



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, FIRST SESSION

Vol. 147

WASHINGTON, WEDNESDAY, MAY 9, 2001

No. 63

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable TIM HUTCHINSON, a Senator from the State of Arkansas.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, thank You for the gifts of life, intellect, good memories, and daring dreams. We do not ask for challenges equal to our talent and training, education and experience; rather, we ask for opportunities equal to Your power and vision. Forgive us when we pare life down to what we could do on our own without Your power. Make us adventuresome, undaunted people who seek to know what You want done and attempt it because You will provide us with exactly what we need to accomplish it. We thank You that problems are nothing more than possibilities wrapped in negative attitudes. We commit the work of this day to You and will attempt great things for You because we know we will receive great strength from You. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TIM HUTCHINSON 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. THURMOND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 9, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable TIM HUTCHINSON, a Senator from the State of Arkansas, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. HUTCHINSON thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished acting majority leader.

SCHEDULE

Mr. JEFFORDS. Mr. President, today the Senate will have 5 minutes to complete debate on a Mikulski amendment regarding community technology centers, with a vote to occur at approximately 9:35 a.m.

Following the vote, the Senate will continue to debate those amendments pending or any newly offered amendments to the education bill. The Senate will suspend debate on S. 1 as soon as the papers to the budget conference report are received from the House. Further votes will occur this morning on education amendments. It is expected that a vote on the budget conference report will occur either late this evening or tomorrow morning. As a reminder, all first-degree amendments to the education bill must be filed by 5 p.m. this evening.

I thank my colleagues for their attention.

BETTER EDUCATION FOR STUDENTS AND TEACHERS ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the

Senate will now resume consideration of S. 1, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965.

Pending:

Jeffords amendment No. 358, in the nature of a substitute.

Kennedy (for Murray) amendment No. 378 (to amendment No. 358), to provide for class size reduction programs.

Kennedy (for Mikulski/Kennedy) amendment No. 379 (to amendment No. 358), to provide for the establishment of community technology centers.

Kennedy (for Dodd) amendment No. 382 (to amendment No. 358), to remove the 21st century community learning center program from the list of programs covered by performance agreements.

McConnell amendment No. 384 (to amendment No. 358), to provide for teacher liability protection.

Cleland amendment No. 376 (to amendment No. 358), to provide for school safety enhancement, including the establishment of the National Center for School and Youth Safety.

Biden amendment No. 386 (to amendment No. 358), to establish school-based partnerships between local law enforcement agencies and local school systems, by providing school resource officers who operate in and around elementary and secondary schools.

Specter modified amendment No. 388 (to amendment No. 378), to provide for class size reduction.

Voinovich amendment No. 389 (to amendment No. 358), to modify provisions relating to State applications and plans and school improvement to provide for the input of the Governor of the State involved.

Carnahan amendment No. 374 (to amendment No. 358), to improve the quality of education in our Nation's classrooms.

AMENDMENT NO. 379

The ACTING PRESIDENT pro tempore. We have 5 minutes equally divided on the Mikulski amendment.

The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise to ask the support of my colleagues for my amendment to create 1,000 community tech-based centers around the country.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

S4525

The BEST Act creates a national goal to ensure that every child is computer literate by the 8th grade regardless of race, ethnicity, income, gender, geography, or disability.

My amendment will help make this goal a reality.

What does this amendment do? My amendment builds on the excellent work of Senator JEFFORDS, Senator KENNEDY, and Senator GREGG. It expands 21st Century Learning Centers by authorizing \$100 million to create 1,000 community based technology centers around the country. The Department of Education would provide competitive grants to community based organizations such as a YMCA, the Urban League, or a public library.

Up to half the funds for these centers must come from the private sector, so we'll be helping to build public/private partnerships around the country.

What does this mean for local communities? It means a safe haven for children where they could learn how to use computers and use them to do homework or surf the web. It means job training for adults who could use the technology centers to sharpen their job skills or write their resumes.

Why is this amendment necessary? Because even with dot coms becoming dot bombs, we badly need high tech workers. In fact, we have a skill shortage, not a worker shortage.

Senators SPECTER and HARKIN have provided funds for Community Technology Centers in Appropriations but the program has never been authorized, so it has been skimpy. Only 90 centers were created last year, although over 700 applied.

We need to bring technology to where kids learn, not just where we want them to learn. They don't just learn in school, they learn in their communities.

Not every family has a computer in their home, but every American should have access to computers in their community.

My amendment is endorsed by: the NAACP, the American Library Association, the National Council of La Raza, the YMCA, the American Association of Community Colleges, and the Computer and Communications Industry Association.

I urge my colleagues to join me in ensuring that no child is left out or left behind in the technology revolution.

Mr. JEFFORDS. Mr. President, I regretfully rise to oppose the amendment of my colleague, although I agree with the program she is talking about, the community technology centers. On the other hand, this belongs with other programs such as the community block grants, not on the educational side.

I must say I admire what the Senator is doing. The programs themselves can be very useful, but I don't believe it belongs in this bill; rather, it belongs in other bills. For instance, the 21st century schools can provide similar programs. In a sense, it is duplication.

Regretfully, I must oppose the amendment, although I think it is only once or twice a century that I do that.

Ms. MIKULSKI. Mr. President, the cosponsors of my amendment are Senators KENNEDY, BINGAMAN, SARBANES, WELLSTONE, and REID.

Mr. JEFFORDS. I yield back the remaining time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to a vote in relation to the Mikulski amendment numbered 379 to amendment No. 358.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Connecticut (Mr. DODD) is necessarily absent.

The PRESIDING OFFICER (Mr. CHAFEE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 49, as follows:

[Rollcall Vote No. 96 Leg.]

YEAS—50

Akaka	Dorgan	Lincoln
Baucus	Durbin	Mikulski
Bayh	Edwards	Miller
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Boxer	Graham	Nelson (NE)
Breaux	Harkin	Reed
Byrd	Hollings	Reid
Cantwell	Inouye	Rockefeller
Carnahan	Johnson	Sarbanes
Carper	Kennedy	Schumer
Cleland	Kerry	Snowe
Clinton	Kohl	Stabenow
Conrad	Landrieu	Torricelli
Corzine	Leahy	Wellstone
Daschle	Levin	Wyden
Dayton	Lieberman	

NAYS—49

Allard	Fitzgerald	Murkowski
Allen	Frist	Nickles
Bennett	Gramm	Roberts
Bond	Grassley	Santorum
Brownback	Gregg	Sessions
Bunning	Hagel	Shelby
Burns	Hatch	Smith (NH)
Campbell	Helms	Smith (OR)
Chafee	Hutchinson	Specter
Cochran	Hutchison	Stevens
Collins	Inhofe	Thomas
Craig	Jeffords	Thompson
Crapo	Kyl	Thurmond
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Ensign	McCain	
Enzi	McConnell	

NOT VOTING—1

Dodd

The amendment (No. 379) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, would the Chair inform the Senate how long it took for that vote to be completed?

The PRESIDING OFFICER. Thirty-one minutes.

The Senator from Minnesota.

AMENDMENT NO. 403 TO AMENDMENT NO. 358

Mr. WELLSTONE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 403 to amendment No. 358.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To modify provisions relating to State assessments)

On page 46, strike line 19 and replace with the following:

“assessments developed and used by national experts on educational testing.

“(D) be used only if the State provides to the Secretary evidence from the test publisher or other relevant sources that the assessment used is of adequate technical quality for each purpose for which the assessment is used, such evidence to be made public by the Secretary upon request.”.

On page 51, between lines 15 and 16, insert the following:

“(K) enable itemized score analyses to be reported to schools and local educational agencies in a way that parents, teachers, schools, and local educational agencies can interpret and address the specific academic needs of individual students as indicated by the students' performance on assessment items.”.

On page 125, between lines 4 and 5, insert the following:

SEC. 118A. GRANTS FOR ENHANCED ASSESSMENT INSTRUMENTS.

Part A of title I (20 U.S.C. 6311 et seq.) is amended by inserting after section 1117 (20 U.S.C. 6318) the following:

“SEC. 1117A. GRANTS FOR ENHANCED ASSESSMENT INSTRUMENTS.

“(a) PURPOSE.—The purpose of this section is to—

“(1) enable States (or consortia or States) and local educational agencies (or consortia of local educational agencies) to collaborate with institutions of higher education, other research institutions, and other organizations to improve the quality and fairness of State assessment systems beyond the basic requirements for assessment systems described in section 1111(b)(3);

“(2) characterize student achievement in terms of multiple aspects of proficiency;

“(3) chart student progress over time;

“(4) closely track curriculum and instruction; and

“(5) monitor and improve judgments based on informed evaluations of student performance.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$200,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 6 succeeding fiscal years.

“(c) GRANTS AUTHORIZED.—The Secretary is authorized to award grants to States and local educational agencies to enable the States and local educational agencies to carry out the purpose described in subsection (a).

“(d) APPLICATION.—In order to receive a grant under this section for any fiscal year, a State or local educational agency shall submit an application to the Secretary at such time and containing such information as the Secretary may require.

“(e) AUTHORIZED USE OF FUNDS.—A State or local educational agency having an application approved under subsection (d) shall use the grant funds received under this section to collaborate with institutions of higher education or other research institutions,

experts on curriculum, teachers, administrators, parents, and assessment developers for the purpose of developing enhanced assessments that are aligned with standards and curriculum, are valid and reliable for the purposes for which the assessments are to be used, are grade-appropriate, include multiple measures of student achievement from multiple sources, and otherwise meet the requirements of section 1111(b)(3). Such assessments shall strive to better measure higher order thinking skills, understanding, analytical ability, and learning over time through the development of assessment tools that include techniques such as performance, curriculum-, and technology-based assessments.

“(f) ANNUAL REPORTS.—Each State or local educational agency receiving a grant under this section shall report to the Secretary at the end of the fiscal year for which the State or local educational agency received the grant on the progress of the State or local educational agency in improving the quality and fairness of assessments with respect to the purpose described in subsection (a).”.

Mr. WELLSTONE. Mr. President, this amendment greatly strengthens this legislation. It focuses on an issue that we haven't really spent a lot of time on yet. This has to do with how we make sure we have the very highest quality of testing and how we make sure we give our States and school districts the flexibility to do the very best job.

There has been a rush to expand testing without stepping back to determine whether the testing system we have is working. It is only common sense—I believe we have worked hard on this amendment, and there will be strong support for it—to assume that if you want the tests to be effective, they have to be of high quality.

This goes back to why we are measuring student achievement in the first place and what our goals are if we are going to set up these accountability systems. Are we measuring for the sake of measuring only or are we measuring to get the best picture of how our children are doing? That is what we are all about or should be all about.

If we want to get the best picture of how our students are doing and how effective the schools are in teaching, we need to have the best possible assessments. That is what this amendment seeks. These assessments need to be aligned with standards, local curriculum, and classroom instruction. These assessments need to be free from bias. They need to reflect both the range and depth of student knowledge, and they need to assess not just memorized responses but student reasoning and understanding. They need to be used only for the purposes for which they are valid and reliable. This is important.

Holding States and school districts and teachers accountable to the wrong test can, in fact, be more harmful than helpful. Using low-level national tests to measure performance within a State shows us little of how the States, the school districts, the schools, and the students are doing in achieving their State and local educational goals.

This amendment seeks to allow States to develop tests that are of

higher quality and better meet the localized needs of their students, their parents, and their teachers.

I will repeat these words again. They should be important to Senators and staff. This amendment allows States to develop tests that are of higher quality and better meet the localized needs of their students, teachers, and parents.

To ensure that the assessments are of high quality, this amendment says the assessments under title I have to meet relevant national standards developed by the American Educational Research Association, the American Psychological Association and the National Council of Measurement in Education. These standards are the standards from everyone in the testing field—I say to the Senator from Vermont and the Senator from Massachusetts, these are the standards that have been used as guides for testmakers and test users for decades, and they are implied but they are not specifically referenced in the current law.

Secondly, it says that States have to provide evidence to the Secretary that the tests they use are of adequate technical quality for each purpose for which they are used.

Third, it says that itemized score analyses should be provided to districts and schools so the tests can meet their intended purpose, which is to help the people on the ground, the teachers and the parents, to know specifically what their children are struggling with and how they can help them do better.

Finally, the amendment provides grants to States to enter into partnerships to research and develop the highest quality assessments possible so they can most accurately and fairly measure student achievement.

I will go into this later on, but I say to the Senate: My background is education. I was a teacher for 20 years. I don't want to give any ground on rigor or accountability, but I don't want us to do this the wrong way. I want to make sure our States and school districts can design the kinds of tests that are comprehensive, that have multiple measures, that are coherent, that we are actually measuring what is being taught, and also to make sure they assess progress over time.

This is so important because we don't want to put our teachers and school districts in a position of having to teach to tests. We don't want to drive out our best teachers. We want to have the best teachers in our schools. We don't want teachers to be drill sergeants. There is a distinction between training and education.

The need for this amendment is clear. The Independent Review Panel on title I, which was mandated in the 1994 reauthorization, issued its report “Improving the Odds” this January. The report concluded:

Many States use assessment results from a single test—often traditional multiple choice tests. Although the tests may have an important place in state assessment systems, they rarely capture the depth and breadth of

knowledge reflected in State content standards.

The panel went on to make a strong recommendation. It said:

Better assessments for instructional and accountability purposes are urgently needed.

The link between better assessments and better accountability was made by Robert Schwartz, president of Achieve, Inc., the nonprofit arm of the standards-based reform movement. He recently said:

You simply can't accomplish the goals of this movement if you're using off-the-shelf, relatively low-level tests . . . Tests have taken on too prominent a role in these reforms and that's in part because of people rushing to attach consequences to them before, in a lot of places, we have really gotten the tests right.

This amendment is about making sure we get the tests right. That is what this amendment is about.

This is exactly my point. We need to get the tests right. Research shows that low-quality assessments can actually do more harm than good. The Standards on Educational and Psychological Testing clearly indicate this. The standards state:

The proper use of tests can result in wiser decisions about individuals and programs than would be the case without their use and also can provide a route to broader and more equitable access to education and employment.

That is if it is done the right way.

The improper use of tests, however, can cause considerable harm to test takers and other parties affected by test-based decisions.

It is our obligation to help States and districts ensure that tests are done right so they can achieve the best effect.

