

(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 Cardozo, 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