bill to accelerate the income tax benefits for charitable cash contributions for the relief of victims of Typhoon Haiyan in the Philippines.

S. 1823

At the request of Mr. RUBIO, the name of the Senator from New Hampshire (Ms. AYOTTE) was added as a cosponsor of S. 1823, a bill to amend part E of title IV of the Social Security Act to better enable State child welfare agencies to prevent human trafficking of children and serve the needs of children who are victims of human trafficking, and for other purposes.

S. 1862

At the request of Mr. BLUNT, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from New Hampshire (Ms. AYOTTE) were added as cosponsors of S. 1862, a bill to grant the Congressional Gold Medal, collectively, to the Monuments Men, in recognition of their heroic role in the preservation, protection, and restitution of monuments, works of art, and artifacts of cultural importance during and following World War II.

S. 1875

At the request of Mr. WYDEN, the names of the Senator from New Mexico (Mr. HEINRICH) and the Senator from Colorado (Mr. BENNET) were added as cosponsors of S. 1875, a bill to provide for wildfire suppression operations, and for other purposes.

S. 1923

At the request of Mr. VITTER, the name of the Senator from South Carolina (Mr. SCOTT) was added as a cosponsor of S. 1923, a bill to amend the Securities Exchange Act of 1934 to exempt from registration brokers performing services in connection with the transfer of ownership of smaller privately held companies.

At the request of Mr. MANCHIN, the name of the Senator from Pennsylvania (Mr. TOOMEY) was added as a cosponsor of S. 1923, supra.

S. 1946

At the request of Mr. WYDEN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1946, a bill to amend the Reclamation Safety of Dams Act of 1978 to modify the authorization of appropriations.

S. 1956

At the request of Mr. SCHATZ, the name of the Senator from North Dakota (Ms. HEITKAMP) was added as a cosponsor of S. 1956, a bill to direct the Secretary of Defense to review the discharge characterization of former members of the Armed Forces who were discharged by reason of the sexual orientation of the member, and for other purposes.

S. 1957

At the request of Mr. BLUNT, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 1957, a bill to establish the American Infrastructure Fund, to provide bond guarantees and make loans to States, local governments, and infrastructure providers for investments in certain infrastructure projects, and to provide equity investments in such projects, and for other purposes.

S. 1977

At the request of Ms. AYOTTE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1977, a bill to repeal section 403 of the Bipartisan Budget Act of 2013, relating to an annual adjustment of retired pay for members of the Armed Forces under the age of 62, and to provide an offset.

S. 1982

At the request of Mr. SANDERS, the names of the Senator from Delaware (Mr. COONS), the Senator from Massachusetts (Mr. MARKEY) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 1982, a bill to improve the provision of medical services and benefits to veterans, and for other purposes.

S. 2021

At the request of Ms. CANTWELL, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 2021, a bill to amend the Internal Revenue Code of 1986 to modify the incentives for the production of biodiesel.

S. 2024

At the request of Mr. CRUZ, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 2024, a bill to amend chapter 1 of title 1, United States Code, with regard to the definition of ''marriage'' and ''spouse'' for Federal purposes and to ensure respect for State regulation of marriage.

S. 2026

At the request of Mr. THUNE, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 2026, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income any prizes or awards won in competition in the Olympic Games or the Paralympic Games.

S. CON. RES. 13

At the request of Mr. CASEY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. Con. Res. 13, a concurrent resolution commending the Boys & Girls Clubs of America for its role in improving outcomes for millions of young people and thousands of communities.

S. RES. 348

At the request of Mr. BURR, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. Res. 348, a resolution expressing support for the internal rebuilding, resettlement, and reconciliation within Sri Lanka that are necessary to ensure a lasting peace.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARKIN (for himself, Mr. MURPHY, and Ms. AYOTTE):

S. 2036. A bill to protect all school children against harmful and life-threatening seclusion and restraint practices; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, I come to the floor today to introduce a bill to support teachers, paraprofessionals and especially students, students with challenging behaviors.

Last week I released a report titled ''Dangerous Use of Seclusion and Restraints in Schools Remains Widespread and Difficult To Remedy: Ten Case Studies.'' This report is the product of a 6-month investigation by my HELP Committee staff

The report highlights the continued use of seclusion and restraints in schools, the lack of information families have about these practices, and the inability, in many cases, of families to stop the use of them on their children.

We found that in many cases, families may not know their children are being secluded and restrained. In some cases children are being secluded and restrained for months at a time, multiple times a day, sometimes for many hours, all without the knowledge of their families.

We also found that families do not have the tools to stop these practices. Provisions of some of our education laws, such as the Individuals with Disabilities Education Act, prohibit families from seeking redress and relief from the use of seclusion and restraints with their children unless they exhaust their due process options, which can take months or even years. This often leaves families with no choice but to remove their children from school in order to protect them.

Finally, the report found it is almost impossible for families to gather the information they need to prove harm and to stop the use of seclusion and restraints. The lack of access to information causes families to give up on their schools and there are many cases where families move to a new city or even out of state.

