATRICK M. WALSH

Daily Digest

HIGHLIGHTS

Senate passed H.R. 1350, Individuals with Disabilities Act.

The House passed H.R. 4275, to amend the Internal Revenue Code of 1986 to permanently extend the 10-percent individual income tax rate bracket.

The House passed H.R. 4281, Small Business Health Fairness Act of 2004.

Senate

Chamber Action

Routine Proceedings, pages S5383–S5486

Measures Introduced: Nine bills and three resolutions were introduced, as follows: S. 2415–2423, and S. Res. 360–362. **Page S5472**

Measures Reported:

S. 2238, to amend the National Flood Insurance Act of 1968 to reduce losses to properties for which repetitive flood insurance claim payments have been made, with amendments. (S. Rept. No. 108–262)

S. 1164, to provide for the development and coordination of a comprehensive and integrated United States research program that assists the people of the United States and the world to understand, assess, and predict human-induced and natural processes of abrupt climate change. (S. Rept. No. 108–263)

S. 1721, to amend the Indian Land Consolidation Act to improve provisions relating to probate of trust and restricted land, with an amendment in the nature of a substitute. (S. Rept. No. 108–264)

S. Res. 331, designating June 2004 as "National Safety Month".

S. 1609, to make aliens ineligible to receive visas and exclude aliens from admission into the United States for nonpayment of child support, with an amendment in the nature of a substitute. **Page S5472**

Measures Passed:

IDEA Reauthorization: Committee on Health, Education, Labor and Pensions was discharged from further consideration of H.R. 1350, to reauthorize the Individuals with Disabilities Education Act, and by 95 yeas to 3 nays (Vote No. 94), Senate passed the bill, after striking all after the enacting clause and inserting in lieu thereof, the text of S. 1248, Senate companion measure, and after taking action on the following amendments proposed thereto: **Pages S5394–S5411**

Adopted:

Gregg/Kennedy Amendment No. 3150, to provide a manager's amendment. **Page S5394**

Gregg (for Santorum) Modified Amendment No. 3149, to provide for a paperwork reduction demonstration. **Pages S5406–10**

Subsequently, S. 1248 was returned to the calendar. **Page S5411**

Department of Defense Authorization Act—Agreement: A unanimous-consent agreement was reached providing for the consideration of S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, at 2:30 p.m., on Monday, May 17, 2004. **Page S5485**

Service Medals Act—Agreement: A unanimous-consent agreement was reached providing that, at a time determined by the Majority Leader, after consultation with the Democratic Leader, Senate begin consideration of H.R. 3104, to provide for the establishment of separate campaign medals to be awarded to members of the uniformed services who participate in Operation Enduring Freedom and to members of the uniformed services who participate in Operation Iraqi Freedom, on Tuesday, May 18, 2004, and that there be 20 minutes for debate and Senate then vote on final passage of the bill. **Page S5485**

Nominations Received: Senate received the following nominations:

Linda Mysliwy Conlin, of New Jersey, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2007.

Linda Morrison Combs, of North Carolina, to be an Assistant Secretary of Transportation.

John O. Colvin, of Virginia, to be a Judge of the United States Tax Court for a term of fifteen years. (Reappointment)

Cynthia G. Efird, of the District of Columbia, to be Ambassador to the Republic of Angola.

Tom C. Korologos, of the District of Columbia, to be Ambassador to Belgium.

Eugene Hickok, of Pennsylvania, to be Deputy Secretary of Education.

Edward R. McPherson, of Texas, to be Under Secretary of Education.

20 Navy nominations in the rank of admiral.

Page S5486

Messages From the House: **Page S5471**

Measures Referred: **Page S5471**

Executive Communications: **Pages S5471–72**

Executive Reports of Committees: **Page S5472**

Additional Cosponsors: **Pages S5472–73**

Statements on Introduced Bills/Resolutions: **Pages S5473–84**

Additional Statements: **Pages S5468–71**

Amendments Submitted: **Page S5484**

Authority for Committees to Meet: **Pages S5484–85**

Privilege of the Floor: **Page S5485**

Text of H.R. 1350, as Previously Passed: **Pages S5411–51**

Record Votes: One record vote was taken today. (Total—94) **Page S5411**

Adjournment: Senate convened at 9:30 a.m., and adjourned at 6:22 p.m., until 9:30 a.m., on Friday, May 14, 2004. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S5485.)