The standards go on to say:

Beyond any intended policy goals, it is important to consider any potential unintended effects that may result from large scale testing programs. Concerns have been raised, for instance, about narrowing the curriculum to focus only on the objectives tested, restricting the range of instructional approaches to correspond to testing format, increasing the number of drop-outs among students who do not pass the test, and encouraging other instructional or administrative practices that may raise test scores without affecting the quality of education. It is important for those who mandate tests to consider and monitor their consequences and to identify and minimize the potential of negative consequences.

With my colleagues' support, we want to make sure the testing is done the right way, and that is what we will do if we adopt this amendment.

One of the key problems with low-quality tests and accountability systems that rely too heavily on a single measure of student progress is in producing very counterproductive educational effects. There is too much teaching to the test, leading to drill instruction which does not reflect real learning and which excludes key components of education that are not covered by the tests. Further, the over-reliance on tests could cause teachers to leave the profession at a time when

good teachers are what our country needs the most.

Again, I am going to talk about this more, but if we do not get this right, we will rue the day that we have set up a system that basically creates a situation where your very best teachers are going to leave the profession, and we are not going to attract the best teachers.

The first concern has to do with teaching to the test. Let me cite for my colleagues the Committee for Economic Development, which is a strongly pro-testing coalition of business leaders which warns against test-based accountability systems that "lead to narrow test based coaching rather than rich instruction."

Test preparation is not necessarily bad, but if it comes at the expense of real learning, it becomes a major problem. Many will say that teaching to tests can be good, but if the tests are of low quality, which too many are, then it most certainly is not for the good.

The recent Education Week/Pew Charitable Trust study, "Quality Counts," found that nearly 70 percent of the teachers said that instruction stresses tests "far" or "somewhat" too much. Sixty-six percent of the teachers also said that State assessments were forcing them to concentrate too much on what is tested to the detriment of other report topics.

I will tell you what topics are neglected: social studies, arts, science, technology, all of which are integral to good education.

For example, in Washington State, a recent analysis by the Rand Corporation showed that fourth grade teachers shifted significant time away from the arts, science, health and fitness, social studies, and communication and listening skills because none of these areas were measured by the tests. Is that what we want to do? We do not want to end up undercutting the quality of education of children in this country.

"Quality Counts" goes on to say:

Any one test samples only a narrow range of what students should be learning. If teachers concentrate on the test—rather than the broader content undergirding the exams—it could lead to a bump in test results that does not lead or does not reflect real learning gains.

In fact, 45 percent of the teachers surveyed said they spent a great deal of time teaching students how to take tests, doing activities such as learning to fill in bubbles correctly.

Another recent survey of Texas teachers indicated that only 27 percent of the teachers believe that increases in the TAAS scores reflect an increase in the quality of learning and teaching, rather than teaching to the test.

A 1998 study of the Chicago public schools concluded that the demand for high test scores had actually slowed down instruction as teachers stopped introducing new material to review and practice for upcoming exams.

The most egregious examples of teaching to the test are schools such as

the Stevenson Elementary School in Houston that pays as much as \$10,000 per year to hire the Stanley Kaplan Test Preparation Company to teach teachers how to teach kids to take tests.

According to the San Jose Mercury News, schools in East Palo Alto, which is one of the poorest districts in California, also paid Stanley Kaplan \$10,000 each to consult with them on test-taking strategies.

According to the same article:

Schools across California are spending thousands to buy computer programs, hire consultants, and purchase workbooks and materials. They're redesigning spelling tests and math lessons, all in an effort to help students become better test takers.

Sadly, it is the low-income schools that are affected the most. The National Science Foundation found that teachers with more than 60 percent minority students in their classes reported more test preparation and more test-altered instruction than those with fewer minority students in their class. This research is confirmed by the Harvard Civil Rights Project and several other studies.

The reason I believe the vote on this amendment will be one of the most important votes on this bill is that this amendment speaks directly to whether or not we are going to have the best teachers. I am very concerned that drill education and an increasing emphasis on scores is going to cause the best teachers to leave the profession, to leave the schools where they are needed the most. This is tragic at the very time we face an acute teacher shortage. We know that the single most important factor in closing the achievement gap between students is the quality of the teachers the students have. We will see teachers leaving the profession.

Linda Darling Hammond, who is a renowned educator at Stanford University, and Jonathan Kozol, who has written some of the most powerful books about poor children and education in America, have both addressed this issue. Jonathan Kozol said:

Hundreds of the most exciting and beautifully educated teachers are already fleeing from inner city schools in order to escape what one brilliant young teacher calls "examination hell."

It is ironic because in our quest to close the achievement gap, Kozol finds that what we are actually doing is "robbing urban and poor rural children of the opportunities Senators give their own kids."

What is going on? We already know where all the pressure is. We already know where all the focus is on the drill education, the teaching to the tests. It is in inner-city, rural, small towns. What you are going to have, or what you have right now, is the teachers who know how to teach and are not involved in worksheet education are the very teachers who are going to leave. It is the teachers who are more robotic and are intent to do worksheet teach-

ing and learning, which is educationally deadening—they are going to be the teachers who stay. We will be making a huge mistake if we don't make sure the testing is done in a comprehensive and coherent way.

There was an op-ed piece in the New York Times. It was written by a fifth-grade teacher who obviously had great passion for his work. Listen to his words:

But as I teach from day to day . . . I no longer see the students in the way I once did—certainly not in the same exuberant light as when I first started teaching five years ago. Where once they were "challenging" or "marginal" students, I am now beginning to see "liabilities." Where once there was a student of "limited promise," there is now an inescapable deficit that all available efforts will only nominally affect.

One way to avoid such negative outcomes and ensure that tests do not inhibit real learning is to design higher quality tests that measure how children think rather than just what they can remember. The Standards for Educational and Psychological Testing asserts, for example, that:

If a test is intended to measure mathematical reasoning, it becomes important to determine whether examinees are in fact reasoning about the material given instead of following just a standard algorithm.

Too often, today's tests are failing their mission. The Center for Education Policy's recent study on the state of education reform concludes:

The tests commonly used for accountability purposes don't tell us how students reached an answer, why they are having difficulty, or how we can help them.

We therefore need to design assessments that are more closely linked to classroom instruction. That is what our school districts, schools, teachers, principals, school boards, and our PTAs at the local level are telling us. We need to reflect student learning over time so that schools are not judged in a single shot but, rather, are judged more deeply and comprehensively through multiple measures of achievement.

Such an approach would reward teachers who, as the Center for School Change in Minnesota recommends, are able to actually effect and improve children's analytic abilities and communications skills rather than teachers who drill the best. It would reward schools and teachers who ensure that day-to-day classroom instruction is high quality, not just those who have learned how best to game assessments. That is what this amendment seeks to do.

The Committee for Economic Development report urges this approach. It says:

There is more work to do in designing assessment instruments that can measure a rich array of knowledge and skills embedded in rigorous and substantive standards.

Before we rush ahead, let's meet that challenge.

Beyond the effects in the classroom, higher quality tests and fairer use of tests are needed because low-quality

tests can lead to inaccurate assessments, which do not serve but, rather, subvert the efforts at true educational accountability. Nobody put it better than the strongly protesting Committee for Economic Development. These business leaders concluded in their report—there should be almost unanimous support for this amendment—entitled “Measuring What Matters” that:

Tests that are not valid, reliable, and fair will obviously be inaccurate indicators of the academic achievement of students and can lead to wrong decisions being made about students and the schools.

We want to make sure these tests are accurate, reliable, and fair. I know the language I speak is technical, but the issue is of great import.

Let me just simply summarize my position. There is more to say, and perhaps we will listen to other colleagues as well, because there is much more than I can cite as evidence.

One of the things we have to make sure of is that we have comprehensive multiple measures that will measure schools and students. You have to do that; otherwise, you are abusing the tests. It is very dangerous to use a single measure to determine how well schools and students are doing. But beyond pure error, it is important to realize that even without technical error, tests tell only a part of the education story. They should be accompanied by other measures to ensure that we are getting the best picture possible of how these students and schools are doing. That is the way we can hold the schools truly and fairly accountable.

In his testimony before the House Education and Workforce Committee, Kurt M. Landgraf, president and CEO of the Educational Testing Service, which is one of the largest providers of K-12 testing services in the country, said:

Scores from large scale assessments should not be used alone if other information will increase the validity of the decisions being made.

Riverside Publishing, another of the major test publishers in the country, in their Interpretive Guide For School Administrators for the Iowa Test of Basic Skills, said:

Many of the common misuses (of standardized tests) stem from depending on a single test score to make a decision about a student or class of students.

The National Association of State Boards of Education also did a comprehensive study which indicated the same thing.

The study I mentioned before, “Quality Counts,” shows that we need to have multiple measures. In no area is this phenomenon more evident than in the use of a single standardized test to make a high-stakes decision about a student, as whether or not that student will be promoted from one grade to another or in what reading group that student will be placed.

Nearly everybody involved in the testing field, whether it is the groups

that write the professional standards, the National Research Council, test publishers, the business community that invested so much in the testing movement—all agree that a single test should never be the sole determinant in making high-stakes educational decisions about individual students or, for that matter, about individual schools.

The Standards for Educational and Psychological Testing asserts that in educational settings, a decision or characterization that will have a major impact on a student should not be made on the basis of a single test score. The National Research Council—we commissioned this report—in 1999 concludes that:

No single test score can be considered a definitive measure of a student's knowledge, and an educational decision that will have a major impact on a test taker should not be made solely or automatically on the basis of a single test score.

So we need multiple measures. Second, right now, too many of the tests are not aligned with the curriculum and standards. So another condition that has to be met, another problem that has to be met, is that current assessments all too often are not aligned with standards, curriculum, and instruction. That is what it has to be.

I am putting into the language what we have implied. Alignment is the cornerstone of accountability. If we don't have tests that are aligned with the standards and curriculum and the instruction, then we are not going to have real accountability.

Now, the Committee for Economic Development in their report makes the point that barriers to alignment are more serious when States use so-called off-the-shelf commercial tests rather than developing their own. The National Association of State Boards of Education confirms in their study and makes the point that norm reference tests are unable to measure the attainment of content and performance standards.

This amendment provides grants to States to better align their assessments, as well as to ensure that the tests validly assess the domain they are intended to measure. This is common sense, but it is so important.

This amendment seeks not to stop using tests but to ensure fairness and accuracy in the large-scale assessments that are used under title I. This amendment seeks not to stop using tests. I want to make sure this is done the right way. I want to make sure it is fair. I want to make sure the tests are accurate. I want to make sure we have real accountability. I want to make sure we are respectful of teachers. I want to make sure we are respectful of school boards. I want to make sure we are respectful of what goes on in our schools.

This call for fairness and accuracy is a call that has been made by business leaders, by educators, by government leaders, and by the most respected research institutes in the country. I rare-

ly read text when I speak on the floor of the Senate. However, there are so many authorities and studies to cite, the evidence is irrefutable. We want to make sure we do this the right way and we must do it the right way.

This research and this call for accurate, fair testing has crossed party lines. I hope it will have bipartisan support in the Senate.

The most recent National Research Council report on testing, “Knowing What Students Know,” outlines the direction in which I think we as policymakers need to move to make sure the testing is done fairly and correctly. The report concludes that:

... policymakers are urged to recognize the limits of current assessments and to support the development of new systems of multiple assessments that would improve their ability to make decisions about educational programs and allocation of resources.

It says:

... needed are classroom and large-scale assessments that help all students succeed in school by making as clearly as possible to them, their teachers and other educational stakeholders the nature of their accomplishments and the progress of their learning.

We surely ought to be able to meet that condition.

Right now, the authors report:

Assessment practices need to move beyond a focus on component skills and discrete bits of knowledge to encompass more complex aspects of student achievement.

The authors recommended that:

Funding should be provided for a major program of research, guided by a synthesis of cognitive and measurement principles, that focus on the design of assessments that yield more valid and fair inferences about student achievement.

And key components are what? Multiple measures of student achievement and a move to more performance-based, curriculum-embedded assessment.

Doesn't that make sense, to have multiple measures, and to make sure what you are testing is aligned with the curriculum? The three principles of good assessment are laid out.

I conclude on the principles: Comprehensiveness, meaning you have a range of measurement approaches so that you have a variety of evidence to support educational decisionmaking; coherence, meaning that the assessment should be closely linked to curriculum and instruction; and continuity, meaning that the assessment should measure student progress over time.

I emphasize, this legislation, S. 1. is a major departure in public policy in the sense we are now calling on all of the school districts in all of the States in all of the schools in all of our States to test children as young as age 8 to age 13 every single year. There can be a philosophical discussion about whether we should be doing that. The only thing I am saying is, let's do it the right way.

I have been working on this amendment, using the best studies we have. I have been in touch with people all over

the country. Basically, I am saying, let's make sure there is comprehensiveness, which means multiple measures. Make sure there is coherence; that we actually measure the curriculum and instruction. Otherwise the teachers teach to the tests. We don't want that. We don't want drill education.

Finally, let's have continuity, which means that the assessment should measure student progress over time.

Jonathan Kozol is someone I think we all respect. He writes that it is the best teachers that hate testing agenda the most. They will not remain in public schools if they are forced to be drill sergeants for exams instead of being educators. Hundreds of the most exciting and beautifully educated teachers are already fleeing from inner-city schools in order to escape what one teacher, a graduate of Swarthmore calls "examination hell." I don't know that we have been in the inner-city neighborhoods; I don't think we visit the inner-city neighborhoods that Jonathan Kozol does.

The dreariest and most robotic teachers will remain, the flowing and passionate teachers will get out as fast as they can. They will be hired in exclusive prep schools to teach the children of the rich under ideal circumstances.

He goes on to say: Who will you find to replace these beautiful young teachers? This is another way of robbing the urban poor and rural children of the opportunities that we give to our own children.

I think he is right. I have been a college teacher for 20 years. I have been in a school almost all the time in Minnesota, about every 2 weeks for the last 10½ years. I desperately believe in the value of equal opportunity for every child. I absolutely believe education is the foundation of opportunity. I know from my 20 years as a college teacher that you can take a spark of learning in a child and if you ignite that spark of learning and you can take a child from any background to a lifetime of creativity and accomplishment. That is the best thing about the United States of America. I also know you can pour cold water on that spark of learning.

I have raised two objections to this piece of legislation, but I think this legislation can be improved upon and can end up being a good, strong, bipartisan effort. Maybe. One of those concerns is, for God's sake, if you are going to do the testing, you better give the children and the teachers and the schools the tools so they can do well. That is the Federal Government living up to our commitment by way of resources. That is holding us accountable.