These events are not isolated incidents, as some claim. In March 2011, the U.S. Department of Education published the ''Civil Rights Data Collection Report'' that showed there were over 66,000 occurrences of seclusion and restraints during the 2009–2010 school year. In other words, there were 66,000 times when children were put at risk of injury, psychological trauma and death.

These incidents occur everywhere, even in my own state of Iowa. Last year, in a public residential school, at least three young women were secluded for up to 23 hours a day—in one case, for as long as nine months. If it were not for the good work of my state's Protection and Advocacy agency, Disability Rights Iowa, that practice might have continued indefinitely.

These practices aren't just ineffective, they can cause harm. Take for example 8-year-old Isabel Loeffler, who

was subjected to restraint and seclusion when she was living in Iowa. Isabel was locked in a seclusion room for up to three hours at a time on over 100 different occasions. She was held from behind and forced to draw with crayons, sometimes with four staff members holding her. When Isabel failed a task, she was secluded or restrained. The use of these practices made her behaviors worse, not better, so her parents withdrew her from school.

Injuries, both physical and psychological, are horrible enough, but at times the use of seclusion and restraints results in death. Jonathan King was secluded in an 8–by–8–foot concrete room in his Georgia school from the time he was a kindergartener. During one school year Jonathan was placed in a seclusion room, unobserved, 19 times over the course of 29 days for over an hour and a half.

His parents did not know this was happening to him.

On the day he died, his teacher had given him a rope to hold up his pants before she secluded him. Jonathan, who hated wearing a belt, had threatened to kill himself before. While he was in seclusion that day he hung himself with that rope. Jonathan was just 13–years-old.

It is time to put a stop to these abuses. We need make sure schools have access to the practices to serve our children well. The data show that too many teachers do not have the tools they need to help children with challenging behaviors. Too many parents do not know how their children are being treated at school. And too many children are being mentally and physically scarred because of the use of these harmful practices and the lack of knowledge about positive alternatives.

So I have come to the floor, today, to urge my colleagues to join with me in stopping these unconscionable practices. I come to ask that we work to provide teachers and administrators with the knowledge and skills they need to teach children in safe, supportive environments and to stop these violations of basic human rights. It is time to stop the systematic use of restraint and seclusion in our schools.

In the United States, we have regulations to protect people in hospitals, in nursing homes, and in psychological facilities from restraint and seclusion. But not in our schools. The last frontier for prohibiting seclusion and allowing restraint only in emergency situations is our classrooms.

This is why, today, I am introducing the Keeping All Students Safe Act. This bill prohibits the use of seclusion as well as mechanical and chemical restraints in schools. Period. Complete prohibition of these practices that have no educational or therapeutic benefits for children.

My bill also places strict limits on when, how, and by whom physical restraints may be used. Physical restraints could only be used in emergency situations. Not for so-called treatment. Not as discipline. Not as negative reinforcement. For emergencies only.

My bill would also create greater transparency so parents will know when an emergency situation happens and when a restraint has been used. It requires that schools meet with parents to explain the emergency and to plan for how to avoid emergencies in the future.

In addition, the bill allows families to file a civil action even if they have not exhausted their due process rights under IDEA. This will give families more power to stop the use of seclusion and restraints with their children.

There has been a lot of debate on whether it is right to implement a complete ban on seclusion in schools. I answer with an unequivocal yes. Putting a child in a locked room without supervision is absolutely wrong. Because when children are locked up, they frequently hurt themselves in frustration. Sometimes they hit their bodies against the wall until they are bruised and bloodied. Sometimes they vomit. Sometimes, as in the case of Jonathan King, they die.

Something is seriously wrong when a child suffers post-traumatic stress disorder after attending school. To lock a child up with no supervision is dangerous and, in many instances, can amount to acute psychological torture.

Proponents of the use of seclusion and restraints call them ''effective practices'' or ''useful techniques.'' But they are not. A child does not learn how to hold herself still, to listen more attentively, or to do her work by having her teacher lock her up, strap her down, or sit on her. Using euphemisms and politically correct terms to describe these practices does not disguise their barbarity and harmfulness. By no stretch of the imagination can sitting on a child be about educating.

There are alternatives. We know that school-wide, preventive practices can reduce and eliminate the use of seclusion and restraints. Ten years ago, at the Centennial School in Lehigh, PA, a school that serves children with the most challenging behaviors, the use of restraints was pervasive; over 1,000 occurrences per school year. Now, through the leadership of Dr. Michael George and the systematic use of preventive strategies, restraints are used less than 5 times a year and only in the most severe of emergency situations, only by trained personnel, and never as punishment or behavior management.

The Keeping All Students Safe Act will make positive behavioral interventions more widely available for educators. It will provide supports to schools to improve the school climate and culture through evidence-based practices and data-driven decision-making. The bill calls for better data collection on the use of seclusion and restraints in order to document their occurrence and efforts to eliminate them. The bill calls for mandatory reporting so that parents will know why, when, and how physical restraints are used on their children.