Committee Meetings

(Committees not listed did not meet)

COMMODITY FUTURES TRADING COMMISSION REGULATORY ISSUES

Committee on Agriculture, Nutrition, and Forestry: Committee concluded a hearing to examine Commodity Futures Trading Commission regulatory issues, focusing on how the markets have evolved in response to the Commodity Futures Modernization Act of 2000, after receiving testimony from James E. Newsome, Chairman, Commodity Futures Trading Commission.

CONTINGENCY RESERVE FUND

Committee on Armed Services: Committee concluded a hearing to examine the contingency reserve fund request for fiscal year 2005, after receiving testimony from Paul D. Wolfowitz, Deputy Secretary, and Larry Lanzillotta, Acting Under Secretary (Comptroller), both of the Department of Defense; General Peter Pace, USMC, Vice Chairman of the Joint Chiefs of Staff; and Joel D. Kaplan, Deputy Director, Office of Management and Budget.

CONTRACTING IN IRAQ

Committee on Armed Services: Subcommittee on Readiness and Management Support concluded a hearing to examine acquisition policy issues in review of the Defense Authorization Request for fiscal year 2005, after receiving testimony from Michael W. Wynne, Acting Under Secretary of Defense for Acquisition, Technology and Logistics; Tina Ballard, Deputy Assistant Secretary of the Army for Policy and Procurement; Major General Carl Strock, USA, Director of Civil Works, U.S. Army Corps of Engineers; and Major General Wade H. McManus, Jr., USA, Commanding General, U.S. Army Field Support Command.

DOD TASK FORCE

Committee on Armed Services: Committee met in closed session to receive a briefing on the Report of the Department of Defense Task Force on Care for Victims of Sexual Assault from Ellen P. Embrey, Deputy Assistant for Force Health Protection and Readiness, and David S.C. Chu, Under Secretary for Personnel and Readiness, both of the Department of Defense.

BUSINESS MEETING

Committee on Armed Services: Committee ordered favorably reported the nomination of Major General David H. Petraeus, USA, to be lieutenant general and Chief, Office of Security Transition—Iraq.

IMPACT OF MARRIAGE AND DIVORCE

Committee on Commerce, Science, and Transportation: Subcommittee on Science, Technology, and Space concluded a hearing to examine social science data on the impact of marriage and divorce on children, focusing on marital education, trends in cohabitation, and out-of-wedlock births, after receiving testimony from Gordon Berlin, MDRC, Inc., New York, New York; Steven L. Nock, University of Virginia Department of Sociology, Charlottesville; Nicholas Zill,

Westat, Inc., Rockville, Maryland; Gerald L. Campbell, Impact Group, Inc., Oakton, Virginia; and Patrick F. Fagan, Heritage Foundation, and Margy Waller, Brookings Institute, both of Washington, D.C.

MULTILATERAL DEVELOPMENT BANK CORRUPTION

Committee on Foreign Relations: Committee concluded a hearing to examine combating corruption in the multilateral development banks, focusing on improving governance, increasing transparency and combating corruption, after receiving testimony from Carole Brookins, The World Bank, Hector Morales, Inter-American Development Bank, Manish Bapna, Bank Information Center, Nancy Zucker Boswell, Transparency International—USA, and Jerome I. Levinson, American University Washington College of Law, all of Washington, D.C.; and Jeffrey A. Winters, Northwestern University Department of Politics, Evanston, Illinois.