The other issue I raise, which is what this amendment speaks to, is let's just do the testing the right way. There is a reaction all over the country about too much of a reliance on one single standardized test. You have to have multiple measures. Let's make sure the tests actually are connected to the curriculum

and to the instruction that is taking place, that is respectful of our teachers and our local school districts. Let's make sure the tests assess the progress of a child over a period of time.

I have been taking all of the best research and all of what we have implied in this bill, language we already have in this bill, making it explicit that we are going to do this the right way; that we are going to make sure that States and school districts can do this the right way.

There could not be a more important amendment. I am sorry that some of my presentation was so technical and seemed so cut-and-dried. But if we do this the wrong way, we will have worksheet teaching and worksheet education. We will have drill education. It is going to be training, but it is not really going to be education. It is not going to fire the imagination. Then arts gets dropped and music gets dropped and social studies gets dropped and drama gets dropped—because none of it is tested in this drill education. My God, we do not want to do that. We do not want to channel schools down that direction. We do not want to force them to go in that direction.

This amendment makes sure that this testing—if this is the path we are going down, using this definition of accountability—is done the right way.

If my colleagues think about their own States, they will see what is happening. A lot of the teachers and kids around the country, actually mainly in the suburbs, are now rebelling against these standardized tests. They hate them. Some are refusing to take them, because the parents in the suburbs are saying we don't want one-third of the time of the teachers who could be involved in great education wasted just teaching to these tests. It is interesting from where the rebellion is coming.

Again, one more time: The very school districts which are the most underserved are the ones where you want to get the best teachers. I have two children in public education. One is in an inner-city school, the other isn't, but both hate this reliance on single standardized tests. You are not going to get the teachers. I would not teach under this kind of situation, and you would not.

If the Federal Government is going to have this mandate, for God's sake, let's do it the right way.

I yield the floor and reserve the remainder of my time. There is no time limit, I gather, on this amendment.

The PRESIDING OFFICER. The Senator is correct.

The Senator from Wyoming.

Mr. ENZI. Mr. President, I am pleased today to discuss the Better Education for Students and Teachers Act, the BEST Act. We can never have too much debate on education. It is the future of our country.

This legislation achieves the simple yet powerful goal of ensuring no child is left behind. It does this by strength-

ening accountability for how Federal dollars are spent, by increasing students' access to technology, by improving teacher quality, and by making the schools safer for all students. It also fulfills an important commitment to States such as Wyoming that are already heavily invested in improving student achievement by allowing them the flexibility they need to continue to innovate.

I want to address a series of amendments we have and will be offering. I will be concentrating on quality of teachers, but I want to mention that yesterday we had two sense-of-the-Senate amendments. I am not going to go into what those amendments were about, but I do want to mention that I voted against both of them. It had nothing to do with the content of each of the sense-of-the-Senate amendments. It was because it was a sense-of-the-Senate amendment.

Sense-of-the-Senate amendments take a great deal of time, including if there are requested rollcall votes, which we know take 30 to 45 minutes. When we are done, they get discarded because the sense of the Senate doesn't have anything to do with the House. So they are just making a statement, and we have a lot of different ways we can make a statement. Since I have not seen any value to a sense-of-the-Senate amendment since I arrived in the Senate some 5 years ago, I will be voting against sense-of-the-Senate amendments.

Sense-of-the-Senate amendments are often agreed to. It is because of a mixture of approaches to sense-of-the-Senate amendments. A number of my colleagues say: They never go anywhere, they don't mean anything, so I'll vote for them. Then I will have a good recorded vote.

Some people turn in sense-of-the-Senate amendments so they can have a good recorded vote. I prefer to concentrate my efforts on those things that will wind up in a final bill, in final legislation that will affect the country, if we are going to have votes.

Today we had a technology amendment. It passed on a 50-49 vote. Something people might not be aware of is that technology is built into the bill, but it is built in with a great deal of flexibility. The \$100 million to which we agreed pulled out money from the big technology pool and put it into a very specific area.

Let me tell you what happens when that gets down to Wyoming. We don't have enough money to do a project. But if it is left in the big pool and we can utilize the technology as the school districts see fit, with a bigger pool of money, it can make a difference to every kid in Wyoming.

We have to be very careful in this legislation that we do not put in little protections, because we were asked to, that destroy the flexibility of the bill. Flexibility is the key philosophy of this bill that allows the decisions to be made closest to the child and involve

the parent, the teacher, the school board, and the community. That is where education works best.

The amendment before us now is on testing. I am not sure what all the fuss is about having some testing required. When I was in grade school, we had annual testing. I know the kinds of tests we had were called into question because they were multiple choice, which doesn't allow people their full expression. It puts some limitation on the value of the test as it comes out. But let me tell you, my parents looked at those results. They expected to see my results. They expected to see how it fit in with the rest of the class and the other students in the district who were in my grade. They used that as a comparison. I can tell you, if everybody had been off the chart, they would not have been pleased. They wanted to know how I was doing. That resulted in parent involvement, which we have said is one of the big keys to education.

When I was in the Wyoming Legislature, I headed up an education task force at one point. It was interesting to hear teacher after teacher essentially say that the biggest problem they had in the classroom was getting kids to show up, do their work, and behave. That is basic education. The way it was handled when I was growing up was it was, again, parent involvement, discipline at home. If my teacher would have told my parents I did something wrong, the discipline would have happened first and then the explanation of why I felt justified. The teacher was right. I had an opportunity to appeal after the punishment because discipline in the classroom was important.

When I was in fourth grade, I had the unique experience of being in a class that was half fourth graders and half fifth graders. We do not have a lot of class size problems in Wyoming. We definitely did not at that time. To have about 15 students in the class, they combined the 2 classes. It gave those of us in the fourth grade a little added advantage because we were always hearing the things that the fifth graders were being taught at the point that their particular lessons were being taught.

But I also had the unfortunate situation of living about a half block from the school. I had this delightful teacher who said: As soon as you finish your work, you can go out to recess. My dad happened to notice I was out at recess a lot. I was a fast worker. So he asked to see some of my work. When he checked it, he found out it was not correct. So we did a little discipline at that point, too.

He found out I was writing extremely small and that made it difficult for the teacher to check my work. I do remember him saying I would never write small again. It embarrassed him. He could afford the paper, and it looked as if he could not, and he was not going to put up with that. And we moved. We moved to another school so I would not have the same opportunity for recess.

My parents always said "when you go to college." They didn't say "if you go to college." Parents make a huge impact on students by their faith in their child and their encouragement for their child.

My dad was a traveling shoe salesman most of his life, and I got to travel with him in the summer. When we were making those trips, people would say: Are you going to grow up and be a salesman like your dad? Before I could answer, my dad would always jump into the conversation and say: I don't care whether he is a doctor or a lawyer or a shoe salesman or a ditch digger. But what I always tell him is, if he is a ditch digger, I want that ditch to be so distinctive that anybody can look at it and say, "That is a Mike Enzi ditch."

Parental encouragement, parental faith—one of the unfortunate things for us around here is we can't legislate that. There are just some things that should not be legislated and can't be legislated. But they can be encouraged. Today we are talking about one of these things. We are talking about the subject of teachers, which we can do something about, and we are doing something about that in this bill.

Some of the most important provisions in this bill concern our Nation's teachers. As we all know, one of our Nation's greatest educational resources is our teachers. Quite often our teachers spend more time with our kids than we do. I say this not only because my daughter is a teacher but because research has found that with the exception of the involved parent, no other factor affects a child's academic achievement more than having knowledgeable, skillful teachers.

While I have been very interested in ongoing negotiations over some of the provisions in this bill, there is one area that is not negotiable, and that is ensuring that our children have high-quality teachers, especially when it comes to reading and math.

I would like everybody to think back through their past to people who influenced them the most. I suspect as you go through that little exercise—I hope you will spend some time doing that—that many of the people who will be on your list will be former teachers, ones who had some kind of an influence on your life. I hope you will not only list them, but I hope if there are any who are living, you will write them a little note and mention the effect they had on your life.

At this point I have to mention a couple that were my teachers.

When I was in eighth grade I had a home room teacher who made us concentrate on where we were going to go to college and what we would take, and even had us follow a curriculum and write to colleges, get their course book, and outline the exact courses we would take through a 4-year college education in the field of our choice. I learned a great deal about how to plan for college.

She also involved us in a lot of interesting discussions and later served in the State legislature with me. I have to mention that she quit teaching and became an administrator. After she retired, she ran for the State legislature. It was a great deal of fun to be in the State legislature with a former teacher, particularly one with a voice that attracts people's attention, gets their attention, and drives home a point. I always did like the way she started a speech just after I had spoken where she said: MIKE ENZI was a student of mine, and he knows what he is talking about. Do what he says.

You just can't have that kind of backing in legislation you are doing and with quite as much effect as she had.

I had a math teacher in eighth grade, Mr. Shovelin. He introduced us to slide rules. Kids today don't know what slide rules are. He helped us form a future engineers club so we would be able to compete in math. He did anything he could do to get us excited about math. Teachers do that.

Later I had Mr. Popovich in high school, another math teacher, who was probably the most enthusiastic teacher I ever had. He made sure that everybody in our math class understood each principle we covered, and he did that by asking questions. If you got it right, he was enthusiastic and jumped in the air. If we got it wrong, he was enthusiastic, and he would literally climb onto the chalk tray saying, No, that is not it, and giving another version of how it could be.

I also liked his explanation of geometry. He said that is really the only course that you get in high school that is logic. Today, I think there are some courses that are actually logic courses. But he pointed out how geometry is logic, and approached it as the old Greeks did, trying to prove verbally and through pictures very basic concepts by starting out with the most basic and building on it.

Mrs. Embry is a lady who is about 4-foot-nothing with bright red hair. She taught international affairs. I needed an elective, and I didn't think I would have any interest in it. Before I left high school, I applied for college at George Washington University and was planning to go into international affairs. She had a tremendous effect on my life. She also happened to be the lady who was part of the team that decoded the messages when Pearl Harbor was being bombed.

Mrs. Sprague, an English teacher, had an impact on me. She said, "Why don't you use more humor in what you write? You do very well with humor."

One little sentence such as that changes a student's perspective on themselves and their future.

There are thousands and thousands of teachers out there who are doing that every day.

I am pleased that title II of S. 1 addresses the issue of teacher quality. Unlike more restrictive proposals that

require States and local school districts to use Federal funds exclusively for the purpose of hiring new teachers, this legislation provides maximum flexibility to States. It will allow them to develop high-quality, professional development programs, provide incentives to retain quality teachers, fund innovative teacher programs such as teacher testing, merit-based teacher performance systems, or alternative routes of certification, or hire additional teachers if that is what they believe is necessary.

It would authorize a separate program to support math and science partnerships between State education agencies, higher education math and science departments and local school districts, and activities for these partnerships through the development of rigorous math and science curriculum; professional development activities specifically geared toward math and science teachers; recruitment efforts to encourage more college students majoring in math and science to enter the teaching profession and summer workshops; and follow-up training in the fields of math and science.

When I was in junior high, Russia set off Sputnik. It launched a whole new interest in science in the United States. A group of boys, who were my friends, and I formed a rocket explorer post. It was the flexibility in the Boy Scout Program that allowed us to do career investigation.

The reason I mention this is because I personally had a teacher named Tom Allen who was the biology teacher at the high school who worked with me on my special project. Many of us have seen the *October Skies* movie of young men who were encouraged by this great Russian event, and then the American challenge that was issued at that point. That is the group of people with whom I worked.

This biology teacher worked with me to design a nose cone for our rocket that would take a mouse up and safely return it. We never put a mouse in the nose cone, but I designed space capsules for them, put mice in the capsule, spun them on a centrifuge, and then had to evaluate the way they came out of it.

I learned a lot of math. I learned a lot of science. I learned a lot of biology. He was a special teacher.

There are two teachers in Gillette, who are retiring now—Nello and Rollo Williams. They are brothers. One runs the planetarium. One of them runs the adventurium. The adventurium is a science lab that invites kids from all over northern Wyoming to do actual experiments and special projects. They can see a series of events that give them a better understanding of science. Each of them taught during the summers for science camps, kids doing extra school work, learning through extra special teachers.

It isn't just limited to the generation that is retiring. My daughter is a teacher. She is part of the new genera-

tion. While she has been teaching, she has been working on two master's degrees so that she can be a better teacher, although one of those gets her a certificate in administration.

I mentioned Mrs. Wright, who went to administration, Mr. Shovelin, who went to administration, and Mr. Popovich, who went to administration. My daughter is looking to go to administration. Part of the reason is that that is where the money is. All of those people liked their classroom work better and believed they made more of an impact on the kids as a teacher.

My daughter emphasizes school-to-career. She does some of that summer teaching. When she finishes a major assignment, she calls the parents of the kids who did not turn in the assignment. That sounds fairly simple. Check and see how many teachers do that. If they don't, let me suggest to you the reason they don't. Her biggest discouragement was the first time she did it, and then she called us in tears. She called the parents, told them the assignment had not been turned in, and the parents said: So, what are you going to do about it?

Not a very good parental involvement activity. But she persists in it.

She also catches them doing things right, writes a note to their parents, and slips it in their book or their backpack, where sooner or later the child discovers it, and rather than delivering this missive to their parents, they open it first to see what it is, and find out that it is something good, and it does get delivered to the parents. But whatever she notes that they are doing well—better than anyone—they do the rest of the year, perhaps the rest of their life.

Teachers do have an impact. This bill will affect teachers. This bill does allow States to pursue alternative routes of certification, to encourage talented individuals from other fields to enter the teaching profession. There are many qualified individuals who might be willing to teach if it were easier to become certified.

Although the Federal Government should never dictate certification standards to individual States, we should make it as easy as possible for interested States to recruit midcareer professionals, and perhaps retired members of the military, into the teaching profession. Title II of S. 1 goes a long way toward achieving that goal.

Of course, it has some very good rural possibilities, too. I know of one very small community in Wyoming where there was a lady who grew up in France who had a good command of the French language. She wanted to teach French to the very few students—fewer than 15—who were in the school district. Sometimes certification can get in the way of that.

I think we also need to bring professionals from all careers into the schools to help the kids understand that what they are learning will be valuable later in their life. I do not think

I have ever learned anything that did not turn out to be valuable sometime later. Good teachers encourage that kind of participation.

Despite all these efforts to improve teacher quality, there are some who say: All we really need to do to improve student achievement is to hire more teachers. I have to tell you, for small rural States such as Wyoming, that is not the answer. While I certainly recognize that our Nation is facing a teacher shortage in the coming years, Wyoming currently has a declining student enrollment which is forcing some districts to eliminate teaching positions. More money specifically earmarked for hiring new teachers will be of little help to the schools in those areas with declining enrollment.