We know that teachers want to teach and to keep all their students safe. Let us give them the skills and knowledge to prevent challenging behaviors, and when they occur, to respond to them in the most effective ways possible.

If Isabel's teachers had the support, knowledge and training that the Keeping All Students Safe Act will make available, they could have identified the interventions she needed to be successful. They could have known what reinforcements worked for her. And they could have known what triggers would make her behavior worse. Instead of locking her in a closet, where she wet herself and hit herself in the head, Isabel's teachers could have fundamentally improved her educational experience, helping her to reach her potential.

All children have the right to be safe. Parents entrust schools to protect their children and help them to flourish. Let us make good on that trust by prohibiting seclusion and making the use of restraint so uncommon that it is only used in emergency situations. I urge my colleagues to join with me to protect all students, and to ensure that all educators have the tools they need to keep all of students safe.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2036

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 ''Keeping All Students Safe Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) APPLICABLE PROGRAM.—The term ''applicable program'' has the meaning given the term in section 400(c)(1) of the General Education Provisions Act (20 U.S.C. 1221(c)(1)).

(2) CHEMICAL RESTRAINT.—The term ''chemical restraint'' means a drug or medication used on a student to control behavior or restrict freedom of movement that is not—

(A) prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional's authority under State law, for the standard treatment of a student's medical or psychiatric condition; and

(B) administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional's authority under State law.

(3) ESEA DEFINITIONS.—The terms—

(A) ''Department'', ''educational service agency'', ''elementary school'', ''local educational agency'', ''parent'', ''secondary school'', ''State'', and ''State educational agency'' have the meanings given such terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801); and

(B) ''school resource officer'' and ''school personnel'' have the meanings given such terms in section 4151 of such Act (20 U.S.C. 7161).

(4) FEDERAL FINANCIAL ASSISTANCE.—The term ''Federal financial assistance'' means

any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the Department provides or otherwise makes available assistance in the form of—

(A) funds;

(B) services of Federal personnel; or

(C) real and personal property or any interest in or use of such property, including—

(i) transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

(5) FREE APPROPRIATE PUBLIC EDUCATION.—For those students eligible for special education and related services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the term ''free appropriate public education'' has the meaning given the term in section 602 of such Act (20 U.S.C. 1401).

(6) MECHANICAL RESTRAINT.—The term ''mechanical restraint''—

(A) has the meaning given the term in section 595(d)(1) of the Public Health Service Act (42 U.S.C. 290jj(d)(1)), except that the meaning shall be applied by substituting ''student's'' for ''resident's''; and

(B) does not mean devices used by trained school personnel, or used by a student, for the specific and approved therapeutic or safety purposes for which such devices were designed and, if applicable, prescribed, including—

(i) restraints for medical immobilization;

(ii) adaptive devices or mechanical supports used to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; or

(iii) vehicle safety restraints when used as intended during the transport of a student in a moving vehicle.

(7) PHYSICAL ESCORT.—The term ''physical escort'' means the temporary touching or holding of the hand, wrist, arm, shoulder, waist, hip, or back for the purpose of inducing a student to move to a safe location.

(8) PHYSICAL RESTRAINT.—The term ''physical restraint'' means a personal restriction that immobilizes or reduces the ability of an individual to move the individual's arms, legs, body, or head freely. Such term does not include a physical escort, mechanical restraint, or chemical restraint.

(9) POSITIVE BEHAVIORAL INTERVENTIONS AND SUPPORTS.—The term ''positive behavioral interventions and supports''

(A) means a school-wide systematic approach to embed evidence-based practices and data-driven decisionmaking to improve school climate and culture in order to achieve improved academic and social outcomes, and increase learning for all students, including those with the most complex and intensive behavioral needs; and

(B) encompasses a range of systemic and individualized positive strategies to reinforce desired behaviors, diminish reoccurrence of challenging behaviors, and teach appropriate behaviors to students.

(10) PROTECTION AND ADVOCACY SYSTEM.—The term ''protection and advocacy system'' means a protection and advocacy system established under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

(11) SECLUSION.—The term ''seclusion''—

(A) means the isolation of a student in a room, enclosure, or space that is—

(i) locked; or

(ii) unlocked and the student is prevented from leaving; and

(B) does not include a time out.

(12) SECRETARY.—The term ''Secretary'' means the Secretary of Education, and, where appropriate, the Secretary of the Interior and the Secretary of Defense.

(13) STATE-APPROVED CRISIS INTERVENTION TRAINING PROGRAM.—The term ''State-approved crisis intervention training program'' means a training program proposed by a local educational agency and approved by a State that, at a minimum, provides training in evidence-based practices shown to be effective—

(A) in the prevention of the use of physical restraint;

(B) in keeping both school personnel and students safe in imposing physical restraint in a manner consistent with this Act;

(C) in the use of data-based decisionmaking and evidence-based positive behavioral interventions and supports, safe physical escort, conflict prevention, behavioral antecedents, functional behavioral assessments, de-escalation of challenging behaviors, and conflict management;

(D) in first aid, including the signs of medical distress, and cardiopulmonary resuscitation; and

(E) certification for school personnel in the practices and skills described in subparagraphs (A) through (D), which shall be required to be renewed on a periodic basis.