TRADE AND TOURISM IN A TIME OF TERRORISM

Committee on Foreign Relations: Subcommittee on European Affairs concluded a hearing to examine challenges and accomplishments as the European Union and the United States promote trade and tourism in a terrorism environment, after receiving testimony from Stewart Verdery, Assistant Secretary of Homeland Security for Border and Transportation Security; Jonathan Faull, Director General, European Commission, Brussels, Belgium; Bill Connors, National Business Travel Association, Alexandria, Virginia; and Christopher L. Koch, World Shipping Council, Washington, D.C.

RAISING PREMATURE BABIES

Committee on Health, Education, Labor, and Pensions: Subcommittee on Children and Families concluded a hearing to examine causes, research and prevention of premature births, after receiving testimony from Duane F. Alexander, Director, National Institute of Child Health and Human Development, National Institutes of Health, Peter C. Van Dyck, Associate Administrator for Child and Maternal Health, Health Resources and Services Administration, and Eve Lackritz, Chief, Maternal and Infant Health Branch, Division of Reproductive Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, all of the Department of Health and Human Services; Jennifer L. Howse, March of Dimes, White Plains, New York; Charles J. Lockwood, Yale University Medical School Department of Obstetrics, Gynecology, and Reproductive Sciences, New Haven, Connecticut; and Kelly Bolton Jordon, Memphis, Tennessee.

BUSINESS MEETING

Committee on the Judiciary: Subcommittee on the Constitution, Civil Rights, and Property Rights ordered favorably reported to the full Committee, S.J. Res. 23, proposing an amendment to the Constitution of the United States providing for the event that one-fourth of the members of either the House of Representatives or the Senate are killed or incapacitated, with an amendment.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

S. 1609, to make aliens ineligible to receive visas and exclude aliens from admission into the United States for nonpayment of child support, with an amendment in the nature of a substitute;

S. Res. 331, designating June 2004 as ''National Safety Month''.

Also, Committee began consideration of S. 1735, to increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to reform and facilitate prosecution of juvenile gang members who commit violent crimes, to expand and improve gang prevention programs, but did not complete action thereon.

BUSINESS MEETING

Select Committee on Intelligence: Committee met in closed session to consider pending intelligence matters.

Committee recessed subject to the call.

House of Representatives

Chamber Action

Measures Introduced: 12 public bills, H.R. 4358–4369; and 6 resolutions, H. Con. Res. 422–426, and H. Res. 642, were introduced.

(See next issue.)

Additional Cosponsors: **(See next issue.)**

Reports Filed: Reports were filed today as follows:

H.R. 2729, to amend the Occupational Safety and Health Act of 1970 to provide for greater efficiency at the Occupational Safety and Health Review Commission, amended (H. Rept. 108–486);

H.R. 2728, to amend the Occupational Safety and Health Act of 1970 to provide for adjudicative flexibility with regard to an employer filing of a notice of contest following the issuance of a citation by the Occupational Safety and Health Administration, amended (H. Rept. 108–487);

H.R. 2730, to amend the Occupational Safety and Health Act of 1970 to provide for an independent review of citations issued by the Occupational Safety and Health Administration, amended, referred sequentially to the House Committee on the Judiciary for a period ending not later than May 17, 2004 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X. (H. Rept. 108–488, Pt. 1); and

H.R. 2731, to amend the Occupational Safety and Health Act of 1970 to provide for the award of attorney's fees and costs to very small employers when they prevail in litigation prompted by the issuance of citations by the Occupational Safety and Health Administration, amended, referred sequentially to the House Committee on the Judiciary for a period ending not later than May 17, 2004 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X. (H. Rept. 108–489, Pt. 1). **(See next issue.)**

Chaplain: The prayer was offered today by Rev. Dr. Larry D. Pickens, Senior Pastor, First United Methodist Church in Elgin, Illinois. **Page H2921**

50th Anniversary of the Brown v. Board of Education decision: The House agreed to H. Con. Res. 414, expressing the sense of the Congress that, as Congress recognizes the 50th anniversary of the Brown v. Board of Education decision, all Americans are encouraged to observe this anniversary with a commitment to continuing and building on the legacy of Brown, by a yea-and-nay vote of 406 yeas to 1 nay, Roll No. 176. **Pages H2925–33**

The measure was considered under a unanimous consent agreement reached on Wednesday, May 12.