In addition, rural States such as Wyoming often have difficulty recruiting and retaining teachers, especially highly qualified teachers. Money that is earmarked for hiring new teachers will not help Wyoming keep our best teachers from leaving the State.

Congress must provide States and local school districts the flexibility to pay good teachers more money or to provide them with other incentives in order to get them to continue teaching. This bill provides flexibility.

I think it may be helpful to provide my colleagues with some hard data on Wyoming to illustrate that this is not simply lip service to a particular philosophy on education. The variations in education staffing needs across the country are real, and they are very dramatic.

For example, Wyoming has 48 school districts, with a total of 378 elementary and secondary schools. Here is the important part: Of those schools, 79 have an enrollment of fewer than 50 students. I am not talking of a classroom size of 50 students, I am talking of a total enrollment in the school of 50 students. I am not kidding when I say, in Wyoming 79 schools are defined as "rural."

Then we have what we call the "small schools." Those are the schools with an enrollment of 50 to 199 kids. There are 122 such schools in Wyoming. There are 143 "medium-sized" schools, with an enrollment ranging from 200 to 599 students. And we have a whopping 34 schools with an enrollment exceeding 500 kids for grade school and 600 kids for high school.

Districts often have to incorporate several grade schools to form a big high school. Let me tell you, nothing gets the good people of Wyoming more agitated than suggestions that they ought to consolidate those small or rural schools into a medium-sized or big school. It takes away the community. It takes away the emphasis. It takes away the way we have done things in Wyoming.

Now let me put this in context. The total enrollment in Wyoming's 378 public schools was 91,883. That is 1999 data. In New York State, 2.8 million children were enrolled in public school. That is

1997 data. So both of those would have changed a little.

As for teachers in Wyoming, they are our heroes. There are 6,887 of them. Based on aggregate teacher salary expenditures reported for the State last year, the average salary of a teacher in Wyoming is just under \$29,000. Those teachers are underpaid.

This bill can do something about that. If we adopt the flexibility in title II of this bill, the teacher quality provision, then schools in Wyoming can use funds to give teachers a raise or reward outstanding teachers or provide incentives to recruit highly qualified teachers to our great State.

When educators from Wyoming visit me, the resounding message is usually not: Make our schools and class sizes even smaller; it is: Help us recruit good teachers and keep good teachers—with a lot of emphasis on the “keep good teachers,” and the need for higher pay and flexibility.

If you can believe it, there have been teachers hired in Wyoming under the Class Size Reduction Initiative that was appropriated but never authorized for the past 2 years. If they so choose, the schools that hired those teachers can retain them under this bill. However, the question I ask, on behalf of all the schools that were not eligible for that money because they already had small school size, is: Are the struggles they face in recruiting and retaining quality teachers any less important in ensuring that every child receives a quality education?

Do not forget the variations in this country, the fact that we cannot have one-size-fits-all Government. When it comes from Washington, it is too little, with too many regulations. We are not suggesting it ought to be more, with more regulations.

The research shows that while a small class size may have an effect on student performance and achievement, having a highly qualified teacher has an even greater impact. That was shown in a study by Rivkin, Hanushek, and Kain in 1998. And, according to the Department of Education's National Center for Education Statistics, we still need to invest in figuring out how to best help current and new teachers to be highly qualified. Massachusetts provided the perfect example of that, that assisting schools in having great teachers is as important, if not more so, than meeting federally targeted class size goals.

I hope this background about Wyoming's uniquely rural public education system, juxtaposed on that of “big” States, can help my colleagues to appreciate why the flexibility in this bill is so important to meeting the needs of all our children.

I will not see a bill enacted that doesn't provide as much support for Wyoming students' success as it does for the students in big cities. Our children are our most valuable resource, and we must prepare them to face the challenges of the 21st century. We can-

not do this by allowing Washington politicians to implement a one-size-fits-all approach to education.

The Better Education for Students and Teachers Act allows States to decide how to best serve their students and teachers. I strongly support this legislation and encourage my colleagues to do the same, and to maintain the flexibility that it has.

I yield the floor.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank my friend and colleague from Wyoming for sharing his good judgment and observation about education in rural areas, States with smaller populations, and about their particular needs and the challenges they are facing in terms of strengthening teacher quality in those communities. We are grateful for his comments.

I add my strong support to the amendment offered by my good friend Senator WELLSTONE of Minnesota, making sure the tests that are developed under this legislation are going to be the kinds of tests that are going to be helpful and useful in terms of advancing the academic achievement of the children in this country.

We know tests in and of themselves are not reform. Tests don't provide a well-qualified teacher. Tests don't provide smaller class sizes. Tests don't provide afterschool programs. Tests, in and of themselves, are a device and only a device.

In Lancaster, PA, we have seen tests used as frequently as every 9 weeks by teachers. The purpose of those tests is to find out how the children are making progress in different courses. They have had a remarkable amount of success because they are broad dimensioned. They are challenging the thinking process of the children. It demonstrates that when the tests are done well, not just in the kinds of tests, the multiple choice tests, but ones that really evaluate the children's progress and look at the thinking process of the child, and then takes action, it is going to be supplementary services for those children in order to enhance their academic achievement, then there is legitimacy in terms of these kinds of evaluations.

I commend the Senator from Minnesota for bringing this measure to the floor. This has been a matter, among others, that he has been absolutely passionate about. It is well deserved.

What we don't want to do is pass legislation that claims we are doing something about accountability and are relying on the slick, simple, easy multiple choice tests which are being taught by teachers in different communities and then think we are doing something for children. We are not. That is something the Senator wants to address.

There are some wonderful studies that have been done in evaluating what is working and what is not working in

the States and local communities. The statement of the Research and Policy Committee of the Committee for Economic Development is a very interesting evaluation of the effectiveness of evaluating students, measuring student achievement. It reviews in great detail what is being done. They start off by saying that tests are a means, not an end, in school reform.

Real educational improvement requires changing what goes on in classrooms.

It continues from there.

Perhaps one of the more interesting comments came from Education Week, which also has been doing evaluations of the testing process. I will mention a paragraph here:

Districts must draft policies that rely on multiple criteria, including test scores, student's academic performance, and teacher recommendations.

That is how they think you can do the best kinds of evaluation of a child.

“Initially I was resistant to the use of multiple criteria,” acknowledges Gary Cook, director of the Office of Education Accountability in the State education department. This is in the State of Wisconsin.

I have changed my opinion. I think it really forces districts to consider all the pieces of evidence in a student's performance to determine whether they should advance to the next grade or graduate. We need something more than just whether the child is going to be able to get the right answer or guess at the right answer. We need to evaluate how the children get to the answer.

That is the essence of the Wellstone amendment. He has explained it very well.

I know there are other colleagues who want to address the issue. I commend him.

We have enough experience now to know what doesn't work and what is an abuse of the whole testing process and what does work and can be used in evaluating children's progress so that well-trained teachers in classrooms that are small enough so they can teach and can use these tests in ways to help children make progress during the year, understanding what the needs are of those children, and so they can continue to make progress.

That is the essence of the Senator's amendment. He is right on target. It is one of the most important aspects of this legislation. This is one of the most important amendments we have. Many of us have been thinking about how to try to address it. The Senator from Minnesota has, in his typical way, found a pathway to do it.

I commend him and thank him. This is an extraordinary addition to what we are attempting to do with the legislation. I am grateful to him for his bringing this to our attention. I am hopeful we will be able to achieve it.

Let me mention one other evaluation. This is using these portfolio assessments. Here students collect what they have done over a period of time, not just because it is helpful to have all that material in one place but because the process of choosing what to

include and deciding how long to evaluate becomes an opportunity for them to reflect on their past learning as well as to set new goals.

As in other forms of performance assessment, they provide data far more meaningful than what would be learned from a conventional test, standardized or otherwise, about what the student can do and where they still need help. This is the conclusion of an evaluation of a number of the existing tests. It really captures in a few short words what is being sought by the Senator from Minnesota. I again thank him.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I will be brief. I thank the Senator from Massachusetts for his very gracious remarks.

To summarize: What this amendment says is there is three critical ingredients about this testing to make sure that it is reliable, to make sure it is fair, and that it is accurate. One of those ingredients is that it is comprehensive. You want to use multiple measures. You do not want to use one single standardized test to evaluate how students are doing or how schools are doing or how a school district is doing.

The second thing is, you want it to be coherent. You want the testing to actually measure the curriculum, the subject matter that is being taught. You want there to be a connection. You don't want, in turn, teachers to have to teach to standardized tests that have no relation to the subject matter.

It is critically important. This is what the Committee on Economic Development was trying to say in their report. The final thing is that it should be continuous and it should measure the progress of a child over a period of time. That is terribly important to do.

I want to, one more time, say to colleagues that I guarantee you that if we don't have this language that just makes explicit what I think all of us are in agreement on, which is that this testing should be based upon the very best professional standards, then what you are going to have is teachers all over the country having to teach to standardized tests. It is going to be drill education, educationally deadening. It is going to be horrible for kids. It is not going to fire their imagination. It is going to be at cross-purposes to getting people to go into education.

A great deal is at stake. I hope to have support and I appreciate the support of the Senator from Massachusetts. I hope I will have support from the other side of the aisle and that we will pass this amendment. The two concerns I have had about the legislation when we went through committee—I say to the Senator, when we marked up the bill, this was one question. The other is the resource question.

At the very minimum, I think it is terribly important to do this the right

way. If I could, I am speaking from this desk, and I will move to my desk. If I may have the floor for one more second, let me just also list a number of the organizations that are supporting this. They are: the American Association of School Administrators, Hispanic Education Coalition, Mexican American Legal Defense and Education Fund, National Council of La Raza, National Education Association, National Parent Teacher Association, National Hispanic Leadership Agency Scorecard, and the American Psychological Association.

There are a variety of organizations around the country that support it. So I hope this amendment will engender widespread support and that the Senate will pass this amendment. I think it will make it a much better bill. I don't think it is the whole answer. It deals with part of the testing legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I am a big believer in the importance of testing students. I think that testing has an essential and appropriate role in the curriculum of any educational system. I think there is no doubt that we have to test in order to determine whether or not students are meeting high academic standards. It would be a delight, I suppose, to most students who think that we are not going to test them but, indeed, we are.

I think this debate and what the Senator from Minnesota is attempting to bring our attention to is that there are "tests" and there are "tests." Making sure that the tests are used for the purpose of measuring student performance, determining what kind of additional help a student might need, is really what we are focused on through the Senator's amendment.

I appreciated very much Chairman JEFFORDS' important amendment that we voted on last week to make sure we have Federal support, financial support, behind the design and implementation of these tests because we want to send a clear message to States and local districts that we believe in accountability, but we want to put some dollars behind that belief by saying we want you to design and implement tests that are going to really measure what students learn.

Right now, many teachers who contact my office, or the ones I see when I visit schools, as I did on Monday in New York City, are terribly concerned that what might very well happen is that more and more testing will be piled on without there being any requirement that they be worthwhile tests and without the resources to assist the teachers—who, after all, are on the front lines in the classrooms—in knowing how best to address the needs of their students that are revealed by the tests.

I was very impressed by this document put out by the Committee for

Economic Development. My colleagues know that the Committee for Economic Development is a group of business people in our country. They are very committed to creating the conditions that will further economic development, and they know that one of the key conditions, if not the most important one, is the quality of our education. Looking at the board of trustees and the Committee for Economic Development, we have people from the leading corporations in America who see firsthand what their employees need when they come into the workplace, who are on the front lines of hiring people for a job. They have put out a publication that I really commend to my colleagues, to the administration, and to all of us who are concerned about using testing to improve student learning. It is called "Measuring What Matters." It makes many of the same points that Senator WELLSTONE makes.

It might be somewhat surprising for some of the people who serve on the board of trustees for the Committee for Economic Development to know that they agree with Senator WELLSTONE, but they do. They agree that what we need are tests that will actually improve student learning. That certainly is what the intent of the bill that we reported out of the Health Committee under Chairman JEFFORDS' leadership was aimed at doing. How do we make it clear that tests are a means, they are not an end, in school reform. We don't just give the tests and pick out winners and losers. We have never done that in the United States—one of the reasons our educational system is both unique and successful and has been for decades despite our problems, which we talk about endlessly. We should look at some of the reasons why we have been successful.

I would rank near the top of that the flexibility of our educational system. We don't give a test when a child is 11 years old and say, all right, this group of children, you are consigned to a certain set of occupations; this other group, you did well on the 11-year-old test, so we are going to send you to different schools and put you on a different path.

We don't test when children are 14 and make that conclusion. We don't say that there are some children who can only attend certain kinds of courses in certain schools and others are barred because of tests. We don't have the kind of one-test determination that opens the doors or shuts them in colleges in other parts of the world. I think that has served us well in our country.

There are a lot of people who don't take school seriously until they are in high school. Sometimes they graduate and maybe then find their way to a community college. Then they really get energized; they know what they want to learn. So we have always viewed tests not as a stop sign for a child the system holds up and says: You are a loser; you don't know anything. We use them to say: Look, we

need to help. How can we provide more support for you to be able to get the most out of your education?

I think it is important for us to remember that tests are not an end; they are a means. They should be a means toward lifelong learning or improving the climate for learning or for giving individuals the tools they need to be successful, not just in the classroom but in life.

It is also important, as the Committee for Economic Development points out, that tests need to be valid and reliable and equitable. There should not be any doubt that I think any good test would meet those three criteria. First of all, validity: Are we measuring what we intend to measure? If we spend the whole year teaching children one set of facts or studying one set of subjects and we test on something else, that is not a valid test. So we need to make sure that what we measure is what we are teaching, and what we are teaching is in some way reflective of the standards of what we expect from our educational system.

Reliability is also a given. How consistent and dependable are the assessment results? Are these tests that teachers and parents and students and community leaders can depend on because they really reflect what we want our children to know?

Finally, are they equitable tests? That doesn't mean there are two standards, one for certain children who live in affluent suburbs and one for children who live in our poorest neighborhoods. No, if we are doing anything with this effort, it is to try to make sure we combine both excellence and equity and we do everything possible to give the opportunities where they are most needed.

We know we have to be very careful that our tests are fair, that they have no sign of bias toward any group of students. We need the help the Federal Government should provide if they are going to stand behind the regimen of testing we are considering in this bill.

We also need to be sure, if we are going to be using tests, that we get timely results. I offered an amendment in the committee. If tests are going to be given, the results ought to be available in 30 days and no more. What is the point of giving a test in April and you get the results in June or July when the children have gone home or may not get them until the following year?