(14) STUDENT.—The term ''student'' means a student who—

(A) is enrolled in a public school;

(B) is enrolled in a private school and is receiving a free appropriate public education at the school under subparagraph (B) or (C) of section 612(a)(10) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(10)(B), (C));

(C) is enrolled in a Head Start or Early Head Start program supported under the Head Start Act (42 U.S.C. 9831); or

(D) receives services under section 619 or part C of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1431 et seq.).

(15) TIME OUT.—The term ''time out'' means a behavior management technique that may involve the separation of the student from the group, in a non-locked setting, for the purpose of calming. Time out is not seclusion.

SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to promote the development of effective intervention and prevention practices that do not use restraints and seclusion;

(2) to protect all students from physical or mental abuse, aversive behavioral interventions that compromise health and safety, and any restraint imposed for purposes of coercion, discipline or convenience, or as a substitute for appropriate educational or positive behavioral interventions and supports;

(3) to ensure that staff are safe from the harm that can occur from inexpertly using restraints; and

(4) to ensure the safety of all students and school personnel and promote positive school culture and climate.

SEC. 4. MINIMUM STANDARDS; RULE OF CONSTRUCTION.

Each State and local educational agency receiving Federal financial assistance shall have in place policies that are consistent with the following:

(1) PROHIBITION OF CERTAIN ACTION.—School personnel, contractors, and resource officers are prohibited from imposing on any student—

(A) seclusion;

(B) mechanical restraint;

(C) chemical restraint;

(D) aversive behavioral interventions that compromise health and safety;

(E) physical restraint that is life-threatening, including physical restraint that restricts breathing; and

(F) physical restraint if contraindicated based on the student's disability, health care needs, or medical or psychiatric condition, as documented in a health care directive or medical management plan, a behavior intervention plan, an individualized education program or an individualized family service plan (as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401)), or plan developed pursuant to section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or other relevant record made available to the State or local educational agency.

(2) PHYSICAL RESTRAINT.—

(A) IN GENERAL.—Physical restraint may only be implemented if—

(i) the student's behavior poses immediate danger of serious physical harm to self or others;

(ii) the physical restraint does not interfere with the student's ability to communicate in the student's primary language or mode of communication; and

(iii) less restrictive interventions have been ineffective in stopping the immediate danger of serious physical harm to the student or others, except in a case of a rare and clearly unavoidable emergency circumstance posing immediate danger of serious physical harm.

(B) LEAST AMOUNT OF FORCE NECESSARY.—When implementing a physical restraint, staff shall use only the amount of force necessary to protect the student or others from the threatened injury.

(C) END OF PHYSICAL RESTRAINT.—The use of physical restraint shall end when—

(i) a medical condition occurs putting the student at risk of harm;

(ii) the student's behavior no longer poses immediate danger of serious physical harm to the student or others; or

(iii) less restrictive interventions would be effective in stopping such immediate danger of serious physical harm.

(D) QUALIFICATIONS OF INDIVIDUALS ENGAGING IN PHYSICAL RESTRAINT.—School personnel imposing physical restraint in accordance with this subsection shall—

(i) be trained and certified by a State-approved crisis intervention training program, except in the case of rare and clearly unavoidable emergency circumstances when school personnel trained and certified are not immediately available due to the unforeseeable nature of the emergency circumstance;

(ii) engage in continuous face-to-face monitoring of the student; and

(iii) be trained in State and school policies and procedures regarding restraint and seclusion.

(E) PROHIBITION ON USE OF PHYSICAL RESTRAINT AS PLANNED INTERVENTION.—

(i) IN GENERAL.—Except as provided in clause (ii), the use of physical restraints as a planned intervention shall not be written into a student's education plan, individual safety plan, plan developed pursuant to section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), individualized education program or individualized family service plan (as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401)), or any other planning document for an individual student.

(ii) EXCEPTION.—The use of physical restraints as a planned intervention may be written into a student's individualized education program, individual safety plan, or plan developed pursuant to section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) if State law allows for the use of physical restraint as part of such program or plan, as agreed upon by school personnel, the family

of the student, and the individualized education program committee if such individuals—

(I) have considered less restrictive means to address behavioral concerns that would meet the emergency standard described in subparagraph (A) and, when using such physical restraints in an emergency, meet the conditions described in subparagraphs (B), (C), and (D); and

(II) have conducted a researched based, individualized functional behavioral analysis and implemented a corresponding positive intervention plan based on such functional behavioral analysis that—

(aa) addresses preventative measures used to reduce or prevent emergencies; and

(bb) is written into the student's individualized education program, individual safety plan, or plan developed pursuant to section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(3) OTHER POLICIES.—

(A) IN GENERAL.—The State or local educational agency, and each school and educational program served by the State or local educational agency shall—