Permanent Extension of 10-Percent Individual Income Tax Rate Bracket bill: The House passed H.R. 4275, to amend the Internal Revenue Code of 1986 to permanently extend the 10-percent individual income tax rate bracket, by a recorded vote of 344 ayes to 76 noes, Roll No. 170. **Pages H2933–49**

Rejected the Tanner amendment in the nature of a substitute, printed in H. Rept 108–483, by a yea-and-nay vote of 190 yeas to 227 nays, Roll No. 169. **Pages H2941–49**

H. Res. 637, the rule providing for consideration of the bill was agreed to on Wednesday, May 12.

Budget Resolution for FY 2005—Motion to Instruct Conferees: The House rejected the Pomeroy motion to instruct conferees on S. Con. Res. 95, original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009, by a yea-and-nay vote of 207 yeas to 211 nays, Roll No. 171. **Pages H2949–50**

Small Business Health Fairness Act of 2004: The House passed H.R. 4281, to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees, by a yea-and-nay vote of 252 yeas to 162 nays and one voting ''present'', Roll No. 174. **Pages H2951–(continued next issue.)**

Rejected the McCarthy motion to recommit the bill to the Committee on Education and the Workforce with instructions to report the bill back to the House forthwith with amendments, by a recorded vote of 196 ayes to 218 noes, Roll No. 173. **(See next issue.)**

Rejected the Kind amendment in the nature of a substitute printed in part B of H. Rept. 108–484, by a yea-and-nay vote of 193 yeas to 224 nays, Roll No. 172. **(See next issue.)**

H. Res. 638, the rule providing for consideration of the bill was agreed on Wednesday, May 12. **(See next issue.)**

Pursuant to section 4 of H. Res. 638, the text of H.R 4280 and H.R. 4281 will be appended to the engrossment of H.R. 4279, and H.R. 4280 and H.R. 4281 shall be laid on the table. **(See next issue.)**

Also pursuant to section 4 of H. Res. 638, the title of H.R. 4279 is conformed to reflect the addition of the text of H.R. 4280 and H.R. 4281. Conformed so as to read: to amend the Internal Revenue

Code of 1986 to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements, to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, and to amend title I of the Employee Retirement Income Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees.

Suspensions—Proceedings Postponed: The House agreed to suspend the rules and pass the following measure which was debated on Tuesday, May 11:

Recognizing the 60th anniversary of the Servicemen's Readjustment Act of 1944: H.J. Res. 91, recognizing the 60th anniversary of the Servicemen's Readjustment Act of 1944, by a ⅔ yea-and-nay vote of 409 yeas with none voting "nay", Roll No. 175. **(See next issue.)**

Meeting Hour: Agreed that when the House adjourn today, it adjourn to meet at 12:30 p.m. on Monday, May 17 for morning hour debate and further, that when the House adjourns on that day, it adjourn to meet at 9 a.m. on Tuesday, May 18 for morning hour debate as though after May 31, 2004, thereafter to resume its session at 10 a.m. **(See next issue.)**

Calendar Wednesday: Agreed to dispense with the Calendar Wednesday business of Wednesday, May 19. **(See next issue.)**

Mexico-United States Interparliamentary Group—Appointments: The Chair announced the Speaker's appointment of the following members of the House to the Mexico-United States Interparliamentary Group: Representatives Kolbe (Chairman), Ballenger (Vice Chairman), Dreier, Barton (TX), Manzullo, Weller, and Stenholm. **(See next issue.)**

Senate Message: Message received from the Senate today appears on page H2921.