We should have a sensible testing schedule, and we should require that the results be provided in a timely manner to parents, students, and especially our teachers if they are going to be used for diagnostic purposes and to measure and grade the curriculum as well as the children.

There are a lot of tests that are currently being administered. We give tests for everything now. We give tests for graduation. We give tests for promotion. We ought to be sensible about this. If the Federal Government,

through our actions in the Congress and the administration, are going to say we want a test every year from third to eighth grade to determine how effective our children are learning reading and mathematics, then States have to take a hard look at what else they are testing because it is getting so that many of our schools feel they are spending all their time preparing for tests, administering tests, and grading tests. We have to be sure the tests are appropriate in number as well as content.

I also hope as we move forward on this important education debate that we recognize that accountability for students and teachers is best tied to school performance. I go into schools all the time that are literally within blocks of each other. Some are very successful and some are not. A lot of it has to do with how the school is organized and what their priorities are. I hope the testing we are discussing to be implemented in this bill will help us move entire schools toward better outcomes so that we lift up the performance of a school and create the atmosphere that will be conducive to learning and teaching.

One thing that bothers me, though, is that in our rush for tests and in our implementation of so many tests, a lot of schools are finding it impossible to keep the more well-rounded curriculum that has been the hallmark of American education.

I believe music, art, physical education, extracurricular activities, even field trips, are a part of the educational process. What I hear from so many schools in my State is that the tests take up so much time. The costs of the tests and all that goes with the tests mean that a lot of other important educational objectives are being eliminated.

I hope we take a view of testing that puts it into the context of American education generally. I take a back seat to no one in saying education has to be a local responsibility and a national priority. I have had experience in advocating for testing.

I believe I was the first person in the country who advocated testing teachers, using high-stakes tests. I even recommended schools be based on their performance in how many students they could bring up to grade level. But I am very cautious—and I guess I am putting up a caution light—that we not go so much toward testing as the definition of education that we forget what the learning process is and how unique the American education system is where people can literally wake up in 10th grade or 12th grade or a child can be exposed to art or music or some other part of the curriculum, such as a good science lab in the eighth grade, and all of a sudden learning becomes real and they are not consigned to a second-class citizenship because they did not get into gear before that time.

We are starting to see, with our high-stakes testing in New York, a lot of

dropouts. We are worried we are beginning to see an increase in dropouts. We have to take that seriously. Our goal is not to test children for the sake of testing, then telling them they do not measure up, and then holding them back for the sake of holding them back until they become so frustrated and discouraged they leave the educational system. I do not think that is the goal of any of us in this Chamber.

Our goal is to have an accountability system so that we actually know what is being taught and what our children are learning, and use it for diagnostic purposes to make every child a success.

Raising the caution lights that the amendment of the Senator from Minnesota raises is important for us to think about. I will add one additional caution light. I guess that is the biggest issue of all for me, and that is the resources. I am very concerned, as I will state when we come to this in the days ahead, about the budget. We have been promised it will leave no child behind and will provide the resources for extra testing, to deal with special ed, to deal with more resources for our poorest children, to add teachers so we have lower class sizes, to modernize classrooms. I am worried that none of that will be in the budget.

That puts many of us in a very difficult position because we know that accountability is necessary, but we also know that resources in our poorest schools are an absolute necessary condition for a lot of our kids to be successful.

I enjoyed listening to the Senator from Wyoming talk about the very small school districts of fewer than 50 children. I have some very fond memories of districts that small in Arkansas. I remember going to graduating classes of three and four children. That is a very different and wonderful educational experience. I hope we never get away from that in our country; that we do have schools that are that small in States from Wyoming to upstate New York.

I come from a State that has some different kinds of problems. I have a school system with a million children. I have school systems, such as that of Buffalo, where the school stock is so old they cannot wire them for computers because the buildings were built like forts.

I visited a school called the Black Rock Academy that was built in 1898, last renovated in 1920. They are bewildered about what to do. They cannot figure out how to get those computers set up. They have wires coming up, going in a window, into a little room. They have about 30 computers, only 10 of which can be connected to the Internet. That is the best they can do under the circumstances. Buffalo has undertaken, using State dollars and local dollars, a tremendous school renovation and modernization program.

Our needs in New York are different than the needs of the small districts in Wyoming. I hope we are going to look

at all of our children from coast to coast and all of our local school districts to figure out what we can do to make everybody successful. Resources are key. It is more difficult to provide education in remote rural areas and in very concentrated poor areas in our inner cities. We need a bill and we need the resources in the bill that empower local communities to make the decisions that are best for them.

There is a wonderful menu of opportunities in the bill where people can choose professional development or technology, but we would really be selling our children short if we do not also include lower class size and school modernization because in the absence of some Federal help on those two issues, much of what we want to achieve is going to be very difficult and beyond the reach of many of our districts, even those that are making a good-faith effort, such as Buffalo, to deal with a very old stock of schools.

I kid some of my colleagues. We were educating people in some communities in New York before some of the States represented in this body were States. We were building schools before a lot of people had to build schools because of the centuries of history in New York. We have some of those schools that have been around a very long time.

Good education can and does occur in those schools. But the conditions are worsening to the point where, as I said the other day, we have concrete falling out of a ceiling, hitting a teacher on the head. We have overcrowded classrooms. If we are going to be seeking both excellence and equity, we have to do more to provide the resources all districts need to do the job they want to do for their children.

This is a very important issue that goes right to the heart of this budget. I, along with many of my colleagues, was very disturbed to learn there was no increase for education in the budget coming back from the House. This body voted in a bipartisan way for important measures that were attached to the budget. This was not just about numbers; it was about values, the value of making sure we put the dollars into our education system and many other important priorities, from defense to food safety.

The budget coming back does not reflect that. It does not reflect the flexibility for the dollars that will be needed to do what we have already voted for in the Senate.

I was very proud of the vote that said we need to fund special education. It is about as close as we can get to a mandate. A lot of school districts are under tremendous pressure because they cannot afford to do what they need to do. I was proud of this body for voting to fully fund title I. That was a values statement. It said our values are that we will invest in our poorest children. I was proud of our chairman's amendment that if the Federal Government puts this requirement of testing on our districts, the Federal Government

should help to pay for the development and implementation of those tests.

This body, in a bipartisan way, made some very important values statements about education—not that we were just going to pass a bill that sounded good but one that could actually produce results. I am very pleased that at least in the Senate we are crafting a bill that I think will make a difference in the lives of our children. If we continue on this path, it could revolutionize education across our country. But it cannot be seen in isolation from the budget which, after all, carries the resources that will determine whether we have anything other than an empty promise.

I appreciate the opportunity to add my voice to what we are trying to do in this Chamber and to look for ways to work with my colleagues on both sides of the aisle to make sure it is real.

Mr. JEFFORDS. I appreciate the comments and excellent statement.

I yield the floor.

AMENDMENT NO. 384

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, it is my understanding that the majority wants to go to the McConnell amendment, so I call up the McConnell amendment.

The PRESIDING OFFICER. The amendment is now pending.

Mr. REID. Mr. President, I think the Senator from Kentucky is offering an amendment that has merit. I do believe, however, that it needs some improvement. I believe the amendment of the Senator from Kentucky leaves a big void. It doesn't do anything to protect teachers. And, most importantly, it doesn't do anything to protect students and parents who have corporal punishment administered to them either legally or illegally.

For example, the National Education Association, which represents almost 3 million teachers and other educational employees, has grave concerns about the McConnell amendment. Specifically, the National Education Association is concerned the amendment will lead to increased incidents of corporal punishment.

There are many instances where we have to take a look at corporal punishment which is administered legally in many States. Take, for example, a situation in Zwolle, LA. A story out of the New York Times a few days ago indicates a young girl was brutally beaten—legally, supposedly—in the school. In fact, the story states:

Laid out on the kitchen table, the snapshots of 10-year-old Megan make a grim collage. They are not of her sweet face, but of her bare behind. There are 12 in all, taken, her mother says, day by day, as the doughnut-shaped bruises on each cheek faded from a mottled purple to a dirty gray.

Megan's father, Robert, recalls that when he first saw the bruises hours after she was paddled by her school principal for elbowing a friend in the cafeteria, he collapsed on the floor, crying. "It hurt me more than it hurt

Megan," Robert said. "You don't hit on my baby."

Megan, a fourth grader, whose name appears more often on the honor roll than on a referral slip at the principal's office, is one of millions of public school students still subject to corporal punishment. In March, her family joined a small but apparently growing number to stop Megan's beating.

One of her classmates, a boy by the name of DeWayne Ebarb, is a hyperactive child who has been paddled regularly throughout his time at this elementary school. In the last 8 weeks, he has been paddled 17 times. This is a small town of some 2,000. People are wondering what is going on.

I think we should be concerned in Washington what we perhaps are laying a stamp of approval on if we allow this amendment to pass as it is written.

Mr. President, 27 States have banned corporal punishment. The first was New Jersey back in 1887. Then came Massachusetts, a century later, in 1971. There was a crusade in effect started by a man name Robert Fathman from Ohio, president of the National Coalition to Abolish Corporal Punishment. You can't whack a prisoner, but you can whack a kindergarten child. The state of the law by the U.S. Supreme Court allows people who teach and train children in schools to beat them, but prisoners cannot be touched. It seems a strange little quirk in the law.

In some communities, the activities to allow a student to be whipped or spanked is approved in the law.

Since Mr. Fathman started his crusade in 1984 after his own daughter landed on the painful end of a paddle, five States have adopted bans. One of those States is the State of Nevada which banned corporal punishment in 1993. West Virginia acted in 1994. The number of paddlings around the country is in the millions. In 1980, it was 1.4 million; it is now down to half a million students beaten each year. We have to look at those children who are beaten. It seems it is quite clear that black students are 2.5 times as likely to be struck as white students, a reflection of what researchers have long found to be more frequent and harsher discipline for members of minorities.

Court challenges have been largely unsuccessful, including a 1977 decision by the Supreme Court rejecting the notion that paddling is cruel and unusual punishment. A decade later, an appeals court ruled that a New Mexico girl held upside down and beaten had been denied due process, signifying school officials could be held liable for severe beatings. But this has been rare.

The vast preponderance of lawsuits challenging the use of corporal punishment are unsuccessful, says Charles Vergone, a professor at Youngstown State University, who has been studying this issue for 15 years.

I hope that my friend from Kentucky, the distinguished senior Senator, will accept an amendment I will

offer which, in effect, basically would have corporal punishment not apply to this amendment. This, in effect, would not give a stamp of approval to corporal punishment.

I think the instances pointed out during the discussion I heard from the Senator from Kentucky raise some interesting points: one case about the cheerleader who was asked to run a lap. I don't know all the facts of that case. From what the Senator from Kentucky outlined, it does not seem fair that she was still allowed to cheer on the night that she was supposed to have been reprimanded for not following the instructions of her coach. I don't know all the facts, but from what I heard it appears there is some validity to that.

Also, the long narrative with which the Senator from Kentucky led his discussion, dealing with the student who actually tried to do physical harm, maybe even kill one of his teachers, wound up going to court. I think there is some merit to what the Senator from Kentucky outlined. That is what I think would still be available if the amendment I will offer in a short time were accepted.

We have teachers who talk about having been in areas where they didn't have the right to paddle and they didn't paddle, but they say if you have the right to paddle it becomes the punishment of choice. It makes it easier. Emily Williams, in rural Mississippi, said when she arrived from Williams College last year, one of the fine universities in America, she was horrified to hear teachers striking students in the hallways, classrooms, and cafeterias. But soon she was doing it herself. We are told that a number of teachers, in effect, brag about the fact that they can beat their students.

I started this discussion about 10-year-old Megan who was beaten. If she had gone to law enforcement authorities and showed them her rear end with all the bruises and contusions on it and said, "This was done by my mother or father," very likely the juvenile authorities would have stepped in and been involved in the care and custody of Megan. But because it was done by a teacher and that is legal, nothing has been done or will be done.

If you look at corporal punishment, which a few years ago numbered 1.2 million and is now over 600,000, we recognize there is a real problem. We need not get into Biblical references. "Spare the rod and spoil the child," that is one saying to which people always refer. One police chief said, "The Lord said, 'Spare the rod and spoil the child,' and I think he knows a lot more than those bleeding heart liberals." I am sure that is probably true, that he does, but there is a time and place for everything. We have to be very careful to make sure anything we do here does not, in effect, support something that is not good for children.

As I have indicated, the National Education Association policy opposes

the use of corporal punishment as a means of disciplining students. There are no studies that have found that paddling, the most prevalent form of corporal punishment, improves school discipline. To the contrary, Dr. Irving Heiman of Temple University has found it is a detriment to children learning.

The National Education Association believes there are better ways to establish and maintain control, including reducing class sizes. Of course, we are going to debate that, as we have. The debate has not been completed.

There is an amendment pending by Senator MURRAY to deal with reducing class size. I think everyone acknowledges that would be a sensible thing to do, to make discipline better. Smaller classes enable teachers to give students more individualized attention and to better control classroom activities. Recent studies have documented reductions in classroom disruptions as a result of class size reduction. I don't think we need a study to show us that if we have smaller classes, there are going to be fewer disruptions.

I hope we will take a positive look at the amendment I will offer shortly. The Teacher Liability Protection Act which is the name of the act, which now, to my understanding, is in the form of an amendment, would immunize negligent teachers, principals, and administrators when their misconduct injures students. Not only would this measure make teachers unaccountable to parents, it would preempt the laws of all 50 States with little or no justification for such a sweeping exercise of Federal control.

I do not think there is any need to create a special Washington-knows-best immunity for principals, teachers, and administrators. The States, which for more than two centuries have had dominion over tort law, already have ample protections in place for teachers and administrators. Washington should not dictate policy to State courts and administrators, and it should not dictate policy to the local school boards.

As I said, I don't know all the facts dealing with the cheerleader case that was mentioned by the Senator from Kentucky, but even though I may disagree with the decision made by the court—I would still like to know the facts—I also say the court had the right to make that judgment.

In the State of Nevada, judges are looked at very closely, the reason being judges in Nevada run for election. They cannot, in effect, thumb their nose at public opinion. As a result of that, I think judges in Nevada generally do an excellent job of determining what the law should be. But they are totally aware of what is going on in the public, and I would say the same applies to the cheerleader case where she refused to run laps. We need to know all those facts.

The American Federation of Teachers indicates there is no crisis. In effect, the American Federation of

Teachers challenges whether legal immunity is really needed. I don't think the fear of lawsuits is keeping teachers from doing their jobs.