(i) establish policies and procedures that ensure school personnel and parents, including private school personnel and parents, are aware of the State, local educational agency, and school's policies and procedures regarding seclusion and restraint;

(ii) establish policies and procedures to keep all students, including students with the most complex and intensive behavioral needs, and school personnel safe;

(iii) establish policies and procedures for planning for the appropriate use of restraint in crisis situations in accordance with this Act by a team of professionals trained in accordance with a State-approved crisis intervention training program; and

(iv) establish policies and procedures to be followed after each incident involving the imposition of physical restraint upon a student, including—

(I) procedures to provide to the parent of the student, with respect to each such incident—

(aa) a verbal or electronic communication on the same day as each such incident; and

(bb) within 24 hours of each such incident, written notification; and

(II) after the imposition of physical restraint upon a student, procedures to ensure that—

(aa) the person who imposed the restraint, the immediate adult witnesses, a representative of the administration, a school mental health profession, and at least 1 family member of the student participate in a debriefing session; and

(bb) the student who was restrained is given the opportunity to discuss the student's perspective about the event with a trusted adult who will communicate to the debriefing session group.

(B) DEBRIEFING SESSION.—

(i) IN GENERAL.—

(I) TIMING.—The debriefing session described in subparagraph (A)(iv)(II) shall occur as soon as practicable, but not later than 5 school days following the imposition of physical restraint unless it is delayed by written mutual agreement of the parent and school.

(II) OBSERVATIONS BY SCHOOL PERSONNEL.—Each adult witness in the proximity of the student immediately before and during the time of the of the physical restraint but not directly involved shall submit the witness's observations in writing for the debriefing session.

(III) PARENTAL LEGAL RIGHTS.—Parents shall retain their full legal rights for children under the age of majority concerning participation in the debriefing or other matters.

(ii) CONTENT OF SESSION.—The debriefing session described in subparagraph (A)(iv)(II) shall include—

(I) identification of antecedents to the physical restraint;

(II) consideration of relevant information in the student's records, and such information from teachers, other professionals, the parent, and student;

(III) planning to prevent and reduce reoccurrence of the use of physical restraint, including consideration of the results of any functional behavioral assessments, whether positive behavior plans were implemented with fidelity, recommendations of appropriate positive behavioral interventions and supports to assist personnel responsible for the student's educational plan, the individualized education program for the student, if applicable, and plans providing for reasonable accommodations under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(IV) a plan to have a functional behavioral assessment conducted, reviewed, or revised by qualified professionals, the parent, and the student; and

(V) for any student not identified as eligible to receive accommodations under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) or services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), evidence of such a referral or documentation of the basis for declining to refer the student.

(iii) COMMUNICATION BY THE STUDENT.—When a student attends a debriefing session described in subparagraph (A)(iv)(II), information communicated by the student may not be used against the student in any disciplinary, criminal, or civil investigation or proceeding.

(4) NOTIFICATION IN WRITING ON DEATH OR BODILY INJURY.—In a case in which bodily injury or death of a student occurs in conjunction with the use of physical restraint or any intervention used to control behavior, there are procedures to notify, in writing, within 24 hours after such injury or death occurs—

(A) the State educational agency and local educational agency;

(B) local law enforcement; and

(C) a protection and advocacy system, in the case of a student who is eligible for services from the protection and advocacy system.

(5) PROHIBITION AGAINST RETALIATION.—The State or local educational agency, each school and educational program served by the State or local educational agency, and school personnel of such school or program shall not retaliate against any person for having—

(A) reported a violation of this section or Federal or State regulations or policies promulgated to carry out this section; or

(B) provided information regarding a violation of this section or Federal or State regulations or policies promulgated to carry out this section.

SEC. 5. INTERACTIONS; RULES OF CONSTRUCTION.

(a) RULES OF CONSTRUCTION.—

(1) RIGHTS AND REMEDIES OF STUDENTS AND PARENTS.—Nothing in this Act shall be construed to restrict or limit, or allow the Secretary to restrict or limit, any other rights or remedies otherwise available to students or parents under Federal or State law (including regulations) or to restrict or limit stronger restrictions on the use of restraint, seclusion, or aversives in Federal or State law (including regulations) or in State policies.

(2) RESTRICTIONS ON SECRETARIAL PROHIBITIONS.—Nothing in this Act shall be construed to authorize the Secretary to promulgate regulations prohibiting the use of—

(A) time outs; or

(B) devices implemented by trained school personnel, or utilized by a student, for the specific and approved therapeutic or safety purposes for which such devices were designed and, if applicable, prescribed, including—

(i) restraints for medical immobilization;

(ii) adaptive devices or mechanical supports used to achieve proper body position, balance, or alignment to allow greater freedom of mobility than would be possible without the use of such devices or mechanical supports; or

(iii) vehicle safety restraints when used as intended during the transport of a students in a moving vehicle.

(b) DENIAL OF A FREE APPROPRIATE PUBLIC EDUCATION.—Failure to meet the minimum standards of this Act as applied to an individual child eligible for accommodations developed pursuant to section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) or for education or related services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) shall constitute a denial of a free appropriate public education.