Senate Referral: S. Con. Res. 107 was held at the desk and S. Con. Res. 108 was referred to the Committee on Energy & Commerce. **(See next issue.)**

Quorum Calls—Votes: Six yea-and-nay votes and two recorded votes developed during the proceedings of today and appear on pages H2948–49, H2949, H2950, continued next issue). There were no quorum calls.

Adjournment: The House met at 10 a.m and adjourned at 8:49 p.m.

Committee Meetings

FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS APPROPRIATIONS

Committee on Appropriations: Subcommittee on Foreign Operations, Export Financing and Related Programs held a hearing on Millennium Challenge Corporation. Testimony was heard from Andrew S. Natsios, Administrator, U.S. Agency for International Development, Department of State; and Paul Applegarth, CEO, Millennium Challenge Corporation.

IMPROVING ACCESS TO ASSISTIVE TECHNOLOGY FOR INDIVIDUALS WITH DISABILITIES ACT OF 2004

Committee on Education and the Workforce: Subcommittee on 21st Century Competitiveness approved for full Committee action, as amended, H.R. 4278, Improving Access to Assistive Technology for Individuals with Disabilities Act of 2004.

EXAMINING THE FEDERAL EMPLOYEES' COMPENSATION ACT AND ITS BENEFITS FOR WORKERS

Committee on Education and the Workforce: Subcommittee on Workforce Protections held a hearing entitled "Examining the Federal Employees' Compensation Act and Its Benefits for Workers." Testimony was heard from the following officials of the Department of Labor: Shelby Hallmark, Director, Office of Workers' Compensation Programs; and Elliot Lewis, Assistant Inspector General, Audit; and public witnesses.

"THE US-EU REGULATORY DIALOGUE AND ITS FUTURE"

Committee on Financial Services: Held a hearing entitled "The US-EU Regulatory Dialogue and Its Future." Testimony was heard from Randal Quarles, Assistant Secretary, International Affairs, Department of the Treasury; Ethiopia Tafara, Director, Office of International Affairs, SEC; Susan Bies, Governor, Federal Reserve Board, Federal Reserve System; and public witnesses.

HARNESSING SCIENCE

Committee on Government Reform: Held a hearing entitled "Harnessing Science: Advancing Care by Accelerating the Rate of Cancer Clinical Trial Participation." Testimony was heard from the following officials of the Department of Health and Human Services: Michaele Christian, M.D., Associate Director, Division of Cancer Treatment and Diagnosis, Cancer Therapy Evaluation Program, National Cancer Institute; and Richard Pazdur, M.D., Director, Division

of Oncology Drug Products, Center for Drug Evaluation and Research, FDA; and public witnesses.

IRAQ—TRANSFER OF SOVEREIGNTY

Committee on International Relations: Held a hearing on The Imminent Transfer of Sovereignty in Iraq. Testimony was heard from Marc Grossman, Under Secretary, Political Affairs, Department of State; and the following officials of the Department of Defense: Stephen A. Cambone, Under Secretary, Intelligence; Peter Rodman, Assistant Secretary, International Security Affairs; and LTG Walter L. Sharp, USA, Director, Strategic Plans and Policy, The Joint Chiefs of Staff.

BUSINESS ACTIVITY TAX SIMPLIFICATION ACT

Committee on the Judiciary: Subcommittee on Commercial and Administrative Law held a hearing on H.R. 3220, Business Activity Tax Simplification Act of 2003. Testimony was heard from Jamie Van Fossen, Representative, State of Iowa; Rick Clayburgh, Tax Commissioner, State of North Dakota; and public witnesses

MISCELLANEOUS MEASURES; FEDERAL MARRIAGE AMENDMENT

Committee on the Judiciary: Subcommittee on the Constitution approved for full Committee action the following measures: H.J. Res. 568, amended, Expressing the sense of the House of Representatives that Judicial determinations regarding the meaning of the laws of the United States should not be based on judgments, laws, or pronouncements of foreign institutions unless such foreign judgments, laws, or pronouncements inform an understanding of the original meaning of the laws of the United States; and H.R. 1775, To amend title 36, United States Code, to designate the oak tree as the national tree of the United States.