As I said, I think there is some merit to the amendment of the Senator from Kentucky. That is why I think the best thing to do is offer a second-degree amendment to that, to take away from that, in effect, the approval of corporal punishment, which is in keeping with many States in the United States.

Mr. McCONNELL. Would the Senator yield?

Mr. REID. I am happy to yield for a question without losing my right to the floor.

Mr. McCONNELL. I do not seek to have the Senator lose his right to the floor, but just to make certain the Senator understands my amendment neither promotes nor condones corporal punishment. I don't know what second-degree amendment the Senator plans to offer. If he would be willing to discuss it prior to sending it forward, it may be we could agree to it. As I will make clear when I regain the floor after the Senator finishes speaking, my amendment has nothing to do with corporal punishment. I am sorry the Senator from Nevada may have interpreted it otherwise. I think I can make it clear to his satisfaction that it is wholly unrelated to that subject. And I might well be interested in supporting the second-degree if I can take a look at it.

The purpose of this amendment is to leave that matter strictly up to the States. The Federal Government would not either support or oppose corporal punishment.

Mr. REID. The problem with that—I will be happy to share the amendment with the Senator, and I am confident and hopeful he will approve it—is the fact that the amendment offered by the Senator from Kentucky, as I understand it, said basically that teachers and administrators will not be sued for basic, simple negligence, but they can be sued for gross negligence.

Is that the underlying import of the Senator's amendment?

Mr. McCONNELL. I think pursuant to State law. What we are seeking not to do is to replace State law on this subject.

Mr. REID. I appreciate that. That is my point and my problem. If a teacher spansks, beats—whatever the term we want to use—a student, he is doing that under the confines, and under the direction of the State law, in effect. What we want to say is that any acts of teachers that are negligent that do not apply to their administering corporal punishment, we agree with the Senator from Kentucky. I don't think there is any hindrance on our part of State law. If the State has corporal punishment, fine. The State of Nevada outlawed corporal punishment in 1993. But that was up to the State legislature. I didn't do that.

AMENDMENT NO. 421 TO AMENDMENT NO. 384

Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 421 to amendment No. 384.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To limit the teacher liability protections in this bill for teachers who strike a child to those situations in which such action is necessary to maintain order and in which a parent or guardian has provided recent written consent to such actions)

On page 4, line 23, insert a comma after (b), strike "and" and insert "and (d)" after (c).

On page 6, line 6, insert a new subsection (c), as follows, and renumber accordingly:

"(c) Nothing in this section shall be construed to apply to any action of a teacher that involves the striking of a child, including, but not limited to paddling, whipping, spanking, slapping, kicking, hitting, or punching of a child, unless such action is necessary to control discipline or maintain order in the classroom or school and unless a parent or legal guardian of that child has given written consent to the teacher prior to the striking of the child and during the school year in which the striking incident occurs."

Mr. KENNEDY. Mr. President, will the Senator yield for a question?

Mr. REID. I am happy to yield without losing my right to the floor.

Mr. KENNEDY. To move the process along, will the Senator object if we are able to dispose of the Wellstone amendment while the Senators are talking, with the recognition that the Senator from Kentucky would be next on the matter after the conclusion of the Wellstone amendment?

Mr. JEFFORDS. I would appreciate it if we would withhold on that.

Mr. KENNEDY. There has been a special reservation of that proceeding.

Mr. REID. I say to my friends from Massachusetts and Kentucky that I would be happy to do that. We want to move to another amendment. I wanted to confer with the Senator from Kentucky, but we were told that is what the majority wanted. That is why I called up the amendment without the opportunity of giving it to the Senator. I submitted the amendment. I have other things to say. I could do that at a later time. I simply ask my friend from Kentucky and the majority manager of the bill to take a look at this amendment. If there are problems with it, tell us. We will talk some more about it on both sides.

Mr. MCCONNELL. Mr. President, I guess the understanding is that we would move forward on Wellstone, and then come back to the McConnell amendment in the second degree by agreement. Is that what we are talking about?

Mr. REID. Mr. President, it is my understanding that earlier there was an agreement that the Wellstone amendment would be accepted. I guess that is

no longer the case. We are now on the amendment of the Senator from Kentucky. I ask if the Senator would consider a quorum call for a few minutes. The McConnell amendment is the business before the Senate now. We can go to anything else without unanimous consent.

Mr. MCCONNELL. Mr. President, it would be my preference that we stay on the McConnell amendment in the second degree by Senator REID, and, if it is all right with the manager, go into a quorum call to be able to work this out and go forward. Therefore, 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. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Without objection, it is so ordered.

Mr. REID. Mr. President, the Senator from Kentucky has offered an alternative that I think is in keeping with what we have tried to accomplish. I think it is something that would make his amendment better. It is something named after Senator Coverdell; something Senator Coverdell would appreciate, especially in the fashion that it was done.

Paul Coverdell, as you know, was a great conciliator, was great at mediating problems. I expect perhaps the spirit of Paul Coverdell was involved in this because I think it is a good settlement for everybody.

AMENDMENT NO. 421, WITHDRAWN

So, Mr. President, I ask unanimous consent that my second-degree amendment be withdrawn.

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

Mr. REID. The Senator from Kentucky, at the appropriate time, will offer a modification to his amendment.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 384, AS MODIFIED

Mr. MCCONNELL. Pursuant to the agreement that Senator REID and I have come to, I send a modification of my amendment to the desk and ask unanimous consent that my amendment be so modified.

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

The amendment (No. 384), as modified, is as follows:

At the end, add the following:

TITLE —TEACHER PROTECTION

SEC. 1. TEACHER PROTECTION.

The Act (20 U.S.C. 6301 et seq.) is amended by adding at the end the following:

"TITLE —TEACHER PROTECTION

"SEC. 1. SHORT TITLE.

"This title may be cited as the 'Paul D. Coverdell Teacher Protection Act of 2001'.

"SEC. 2. FINDINGS AND PURPOSE.

"(a) FINDINGS.—Congress makes the following findings:

"(1) The ability of teachers, principals and other school professionals to teach, inspire

and shape the intellect of our Nation's elementary and secondary school students is deterred and hindered by frivolous lawsuits and litigation.

"(2) Each year more and more teachers, principals and other school professionals face lawsuits for actions undertaken as part of their duties to provide millions of school children quality educational opportunities.

"(3) Too many teachers, principals and other school professionals face increasingly severe and random acts of violence in the classroom and in schools.

"(4) Providing teachers, principals and other school professionals a safe and secure environment is an important part of the effort to improve and expand educational opportunities, which are critical for the continued economic development of the United States.

"(5) Frivolous lawsuits against teachers maintaining order in the classroom impose significant financial burdens on local educational agencies, and deprive the agencies of funds that would best be used for educating students.

"(6) Clarifying and limiting the liability of teachers, principals and other school professionals who undertake reasonable actions to maintain order, discipline and an appropriate educational environment is an appropriate subject of Federal legislation because—

"(A) the scope of the problems created by the legitimate fears of teachers, principals and other school professionals about frivolous, arbitrary or capricious lawsuits against teachers is of national importance; and

"(B) millions of children and their families across the Nation depend on teachers, principals and other school professionals for the intellectual development of children.

"(b) PURPOSE.—The purpose of this title is to provide teachers, principals and other school professionals the tools they need to undertake reasonable actions to maintain order, discipline, and an appropriate educational environment.

"SEC. 3. PREEMPTION AND ELECTION OF STATE NONAPPLICABILITY.

"(a) PREEMPTION.—This title preempts the laws of any State to the extent that such laws are inconsistent with this title, except that this title shall not preempt any State law that provides additional protection from liability relating to teachers.

"(b) ELECTION OF STATE REGARDING NON-APPLICABILITY.—This title shall not apply to any civil action in a State court against a teacher with respect to claims arising within that State if such State enacts a statute in accordance with State requirements for enacting legislation—

"(1) citing the authority of this subsection;

"(2) declaring the election of such State that this title shall not apply, as of a date certain, to such civil action in the State; and

"(3) containing no other provisions.

"SEC. 4. LIMITATION ON LIABILITY FOR TEACHERS.

"(a) LIABILITY PROTECTION FOR TEACHERS.—Except as provided in subsections (b) through (d), no teacher in a school shall be liable for harm caused by an act or omission of the teacher on behalf of the school if—

"(1) the teacher was acting within the scope of the teacher's employment or responsibilities related to providing educational services;

"(2) the actions of the teacher were carried out in conformity with local, State, and Federal laws (including rules and regulations) in furtherance of efforts to control, discipline, expel, or suspend a student or maintain order or control in the classroom or school;

"(3) if appropriate or required, the teacher was properly licensed, certified, or authorized by the appropriate authorities for the

activities or practice in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the teacher's responsibilities;

"(4) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the teacher; and

"(5) the harm was not caused by the teacher operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to—

"(A) possess an operator's license; or

"(B) maintain insurance.

"(b) CONCERNING RESPONSIBILITY OF TEACHERS TO SCHOOLS AND GOVERNMENTAL ENTITIES.—Nothing in this section shall be construed to affect any civil action brought by any school or any governmental entity against any teacher of such school.

"(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect any State or local law (including a rule or regulation) or policy pertaining to the use of corporal punishment.

"(d) EXCEPTIONS TO TEACHER LIABILITY PROTECTION.—If the laws of a State limit teacher liability subject to 1 or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

"(1) A State law that requires a school or governmental entity to adhere to risk management procedures, including mandatory training of teachers.

"(2) A State law that makes the school or governmental entity liable for the acts or omissions of its teachers to the same extent as an employer is liable for the acts or omissions of its employees.

"(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

"(e) LIMITATION ON PUNITIVE DAMAGES BASED ON THE ACTIONS OF TEACHERS.—

"(1) GENERAL RULE.—Punitive damages may not be awarded against a teacher in an action brought for harm based on the action or omission of a teacher acting within the scope of the teacher's responsibilities to a school or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action or omission of such teacher which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

"(2) CONSTRUCTION.—Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

"(f) EXCEPTIONS TO LIMITATIONS ON LIABILITY.—

"(1) IN GENERAL.—The limitations on the liability of a teacher under this title shall not apply to any misconduct that—

"(A) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18, United States Code) for which the defendant has been convicted in any court;

"(B) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

"(C) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

"(D) where the defendant was under the influence (as determined pursuant to applica-

ble State law) of intoxicating alcohol or any drug at the time of the misconduct.

"(2) HIRING.—The limitations on the liability of a teacher under this title shall not apply to misconduct during background investigations, or during other actions, involved in the hiring of a teacher.

"SEC. 5. LIABILITY FOR NONECONOMIC LOSS.

"(a) GENERAL RULE.—In any civil action against a teacher, based on an action or omission of a teacher acting within the scope of the teacher's responsibilities to a school or governmental entity, the liability of the teacher for noneconomic loss shall be determined in accordance with subsection (b).

"(b) AMOUNT OF LIABILITY.—

"(1) IN GENERAL.—Each defendant who is a teacher, shall be liable only for the amount of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

"(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant who is a teacher under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

"(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to preempt or supersede any Federal or State law that further limits the application of joint liability in a civil action described in subsection (a), beyond the limitations established in this section.

"SEC. 6. DEFINITIONS.

"For purposes of this title:

"(1) ECONOMIC LOSS.—The term 'economic loss' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

"(2) HARM.—The term 'harm' includes physical, nonphysical, economic, and noneconomic losses.

"(3) NONECONOMIC LOSSES.—The term 'noneconomic losses' means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation and all other nonpecuniary losses of any kind or nature.

"(4) SCHOOL.—The term 'school' means a public or private kindergarten, a public or private elementary school or secondary school (as defined in section 14101, or a home school.

"(5) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

"(6) TEACHER.—The term 'teacher' means a teacher, instructor, principal, administrator, other educational professional that works in a school, or an individual member of a school board (as distinct from the board itself).

"SEC. 7. EFFECTIVE DATE.

"(a) IN GENERAL.—This title shall take effect 90 days after the date of the enactment

of the Paul D. Coverdell Teacher Protection Act of 2001.

"(b) APPLICATION.—This title applies to any claim for harm caused by an act or omission of a teacher if that claim is filed on or after the effective date of the Paul D. Coverdell Teacher Protection Act of 2001, without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such effective date."

Mr. MCCONNELL. Mr. President, I ask the manager of the bill, are we ready to move forward with a vote after some closing observations?

Mr. JEFFORDS. Yes.

Mr. REID. Mr. President, I think we will have to wait until about 12:40. That is my understanding. Some people may not be available, but I am sure the vote will take a little while anyway. So if it is OK, could we have the vote start at 12:40?

Mr. JEFFORDS. I have no objection.

The PRESIDING OFFICER. The Senator from Kentucky has the floor. Is that the unanimous consent request, that the vote begin at 12:40?

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the vote on the McConnell amendment begin at 12:40.

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

The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, we are about to vote on my amendment, the Paul D. Coverdell teacher protection amendment. This important legislation extends important protections from frivolous lawsuits to teachers, principals, administrators, and other education professionals who take reasonable steps to maintain order in the classroom.

The amendment, I hasten to add, does not protect those teachers who engage in "willful or criminal misconduct, gross negligence, or a conscious flagrant indifference to the rights and safety" of a student.

This is not new ground for the Senate. I remind all of my colleagues that last year we approved this virtually identical amendment by a vote of 97-0. It is now the appropriate time for the Senate to revisit this issue and give its full endorsement. Mr. President, 97-0 is about as strong as it gets in the Senate. I hope we will have a similar vote when the vote commences at 12:40.

I know Senator Coverdell would obviously be grateful to see that his legislation may well be on the way to becoming law this year. I urge all of my colleagues to support the amendment, as they did the last time it was offered.

Mr. President, 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. FRIST. 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. FRIST. Mr. President, I understand we have a vote in about 7 or 8

minutes. During this period of time, unless somebody else wishes to speak on the amendment, I would like to address the issue of teacher quality. This reflects upon one of the underlying amendments we are discussing—which is, class size—with an emphasis on the relationship that exists between a teacher and a child where we know much of that learning experience takes place, kindergarten through the 12th grade. It is that relationship and a number of factors.

We start with having a very good, highly qualified teacher in a classroom, an effective teacher in the classroom so that we really can say that every child has an opportunity to have achievement boosted, to have the achievement gap, which has gotten worse in the last 35 years, be diminished over time.

The argument we have made again and again on this side of the aisle has been that while class size is important, the absolute size should not to be dictated by Washington but determined by local schools, local school districts, local communities. Whether it be Nashville TN, Anchorage, AK, New York, NY, the decision should be made by people, not by Washington, DC.