(c) EXHAUSTION OF DUE PROCESS.—

(1) IN GENERAL.—A student may file a civil action under the Constitution, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), title V of the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), or other applicable Federal law in the case of the use of seclusion or restraint in violation of this Act seeking relief from the use of seclusion or restraint with respect of such student.

(2) NONAPPLICABILITY.—Section 615(l) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(l)) shall not apply to an action filed pursuant to paragraph (1).

SEC. 6. REPORT REQUIREMENTS.

(a) IN GENERAL.—Each State educational agency shall (in compliance with the requirements of section 444 of the General Education Provisions Act (commonly known as the ''Family Educational Rights and Privacy Act of 1974'') (20 U.S.C. 1232g)) prepare and submit to the Secretary, and make available to the public, a report with respect to each local educational agency, and each school not under the jurisdiction of a local educational agency, located in the same State as such State educational agency that includes the following information:

(1) The total number of incidents in which physical restraint was imposed upon a student in the preceding full academic year.

(2) The information described in paragraph (1) shall be disaggregated—

(A) by the total number of incidents in which physical restraint was imposed upon a student—

(i) that resulted in injury to students or school personnel, or both;

(ii) that resulted in death; and

(iii) in which the school personnel imposing physical restraint were not trained and certified as described in section 4(2)(D)(i); and

(B) by the demographic characteristics of all students upon whom physical restraint was imposed, including—

(i) the subcategories identified in section 1111(h)(1)(C)(i) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(h)(1)(C)(i));

(ii) age; and

(iii) disability category.

(b) UNDUPLICATED COUNT; EXCEPTION.—The disaggregation required under subsection (a) shall—

(1) be carried out in a manner to ensure an unduplicated count of the total number of incidents in the preceding full academic year

in which physical restraint was imposed upon a student; and

(2) not be required in a case in which the number of students in a category would reveal personally identifiable information about an individual student.

SEC. 7. GRANT AUTHORITY.

(a) IN GENERAL.—From the amount appropriated under section 10, the Secretary may award grants to State educational agencies to assist in—

(1) establishing, implementing, and enforcing the policies and procedures to meet the minimum standards described in this Act;

(2) improving State and local capacity to collect and analyze data related to physical restraint; and

(3) improving school climate and culture by implementing school-wide positive behavioral interventions and supports.

(b) DURATION OF GRANT.—A grant under this section shall be awarded to a State educational agency for a 3-year period.

(c) APPLICATION.—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require, including information on how the State educational agency will target resources to schools and local educational agencies in need of assistance related to preventing and reducing physical restraint.

(d) AUTHORITY TO MAKE SUBGRANTS.—

(1) IN GENERAL.—A State educational agency receiving a grant under this section may use such grant funds to award subgrants, on a competitive basis, to local educational agencies.

(2) APPLICATION.—A local educational agency desiring to receive a subgrant under this section shall submit an application to the applicable State educational agency at such time, in such manner, and containing such information as the State educational agency may require.

(e) PRIVATE SCHOOL PARTICIPATION.—

(1) IN GENERAL.—A State educational agency receiving grant funds under this section shall, after timely and meaningful consultation with appropriate private school officials, ensure that private school personnel can participate, on an equitable basis, in activities supported by grant or subgrant funds.

(2) PUBLIC CONTROL OF FUNDS.—The control of funds provided under this section, and title to materials, equipment, and property with such funds, shall be in a public agency and a public agency shall administer such funds, materials, equipment, and property.

(f) REQUIRED ACTIVITIES.—A State educational agency receiving a grant, or a local educational agency receiving a subgrant, under this section shall use such grant or subgrant funds to carry out the following:

(1) Researching, developing, implementing, and evaluating evidence-based strategies, policies, and procedures to reduce and prevent physical restraint in schools, consistent with the minimum standards described in this Act.

(2) Providing professional development, training, and certification for school personnel to meet such standards.

(g) ADDITIONAL AUTHORIZED ACTIVITIES.—In addition to the required activities described in subsection (f), a State educational agency receiving a grant, or a local educational agency receiving a subgrant, under this section may use such grant or subgrant funds for 1 or more of the following:

(1) Developing and implementing a high-quality professional development and training program to implement evidence-based systematic approaches to school-wide positive behavioral interventions and supports, including improving coaching, facilitation, and training capacity for administrators, teachers, specialized instructional support personnel, and other staff.

(2) Providing technical assistance to develop and implement evidence-based systematic approaches to school-wide positive behavioral interventions and supports, including technical assistance for data-driven decisionmaking related to positive behavioral interventions and supports in the classroom.

(3) Researching, evaluating, and disseminating high-quality evidence-based programs and activities that implement school-wide positive behavioral interventions and supports with fidelity.

(4) Supporting other local positive behavioral interventions and supports implementation activities consistent with this subsection.