The Subcommittee also held a hearing on H.J. Res. 56, Proposing an amendment to the Constitution of the United States relating to marriage. Testimony was heard from Representatives Musgrave and Frank; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on Fisheries Conservation, Wildlife and Oceans held a hearing on the following bills: H.R. 3433, To transfer federal lands between the Secretary of Agriculture and the Secretary of the Interior; H.R. 3479, Brown Tress Snake Control and Eradication Act of 2003; H.R. 4027, To authorize the Secretary of Commerce to make available to the University of Miami property under the administrative jurisdiction of the National Oceanic and Atmospheric Administration on Virginia Key, Florida, for use by the University for a Marine Life Science Center; and H.R. 4158, To provide for the conveyance to the Government of Mexico of a decommissioned National Oceanic and Atmospheric Administration ship. Testimony was heard from Representatives Ros-Lehtinen, Emerson and Case; the following officials of the Department of the Interior: James Tate, Jr., Science Advisor to the Secretary; and William Hartwig, Assistant Director, National Wildlife Refuge System, U.S. Fish and Wildlife Service; the following officials of the USDA: William Clay, Deputy Administrator of Wildlife Services, Animal and Plant Health Inspection Service; and Christopher Pyron, Deputy Chief, Business Operations, Forest Service; the following officials of Guam: Felix P. Camacho, Governor; and Senator Tiana Muna Barnes; Pedro A. Tenorio, Resident Representative to the United States, Commonwealth of the Northern Mariana Islands; and a public witness.

OVERSIGHT—FIREFIGHTING PREPAREDNESS

Committee on Resources: Subcommittee on Forests and Forest Health held an oversight hearing entitled "Firefighting Preparedness: Are we ready for the 2004 Wildlife Season?" Testimony was heard from Mark Rey, Under Secretary, Natural Resources and Environment, USDA; Lynn Scarlett, Assistant Secretary, Policy, Management and Budget, Department of the Interior; Ellen Engleman Conners, Chairman, National Transportation Safety Board; and James B. Hull, Forester, Forest Service, State of Texas and Co-Chair, Blue Ribbon Panel on Federal Aerial Firefighting.

FEDERAL HIGH-PERFORMANCE COMPUTING R&D

Committee on Science: Held a hearing to examine federal high-performance computing research and development activities and to consider H.R. 4218, High-Performance Computing Revitalization Act of 2004. Testimony was heard from John H. Marburger III, Director, Office of Science and Technology Policy; and public witnesses.

OVERSIGHT—FAA's AIR TRAFFIC ORGANIZATION

Committee on Transportation and Infrastructure: Subcommittee on Aviation held an oversight hearing on Avoiding Summer Delays and a Review of the FAA's Air Traffic Organization. Testimony was heard from Stephen J. McHale, Deputy Administrator, Transportation Security Administration, Department of Homeland Security; and the following officials of the FAA, Department of Transportation: Marion C. Blakey, Administrator; and Russell G. Chew, Chief Operating Officer.

OVERSIGHT—ACTS OF TERROR—PREPAREDNESS AND FIRST RESPONDER FUNDING

Committee on Transportation and Infrastructure: Subcommittee on Economic Development, Public Buildings and Emergency Management held an oversight hearing on How to Best Prepare for Acts of Terror: National Preparedness and First Responder Funding. Testimony was heard from William O. Jenkins, Director, Homeland Security and Justice, GAO; Andrew Mitchell, Deputy Director, Office of Domestic Preparedness, Department of Homeland Security; and George W. Foresman, Assistant to the Governor, Preparedness, State of Virginia.