Thus, what we have done in the underlying bill—and it is important that people understand what is in the bill;—is combine that program, with other programs so that we have the necessary resources we need—up to \$3 billion, I should add. And these can be distributed, used, prioritized, locally rather than here in Washington, DC. So that in any particular classroom, a decision can be made whether or not to use that money for smaller class size, for more computers, for better reading materials, for more technology,—that they have the flexibility to prioritize rather than having a Government program for each and every issue.

Yesterday I spent some time underlining what we have in the bill for teacher quality, teacher development. It is quite extensive, in terms of State activities, where States very specifically may use these funds for things such as teacher certification, teacher recruitment, professional development, and other ways of teacher support. Examples of such activities include reforming teacher certification or licensing requirements, addressing alternative routes to State certification of teachers, recruiting teachers and principals, providing professional development activities, looking at issues such as reform of tenure systems for teachers.

Local educational systems may use these funds for professional development, teacher development, teacher recruitment or hiring teachers. Again, these decisions are made locally with the funds provided through the Federal system—as I said, \$3 billion.

It moves on down to local accountability because we do want to make sure, if these funds have been pooled and these resources are available lo-

cally for teacher development, for improving the quality of teachers, for attracting new teachers to the classroom, that the system is held accountable, and there are extensive accountability provisions in the underlying bill, already in the bill, that include, such things as performance objectives. Those performance objectives are related to student achievement, to reducing that achievement gap over time, to the ability to retain teachers, to the ability of taking teachers who may be certified in one field but haven't been certified in another.

A particular area I hope we will be able to address later this week or next week is this whole specific area of math and science teachers. Again and again I have come to this floor citing the third international mathematics and science study, beginning in 1995 but even since that point in time, which shows that 4th grade students in the United States are among the top scorers from the 41 nations tested. But then both the TIMMS study and the TIMMS repeat study in 1999 show that by the 8th grade, U.S. students tested, not at the top, but in the middle. By the 12th grade, we see that U.S. students are scoring near the very bottom in math and science of all of the countries tested.

In today's global economy this means that if we are not preparing people in the 12th grade in terms of math and science, we are going to see jobs move overseas because Americans, especially for the high tech jobs of the future are going to be very ill equipped to compete with our neighbors globally in job creation, in math and science, in technology, and broadly.

Teacher educational development has to be a continuing process. It has to be done in a collaborative partnership with those people, including at local teacher training, local universities, local high schools, and local elementary schools. It has to be done in a partnership way. Again, this is spelled out in the bill.

In closing, this bill—we call it the BEST Act—authorizes \$500 million in fiscal year 2002 for the establishment of math and science partnerships, linking the math and science departments of institutions of higher education with States and local school districts. That is very positive. There is a lot more we can do in terms of clarification of how moneys can be used, in authorizing the States to use funding in certain areas to recruit and retain teachers and, finally, in looking at math and science funding for a master teacher program.

I am very excited about this amendment, which will be filed later today or later in the week. It will build on what is in the underlying bill, and puts the focus on the quality of teachers, not just the quantity of teachers.

The PRESIDING OFFICER. The time has expired. The question is now on agreeing to the amendment of the Senator from Kentucky. The yeas and nays have not been ordered.

Mr. McCONNELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Connecticut (Mr. DODD) is necessarily absent.

The PRESIDING OFFICER (Mr. DAYTON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 97 Leg.]

YEAS—98

Akaka	Durbin	Lugar
Allard	Edwards	McCain
Allen	Ensign	McConnell
Baucus	Enzi	Mikulski
Bayh	Feingold	Miller
Bennett	Feinstein	Murkowski
Biden	Fitzgerald	Murray
Bingaman	Frist	Nelson (FL)
Bond	Graham	Nelson (NE)
Boxer	Gramm	Nickles
Breaux	Grassley	Reed
Brownback	Gregg	Reid
Bunning	Hagel	Roberts
Burns	Harkin	Rockefeller
Byrd	Hatch	Santorum
Campbell	Helms	Sarbanes
Cantwell	Hollings	Schumer
Carnahan	Hutchinson	Sessions
Carper	Hutchison	Shelby
Chafee	Inhofe	Smith (NH)
Cleland	Inouye	Smith (OR)
Clinton	Jeffords	Snowe
Cochran	Johnson	Specter
Collins	Kennedy	Stabenow
Conrad	Kerry	Stevens
Corzine	Kohl	Thomas
Craig	Kyl	Thurmond
Crapo	Landrieu	Torricelli
Daschle	Leahy	Torricelli
Dayton	Levin	Voivovich
DeWine	Lieberman	Warner
Domenici	Lincoln	Wellstone
Dorgan	Lott	Wyden

NAYS—1

Thompson
NOT VOTING—1
Dodd

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

AMENDMENT NO. 425 TO AMENDMENT NO. 358

Mr. REED. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. REED), for himself, Ms. SNOWE, Mr. KENNEDY, Mr. CHAFEЕ, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, Mrs. CLINTON, Mr. SARBANES, Mr. JOHNSON, Mr. BAUCUS, Mr. LEVIN, Mr. REID, Mr. ROCKEFELLER, Mr. DURBIN, and Mr. DAYTON, proposes an amendment numbered 425.

Mr. REED. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To make amendments regarding the Reading First Program)

On page 32, line 11, strike "\$900,000,000" and insert "\$1,400,000,000".

On page 201, line 19, strike "and".

On page 201, line 21, strike the period and insert "; and".

On page 201, between lines 21 and 22, insert the following:

"(3) shall reserve \$500,000,000 for fiscal year 2002 and each of the 6 succeeding fiscal years to carry out section 1228 (relating to school libraries).

On page 203, between lines 20 and 21, insert the following:

"SEC. 1228. IMPROVING LITERACY THROUGH SCHOOL LIBRARIES.

"(a) IN GENERAL.—From funds reserved under section 1225(3) for a fiscal year that are not reserved under subsection (h), the Secretary shall allot to each State educational agency having an application approved under subsection (c)(1) an amount that bears the same relation to the funds as the amount the State educational agency received under part A for the preceding fiscal year bears to the amount all such State educational agencies received under part A for the preceding fiscal year, to increase literacy and reading skills by improving school libraries.

"(b) WITHIN-STATE ALLOCATIONS.—Each State educational agency receiving an allotment under subsection (a) for a fiscal year—

"(1) may reserve not more than 3 percent to provide technical assistance, disseminate information about school library media programs that are effective and based on scientifically based research, and pay administrative costs, related to activities under this section; and

"(2) shall allocate the allotted funds that remain after making the reservation under paragraph (1) to each local educational agency in the State having an application approved under subsection (c)(2) (for activities described in subsection (e)) in an amount that bears the same relation to such remainder as the amount the local educational agency received under part A for the fiscal year bears to the amount received by all such local educational agencies in the State for the fiscal year.

"(c) APPLICATIONS.—

"(1) STATE EDUCATIONAL AGENCY.—Each State educational agency desiring assistance under this section shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall require. The application shall contain a description of—

"(A) how the State educational agency will assist local educational agencies in meeting the requirements of this section and in using scientifically based research to implement effective school library media programs; and

"(B) the standards and techniques the State educational agency will use to evaluate the quality and impact of activities carried out under this section by local educational agencies to determine the need for technical assistance and whether to continue funding the agencies under this section.

"(2) LOCAL EDUCATIONAL AGENCY.—Each local educational agency desiring assistance under this section shall submit to the State educational agency an application at such time, in such manner, and containing such information as the State educational agency shall require. The application shall contain a description of—

"(A) a needs assessment relating to the need for school library media improvement, based on the age and condition of school library media resources, including book collections, access of school library media centers to advanced technology, and the avail-

ability of well-trained, professionally certified school library media specialists, in schools served by the local educational agency;

"(B) how the local educational agency will extensively involve school library media specialists, teachers, administrators, and parents in the activities assisted under this section, and the manner in which the local educational agency will carry out the activities described in subsection (e) using programs and materials that are grounded in scientifically based research;

"(C) the manner in which the local educational agency will effectively coordinate the funds and activities provided under this section with Federal, State, and local funds and activities under this subpart and other literacy, library, technology, and professional development funds and activities; and

"(D) a description of the manner in which the local educational agency will collect and analyze data on the quality and impact of activities carried out under this section by schools served by the local educational agency.

"(d) WITHIN-LEA DISTRIBUTION.—Each local educational agency receiving funds under this section shall distribute—

"(1) 50 percent of the funds to schools served by the local educational agency that are in the top quartile in terms of percentage of students enrolled from families with incomes below the poverty line; and

"(2) 50 percent of the funds to schools that have the greatest need for school library media improvement based on the needs assessment described in subsection (c)(2)(A).

"(e) LOCAL ACTIVITIES.—Funds under this section may be used to—

"(1) acquire up-to-date school library media resources, including books;

"(2) acquire and utilize advanced technology, incorporated into the curricula of the school, to develop and enhance the information literacy, information retrieval, and critical thinking skills of students;

"(3) facilitate Internet links and other resource-sharing networks among schools and school library media centers, and public and academic libraries, where possible;

"(4) provide professional development described in 1222(c)(7)(D) for school library media specialists, and activities that foster increased collaboration between school library media specialists, teachers, and administrators; and

"(5) provide students with access to school libraries during nonschool hours, including the hours before and after school, during weekends, and during summer vacation periods.

"(f) ACCOUNTABILITY AND CONTINUATION OF FUNDS.—Each local educational agency that receives funding under this section for a fiscal year shall be eligible to continue to receive the funding for a third or subsequent fiscal year only if the local educational agency demonstrates to the State educational agency that the local educational agency has increased—

"(1) the availability of, and the access to, up-to-date school library media resources in the elementary schools and secondary schools served by the local educational agency; and

"(2) the number of well-trained, professionally certified school library media specialists in those schools.

"(g) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement and not supplant other Federal, State, and local funds expended to carry out activities relating to library, technology, or professional development activities.

"(h) NATIONAL ACTIVITIES.—From the total amount made available under section 1225(3)

for each fiscal year, the Secretary shall reserve not more than 1 percent for annual, independent, national evaluations of the activities assisted under this section. The evaluations shall be conducted not later than 3 years after the date of enactment of the Better Education for Students and Teachers Act, and each year thereafter.

On page 203, line 21, strike "1228" and insert "1229".

Mr. REED. Mr. President, I have sent to the desk an amendment on my behalf and of Ms. SNOWE, Mr. KENNEDY, Mr. CHAFEE, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, Mrs. CLINTON, Mr. SARBANES, Mr. JOHNSON, Mr. BAUCUS, Mr. LEVIN, Mr. REID, Mr. ROCKEFELLER, Mr. DURBIN, and Mr. DAYTON.

This amendment is a bipartisan attempt to ensure that the President's Reading First initiative is a success. Let me commend the President for emphasizing literacy as a very important part of education reform. His proposal would recognize the importance of literacy and increase and support the training of teachers, but it would not reach another important aspect of achieving literacy, and that is a well-equipped school library. My amendment would help students achieve literacy by authorizing funds so schools could acquire new library books, new library material.

Funding school libraries has been part of the educational authorization for the Elementary and Secondary Education Act since its beginning in 1965. The very first ESEA authorized the purchase of library materials.

One of the sad commentaries about school libraries today is that much of that material is still on the shelves, with copyright dates of 1967, 1968, 1969, and 1970. Clearly, the world has moved a great deal from those days. We have landed on the Moon. We have created the Internet and done lots of other interesting things. Many other aspects of life have changed since the mid-1960s and early 1970s.

My proposal would provide resources, based upon a targeted formula, so the poorest schools would have access to these funds, so we could, in fact, replenish library collections throughout the United States.

Last week the Senate uniformly voted for Senator COLLINS' Reading First amendment, where she incorporated additional provisions into the President's proposal for Reading First. I support this effort by Senator COLLINS, but I believe there is a deficiency within this initiative. It fails to include an essential component that would ensure students learn to read. We have to fund school libraries so students have the necessary books, technology, and materials, which is an integral part of our effort to improve reading in our schools.

What we are finding is the gap between the highest and lowest achieving students is widening. But what we are also finding, when we look at data, is that in those schools that have first-

rate libraries and trained library personnel, achievement goes up consistently. That is a factor I believe we cannot ignore. It is one of those factors that provide additional support for my proposal today.

Again, the President's underlying proposal authorizes \$900 million for the Reading First Initiative. It has been enhanced and improved by Senator COLLINS' amendment. This proposal, which I and my colleagues have offered, would provide further enhancement to this worthwhile goal of ensuring every child in America reads, and reads well.

Let me also acknowledge the great work of Senator JEFFORDS and Senator KENNEDY who have brought us this far. But even though they have brought us this far, even though we have, with the President's direction, emphasized literacy, we still have this gap in achieving literacy. We have to provide funds for school libraries so they can buy the material and books necessary to support the scientifically based reading programs the President has made the centerpiece of his Reading First Initiative.

School libraries are really the places where we reinforce those reading skills. They are, in one sense, the laboratories where children explore their ability to read and explore a great world beyond the confines of their classroom or their community. You can go into a library and, figuratively, travel around the world, even reduce yourself to the size of a microbe, and travel, coursing through the veins of the body. That is what is remarkable about reading and so fundamentally important about reading. It is also something that has to be a lifelong pursuit.

Frankly, even though we can instruct children with respect to literacy, unless we provide them with stimulating books and expose them to the library as students, it is not that likely that they will appreciate reading or continue the habit of reading, this habit of self-improvement. Children leave schools, but we hope they will not leave the library. That is one of the great lessons they will take from their schooling—not just the mechanics of reading but a love of reading so they will leave the school but never leave the library, they will be patrons of public libraries, they will be patrons of books. The library is the foundation for independent learning, and I cannot think of a more worthwhile goal in this reauthorization than creating that type of spirit and that type of ability within the students of America.

As I mentioned before, as we look at high levels of literacy, we find a very strong correlation between these high literacy levels and good school library programs. In one study, this was the case for every school and in every grade level tested, regardless of social and economic factors in the community, and in very dissimilar States: Colorado, Pennsylvania, and Alaska. These findings echo earlier studies

which found that students in schools with well-equipped libraries and professional library specialists performed better on achievement tests for reading.

Again, we understand one major focus of this legislation is testing students to standards, bringing those standards up and bringing every child up to those standards. Without the support of good public libraries in the community but, more particularly, good school library programs, we are not going to be able to give these children the tools to reach the standards, to pass the tests we are prescribing now for a vast section of American students.