(h) EVALUATION AND REPORT.—Each State educational agency receiving a grant under this section shall, at the end of the 3-year grant period for such grant—

(1) evaluate the State's progress toward the prevention and reduction of physical restraint in the schools located in the State, consistent with the minimum standards; and

(2) submit to the Secretary a report on such progress.

SEC. 8. ENFORCEMENT.

(a) USE OF REMEDIES.—If a State educational agency fails to comply with the requirements under this Act, the Secretary shall—

(1) withhold, in whole or in part, further payments under an applicable program in accordance with section 455 of the General Education Provisions Act (20 U.S.C. 1234d);

(2) require a State or local educational agency to submit, and implement, within 1 year of such failure to comply, a corrective plan of action, which may include redirection of funds received under an applicable program;

(3) issue a complaint to compel compliance of the State or local educational agency through a cease and desist order, in the same manner the Secretary is authorized to take such action under section 456 of the General Education Provisions Act (20 U.S.C. 1234e); or

(4) refer the State to the Department of Justice or Department of Education Office of Civil Rights for an investigation.

(b) CESSATION OF WITHHOLDING OF FUNDS.—Whenever the Secretary determines (whether by certification or other appropriate evidence) that a State or local educational agency that is subject to the withholding of payments under subsection (a)(1) has cured the failure providing the basis for the withholding of payments, the Secretary shall cease the withholding of payments with respect to the State educational agency under such subsection.

SEC. 9. APPLICABILITY.

(a) PRIVATE SCHOOLS.—Nothing in this Act shall be construed to affect any private school that does not receive, or does not serve students who receive, support in any form from any program supported, in whole or in part, with funds provided by the Department of Education.

(b) HOME SCHOOLS.—Nothing in this Act shall be construed to—

(1) affect a home school, whether or not a home school is treated as a private school or home school under State law; or

(2) consider a parent who is schooling a child at home as school personnel.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act for fiscal year 2015 and each of the 4 succeeding fiscal years.

By Mr. ROBERTS (for himself, Mr. TESTER, Mr. INHOFE, Mr. DURBIN, Mr. ENZI, Ms. BALDWIN, Mr. MORAN, Mr. FRANKEN, Mr. GRASSLEY, Mr. BARRASSO, Mrs. FISCHER, Ms. COLLINS, Mr. JOHANNS, Ms. KLOBUCHAR, Mr. HOEVEN, and Mr. KIRK):

S. 2037. A bill to amend title XVIII of the Social Security Act to remove the 96-hour physician certification requirement for inpatient critical access hospital services; to the Committee on Finance.

Mr. ROBERTS. Mr. President, I started my public service career fighting for rural health. In a State that has many rural hospitals, the rural health care delivery system is especially important to Kansas. One of my first speeches was to rural hospitals. Since that time, I have been beating the drum, so to speak, for our rural areas about how important it is to focus on rural health.

I have always said that people in rural towns deserve the same access to care and level of treatment as their urban counterparts. I have made it my mission to protect our rural health system and patient access to the best possible care. I am honored to serve as the cochair of the Senate Rural Health Caucus where I work with my colleagues to fight for our rural health care system every day.

Unfortunately, these days it feels as though rural health care, and all of those involved in it, face an uphill battle. Over the past few years, the rural health system has continued to face even more challenges.

Funding for rural health care programs has been targeted again and again. This year the Senate Finance Committee held a markup with regular order where we considered some of the rural extenders that are absolutely vital to our rural communities. Regrettably, we have more work to do. We have to convince and educate our colleagues, this administration, and everyone else about the importance of rural health care. We have been successful in protecting some of the ideas I have championed, especially on the rural extenders side, but we have more work to do. As this process moves forward, we need to ensure we follow regular order on the floor of the Senate and for any pay-fors for the doc fix package. While I was pleased with some of the additions that addressed rural health care in the package passed out of committee, I have concerns that these issues were not included or addressed in the most recent package introduced in the House and in the Senate.

In addition to ensuring rural health is part of any moving legislation, I wish to ensure it is a package that is offset and paid for, and this has to be done before I can support it. But the bottom line is that we, the Senate, need to return to regular order and ensure that practice does continue.

As will many of my colleagues in the Senate, I will continue to vigorously fight to rein in Federal spending and to

reduce the deficit. In order to address this fiscal crisis, I think Congress must enact basic structural changes to entitlement programs that will strengthen and preserve these programs for future generations while protecting current participants. Without real tangible reform and cuts in Federal spending, we will bankrupt the country. At the same time, we need to ensure that any of those policies we put in place do not result in a disproportionate impact on our rural health care system or restrict patients' access to the care they need. As I started saying today, this is going to be an uphill battle. But I, for one, am ready to lead the charge.

As a member of both the Finance and HELP Committees, as well as the co-chair of the Rural Health Caucus, I have tried to be a leader in the discussion about the need to address the entire health system.

I have made it a point that within our health care system discussions, we need to talk about the differences between our rural areas and the care and treatment provided in those rural settings and their urban counterparts. We need to address common misconceptions about funding challenges in rural communities before taking a Lizzie Borden ax to the funding streams.