VETERANS LEGISLATION

Committee on Veterans Affairs: Subcommittee on Benefits approved for full Committee action the following bills: H.R. 1716, amended, Veterans Earn and Learn Act; H.R. 3936, To amend title 38, United States Code, to authorize the principal office of the United States Court of Appeals for Veterans Claims to be at any location in the Washington, D.C., metropolitan area, rather than only in the District of Columbia, and expressing the sense of Congress that a dedicated Veterans Courthouse and Justice Center should be provided for that Court and those it serves and should be located, if feasible, at a site owned by the United States that is part of or proximate to the Pentagon Reservation; H.R. 4175, amended, Veterans' Compensation Cost-of-Living Adjustment Act of 2004; and H.R. 4345, To amend title 38, United States Code, to increase the maximum amount of home loan guaranty available under the home loan guaranty program of the Department of Veterans Affairs.

VETERANS LEGISLATION

Committee on Veterans' Affairs: Subcommittee on Health approved for full Committee action, as amended, the following bills: H.R. 4231, Department of Veterans Affairs Nurse Recruitment and Retention Act of 2004; and H.R. 4248, Homeless Veterans Assistance Reauthorization Act of 2004.

FEDERAL CHILD WELFARE REVIEWS—STATE EFFORTS TO COMPLY

Committee on Ways and Means: Subcommittee on Human Resources held a hearing on State Efforts to Comply with Federal Child Welfare Reviews. Testimony was heard from Wade F. Horn, Assistant Secretary, Children and Families, Department of Health and Human Services; Cornelia M. Ashby, Director, Education, Workforce, and Income Security Issues, GAO; Edward Cotton, Director, Division of Youth and Family Services, Department of Human Services, State of New Jersey; and Christopher J. McCabe, Secretary, Department of Human Resources, State of Maryland.

HOMELAND SECURITY DEPARTMENT INTELLIGENCE BUDGET

Permanent Select Committee on Intelligence: Met in executive session to hold a hearing on Department of Homeland Security Intelligence Budget. Testimony was heard from departmental witnesses.

INTELLIGENCE COMMUNITY LANGUAGE CAPABILITIES

Permanent Select Committee on Intelligence: Subcommittee on Intelligence Policy and National Security held a hearing on Intelligence Community Language Capabilities. Testimony was heard from COL Michael R. Simone, USA, Commandant, Defense Language Institute Foreign Language Center, Department of Defense; Richard Brecht, Executive Director, Center for Advanced Study of Language; and Ellen Laipson, President and CEO, Henry L. Stimson Center.

INFORMATION TECHNOLOGY POLICY SHARING

Permanent Select Committee on Intelligence: Subcommittee on Terrorism and Homeland Security met in executive session to hold a hearing on Information Technology Policy Sharing. Testimony was heard from departmental witnesses.

Joint Meetings

HEALTH SERVICES REGULATION

Joint Economic Committee: Committee concluded a hearing to examine the costs of health services regulations, focusing on quality and accessibility to health care insurance, the uninsured, and ways that health care coverage can be made more affordable, after receiving testimony from David A. Hyman, University of Maryland School of Law, Baltimore; Daniel Mulholland, Horty, Springer, and Mattern, Pittsburgh, Pennsylvania; Vicki Gottlich, Center for Medicare Advocacy, Inc., Washington, D.C.; and Christopher J. Conover, Durham, North Carolina.

COAST GUARD AND MARITIME TRANSPORTATION ACT

Conferees met to resolve the differences between the Senate and House passed versions of H.R. 2443, to authorize appropriations for the Coast Guard for fiscal year 2004, to amend various laws administered by the Coast Guard, but did not complete action thereon, and will meet again.

COMMITTEE MEETINGS FOR FRIDAY, MAY 14, 2004

(Committee meetings are open unless otherwise indicated)

Senate

No meetings/hearings scheduled.

House

No committee meetings are scheduled.

Next Meeting of the SENATE

9:30 p.m., Friday, May 14

Senate Chamber

Program for Friday: Senate will be in a period of morning business.

Next Meeting of the HOUSE OF REPRESENTATIVES

12:30 p.m., Monday, May 17

House Chamber

Program for Monday: To be announced.

(House proceedings for today will be continued in the next issue of the Record.)

Congressional Record

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