Throughout my career in public office, I have made it a point to always fight for Kansas and rural health care providers. This has been one of my top priorities in Congress. I understand the important role of rural health in America and continue to advocate for policies that protect and preserve these benefits.

Most recently, the Centers for Medicare and Medicaid Services—CMS—have made some changes that will be particularly harmful to rural health. More specifically, their changes will force doctors into a guessing game about their patients. The condition of payment changes CMS is making would require the physician, and no other level provider, to not only predict at the time of admission to the critical access hospital that the patient will require hospital care for more than two midnights, but also that the patient can be cared for and discharged in less than 96 hours. This is an extremely narrow CMS window for the physician to make a determination about that patient's future needs—extremely difficult, if not impossible. A physician may certify that they expect the patient to be treated and discharged within 96 hours, but, unfortunately, the patient's situation may change and they may need to be kept longer. The physician's concern will be that they have failed to meet the terms of their certification according to CMS. This is likely to lead to premature discharges and readmissions, both of which CMS has taken actions to minimize.

A CEO for one of our critical access hospitals in Council Grove, KS, writes:

This new ''condition of payment'' rule causes potential conflicts with what is best for the patient, causes issues for the physician in having to predict outcomes at admission in complex cases, and may cause increased expense for medically unnecessary transfers to more costly care centers.

Today I am introducing the Critical Access Hospital Relief Act of 2014. My bipartisan legislation would remove the condition of payment for critical access hospitals that requires a physician to certify that each patient will be discharged or transferred in less than 96 hours. This is another example of having to tell CMS, ''If it isn't broken, then there is no need to fix it.'' We need to focus on ensuring rural patients have access to their health system, not coming up with bureaucratic ways to make it harder for patients in rural areas to get quality care from their doctors.

I urge my colleagues to cosponsor the Critical Access Hospital Relief Act of 2014.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 360—TO AUTHORIZE TESTIMONY AND REPRESENTATION IN UNITED STATES V. ONSTAD

Mr. REID of Nevada (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 360

Whereas, in the case of *United States v. Onstad*, Crim. No. 13–65, pending in the United States District Court for the District of Montana, the prosecution has requested the production of testimony from Tom Lopach, Chief of Staff for United States Senator Jon Tester;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent current and former employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Tom Lopach, Chief of Staff for United States Senator Jon Tester, and any other current or former employee of the Senator's office from whom relevant testimony may be sought, are authorized to testify in the case of *United States v. Onstad*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent current and former employees of Senator Tester's office in connection with the production of testimony authorized in section one of this resolution.

SENATE RESOLUTION 361—RECOGNIZING THE THREATS TO FREEDOM OF THE PRESS AND EXPRESSION IN THE PEOPLE'S REPUBLIC OF CHINA AND URGING THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA TO TAKE MEANINGFUL STEPS TO IMPROVE FREEDOM OF EXPRESSION AS FITTING OF A RESPONSIBLE INTERNATIONAL STAKEHOLDER

Mr. CARDIN (for himself, Mr. RUBIO, Mr. MENENDEZ, and Mr. CORKER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 361

Whereas, in its 2013 World Press Freedom Index, Reporters Without Borders ranked China 173rd out of 179 countries in terms of press freedoms;

Whereas China's media regulator, the State Administration of Press, Publication, Radio, Film and Television, enforces a system of strict controls, including an extensive licensing system and government supervision by the Chinese Communist Party;

Whereas domestic radio and television broadcast journalists in China must pass a government-sponsored exam that tests their basic knowledge of Marxist views of news and communist party principles;

Whereas this state supervision of the media distorts and blocks free and open coverage of key issues including Tibet, political unrest, and corruption by government officials, as well as Chinese foreign policy;

Whereas China's media regulator officially bans journalists from using foreign media reports without authorization and forbids news editors from reporting information online that has not been verified through official channels;

Whereas the Congressional-Executive Commission on China (CECC) has documented several instances of reprisals against and harassment of independent journalists and newspaper staff by the Government of the People's Republic of China, including Chinese journalists working for foreign-based websites and newspapers;

Whereas the Foreign Correspondents' Club of China has noted that foreign journalists continue to face challenging work conditions, visa denials or delays, and various forms of harassment, and 70 percent of journalists surveyed in the FCCC's 2013 annual survey stated that ''conditions have worsened or stayed the same as the year before'';

Whereas, according to the CECC, authorities in China appeared to maintain or enhance policies to block and filter online content, particularly sensitive information about rights activists, official corruption, or collective organizing;

Whereas China is the world's second largest economy and the United States' second largest trading partner and has been a member of the World Trade Organization since 2001;

Whereas China's growing economic importance increases the need for the Government of the People's Republic of China to act transparently and respect international trading regulations; and

Whereas official government censorship denies the people of China, including nearly 600,000,000 Internet users, their freedom of expression, undermines confidence in China's safety standards, and causes increasingly serious economic harm to private firms that rely on unfettered access to social media as a business model: Now, therefore, be it

Resolved, That the Senate—