As I indicated, there is an array of scientific evidence, research evidence, that demonstrates this fundamental point. A 1993 review of research, "Power of Reading" by education professor Stephen Krashen of the University of Southern California, demonstrated that higher test scores result when there is a greater investment in better qualified school library staff and more diverse school library collections.

A 1994 Department of Education report on the impact of school library media centers noted that the highest achieving students tend to come from schools with strong libraries and library programs. So I believe this evidence is further proof that we can improve reading by making a wise and efficient investment by enhancing our school libraries.

We also understand that we have today on our shelves, in our libraries, books that are simply out of date and inaccurate. I have made something of a cottage industry of bringing my favorite anomalous books to committee hearings, such as a book that talks about what is it like to be a flight attendant; only they use an incorrect term "stewardess."

If you look through this book, if you look through these pages, you get a distinctly different impression of what it is like to be a flight attendant. First of all, they are all women. We know that is not the case today. Second, there are very few minorities. We know that is not the case today. Third, they talk about the rule that you must leave if you want to get married, because they all have to be single. They have pictures of flight attendants doing sit-ups and describe that as their homework.

These are images that are totally out of sync with today's times. But yet this book was on the shelves of the school library. Ask yourself. If a young man is interested in that profession and takes that book off the shelf, what impression will he get? Obviously, it is not going to open up the possibility of a career for him as a flight attendant.

That is just one example. There are examples of books on the shelves of today's schools that say things like some day we will get to the Moon.

I received a book from a librarian in Arizona that has the title, "Asbestos,

The Magic Mineral," suggesting a book that was not written recently.

One of my favorite selections that was sent to me is the story of the U.S. Constitution, and an analysis of the Constitution, with a foreword by President Calvin Coolidge—a little bit out of date but still on the shelves of a school library.

We can do more than provide our children with outdated sources of information. We also now know that we are in a situation where books are not the only way we are communicating information to children. Libraries need sophisticated, computer-based media. They need the technology of the computer.

Yet what you find at the local level is a situation where despite the best intentions of school committee men and women and the best intentions of Governors and mayors, school library collections are the first casualties of unexpected expenses.

It is not a surprise. Here is typically what happens across this country day in and day out. A school superintendent has worked hard all year. She reserved \$50,000 for a new library, new books, and new media.

Then she gets a call. Their unexpected expenses have gone up \$75,000. Where do you get that kind of money for an unexpected expense? We will do the library improvement next year. Next year becomes the following year, and the following year. As a result, we have a crisis at school libraries. Some shelves are near empty and the books are out of date. They are not opening up new, modern vistas to students. In some cases they are giving them erroneous stereotypes about the world at a very impressionable age.

Let me suggest, as I said before, some of the books that we find on the shelves of our libraries.

There is one called "Rockets Into Space," copyright 1959. This book, by the way, has been checked out of a Los Angeles school library 13 times since 1995.

It informs the student that there is a way to get to the Moon. Obviously, it was written before there was the successful voyage to the Moon by man. It states that it will take two stages to get to the Moon, first to a space station, and then to the moon. Essentially, that is not what we did. But the book has been checked out numerous times within the last decade.

There is another book which I found interesting. This was from a school library in Richmond, VA, entitled "What A United States Senator Does," copyright 1975. It notes that the Vice President of the United States and the President of the Senate is Nelson Rockefeller, and that there are two Senate office buildings, the Old Senate Office Building and the New Senate Office Building, which we now call the Dirksen Building.

There is a book from a library in Tarzana, CA, entitled "Women At Work," copyright 1959, which informs

the reader that there are seven occupations open to young woman: librarian, ballet dancer, airline stewardess, practical nurse, piano teacher, beautician, and author.

These are not positions open exclusively to women and are certainly not the only professions open to women today.

Here is one from a Pennsylvania library entitled, "The First Book Atlas," copyright 1968, which states that the five most populated cities in the world are New York City; Tokyo, Japan; Paris, France; London, England; and Shanghai, China.

That might have been correct in 1968. But, for the record, the five most populated cities in the world today are Seoul, South Korea; Sao Paulo, Brazil; Bombay, India; Jakarta, Indonesia; and Moscow, Russia.

In a rapidly changing world when we expect our students to be internationally adept and not just locally competent, we are providing them with information that is woefully out of date.

I am sure there are atlases and maps throughout most schools and in school libraries that do not have all the present sovereign nations of the world. Since the breakup of the Soviet Union, we know there has been quite a few new nations emerging into the world. But this is what we find consistently.

I believe if we do not provide better materials for our libraries, we are not going to fully complement the President's initiative and Senator COLLINS' amendment. It is one thing to be literate and to have the mechanics of reading, but there is something else. A child must have material to read which provides accurate information and that is not full of stereotypes and misinformation. If you don't provide access through school libraries, students will not acquire the skills and love for reading necessary to boost scores on reading tests.

That is what my legislation will do. It will give the school libraries the opportunity to become up to date, to entreat children with the idea of reading so that in their lifelong pursuits they will know that libraries are the place to go to find knowledge and information that is accurate.

Let me also talk about the situation from the perspective of low-income students because typically this is where you find the most chronic absence of a good school library for the reasons I talked to previously—budget pressures that are so compelling and constraining on municipalities, and the idea that next year we will fix the library. Next year never comes. Jonathan Kozol, who has been referred to many times on this floor, and who is a passionate advocate for students everywhere but who has a particular passion for those disadvantaged students that he works with on a daily basis, wrote in May in a school library article, entitled "An Unequal Education," that a fiscal crisis in the 1970s reduced school libraries and the poorest neighborhoods

in New York City to: "little more than poorly stocked collections of torn, tired-looking, or outdated books. As student populations grew and school construction was postponed by scarcity of funds, libraries themselves were soon co-opted to be used as classroom space. Librarians were fired or, more diplomatically, 'retired'—and, as they retired, were not replaced. Books were frequently consigned to spaces scarcely larger than coat closets."

He continues:

Few forms of theft are quite so damaging to inner-city children as the theft of stimulation, cognitive excitement, and aesthetic provocation by municipal denial of those literacy treasures known to white and middle-class Americans for generations.

The reason for this sad state of affairs is the loss of targeted national funding for libraries, which we had provided in the 1965 ESEA authorization.

I would challenge all of my colleagues to go to their States and go to a school library. It won't take too long until you find a book that has a copyright of 1967, and maybe with a stamp, as they do in the Philadelphia school system, that says, "ESEA 1965."

About 20 years ago, however, a decision was made to roll this dedicated funding into a block grant competing with other programs, and the funding for libraries declined. Schools have not been able to replace outdated books. At the same time funds have diminished, as everything else, the price of quality school library books goes up.

The average school library book costs \$16. But the average spending per student for books in elementary schools throughout this country is approximately \$6.75, \$7.30 in middle schools, and \$6.25 in high schools. You can't buy lots of high-quality books at those types of prices.

Earlier in this session, I introduced bipartisan legislation addressing the need for adequate library books, which is the predecessor of this amendment. On February 20, 2001, there was note of that introduction in the Washington Times. Then there was a response on February 23 from a school librarian who described the real frustrations we are talking about, and that I have tried to suggest.

She has worked for 27 years, and she saw the article and took it upon herself to write the newspaper. Here is what she said:

The money coming down for spending has been diverted by administrators for technology. The computers are bought with book money and the administrators can brag about how wired the schools are. The librarians are ordered to keep the old books on the shelves and count everything, including unbound periodicals and old filmstrips dating back to 1940s.

And most of all keep their mouth shut about the books—just count and keep quiet. Now do you wonder why librarians keep quiet?

Well they are not keeping quiet anymore. They have taken a very strong position with respect to this amendment. Coincidentally, they have come

to Washington, and I believe they have visited most of my colleagues' offices, to talk about the need, not some esoteric hypothetical pie-in-the-sky need, but the real need for investments in school libraries.

What happens is that we have a situation where schools face this Hobson's choice: with declining resources, and other demands, do we remove all of the outdated books, leaving only bare shelves or keep outdated books on the shelves, hoping that students won't be confused or turned off by reading? The result is too many of our students don't have the tools they need to learn to read and achieve.

Too often schools sacrifice improvement in libraries. We can help change that dynamic. We can pass this legislation. We can give them flexibility at the local level, although targeted to low-income schools, to go out and buy library materials, to fulfill an important part of our national purpose today to improve the literacy of all American children.

Now I believe that we should, and we must, complement the President's Reading First Initiative. He has, quite rightly, identified the problem. He has very astutely suggested we need to train teachers in the latest scientific methods, that we need to have classroom material, that we need to do many other things. But one aspect is still lacking; and that is books - books to practice the skills they learn in class and books to foster a love for reading which is the key to success in school and beyond. This amendment addresses that need.

My amendment specifically would add \$500 million in funding reserved to support school libraries. It would not take away any resources that have been already identified for the President's Reading First Initiative pursuant to Senator COLLINS' amendment. It targets funding to schools with the highest levels of poverty.

Recall now the comments of Jonathan Kozol: the diminishment of the educational experience by a lack of access to materials which in suburban schools are taken for granted.

If we can get this spirit of inquiry, this excitement about reading, if we can infuse that into every child in every public school, particularly in our disadvantaged schools, we will accomplish a great deal with this reauthorization.

This amendment also provides the districts and the schools with the flexibility to use the funding to meet local school library needs. Who better than a local school system and local librarians to decide what they need? A new atlas, new materials for the younger readers, a better library media that can be used by all the students—all of that will be decided by local individuals.

It also includes language that would help enhance the training of library specialists. There is a misconception sometimes that all you need to do is

have the teacher just take the children into the library and say: Pick a book. That overlooks the huge contribution a well-trained librarian can make to the education of young children. A well trained librarian is essential to helping students read. It is also important to have librarians with particular skills to be able to show children different means of research, different techniques, to be able to answer their questions, to find material for them, and to show them how to find material. That is not done simply by walking the children into the library, and saying: Pick a book. You need to try to get a sense of their interests and you need to try to lead them from one interest to another interest.

This might be the most fundamental aspect of education, and yet if you do not have the trained professionals to do it, you will not get the kind of high-level achievement we seek in this legislation.

The amendment would also allow establishing resource sharing initiatives. In my home State of Rhode Island, and in Ohio, the school librarians have set up a wonderful network with other school libraries, with public libraries, with academic libraries, so they can multiply the resources at their disposal. That would provide the kind of support that I believe is not only necessary but long overdue with respect to school libraries.

This amendment allocates funding on a formula basis to school districts, so that all needy districts and schools get the assistance they need to improve school libraries, rather than authorizing a very limited, competitive grant program which would only help certain districts that have a knack for grant writing.

This amendment is built upon the initial legislation I introduced along with Senators COCHRAN, KENNEDY, SNOWE, CHAFEE, DASCHLE, and others. The amendment, as I indicated, has broad support.

This bipartisan amendment I offer today, along with Senators SNOWE, KENNEDY, CHAFEE, BINGAMAN, WELLSTONE, MURRAY, CLINTON, SARBANES, JOHNSON, BAUCUS, LEVIN, REID, ROCKEFELLER, DURBIN, and DAYTON, is a modified version of that legislation because, rather than being a separate, stand-alone portion of the ESEA, this amendment includes support for books as part of the Reading First initiative.

In conclusion, since I have talked about what the amendment does, I would like to briefly talk about some of things the amendment does not do.

First of all, this is not a new program. This amendment would incorporate school library funding into the Reading First Initiative, the President's reading initiative. Unanimously, last week, we embraced Senator COLLINS' amendment, so I assume, without contradiction, we are all for Reading First, we are all for literacy. This would be incorporated into that. This is not a new program.

The second point I make is that this is not, as I said before, a novel Federal intervention into school policy. In 1965, we authorized funds to buy library materials. It worked. Those materials are still on the shelves. It is something that has been long associated with our Federal effort to help local schools.

Now we all want to consolidate programs. I think that makes a great deal of sense. As you look across the board, some programs could be more efficient. But here is an effort to present, within the context of the Reading First Initiative, a comprehensive reading program: training teachers to teach reading based on scientific principles, classroom materials, and then, if you will, the laboratory for reading, which is the school library and the books to read.

If we are serious—and I know we are—that we want to see every child succeed, if we want to see every child meet challenging standards, and in a very real sense pass the test, then we have to invest more in our school libraries. It is not simply enough to just prescribe the test and hope for the best. We have to give children books to read, the tools to master these techniques and, hopefully, I think in a broader sense, to acquire a passion for reading that will carry them far beyond their schooldays into their adult days. That truly, in my view, is the sign of an educated person.

Let me conclude my initial remarks by citing the Department of Education's guide for parents entitled "A Guide For Parents: How Do I Know a Good Early Reading Program When I See One?" In that guide they say that a good early reading program has: "a school library [which] is used often and has many books."

We must take this opportunity to dispense with inaccurate, out-of-date books that line the shelves of our school libraries. We have an opportunity to complement the President's proposal and provide the funding that is critical to making the program work so it can actually improve the reading and literacy skills of our nation's students. I hope we will seize this opportunity and urge my colleagues to support this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I ask unanimous consent to proceed as in morning business.

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

(The remarks of Mr. BOND pertaining to the introduction of S. 849 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Wisconsin.

ANOTHER LANDMARK TORN DOWN

Mr. FEINGOLD. Madam President, I rise to voice my objection to another blow committed by this majority

against the Senate. I wish to express my dismay with the majority leader's decision, of which I first learned in Monday's Roll Call, summarily to fire the Senate Parliamentarian because of his advice on a number of budget-related issues.

This action appears to be yet another unfortunate turn in the majority's heavy-handed efforts to transform the Senate into another House of Representatives. And I fear that the real victim of this latest purge will be the rules and traditions of this great body. Bob Dove has borne the brunt of the majority's latest outburst, but I fear that the Senate, too, will suffer.

Let me begin by noting that I, as others, have had my share of disagreements with Bob Dove during his time as Parliamentarian. I suspect that most Senators who have devoted any time to learning the Senate's rules will find points on which they differ with the Parliamentarian. But in the practice of law that is Senate procedure, the Parliamentarian plays the role of the judge. It is before the Parliamentarian that staff and even Senators make their arguments and state their cases, much as advocates before a court.

It is in the nature of judging that a judge cannot please all litigants, and it is in the nature of having a Parliamentarian that the Parliamentarian's advice to the Presiding Officer cannot always please all Senators.

Were it not so, we would not have a Parliamentarian. If the Parliamentarian cannot advise the Chair what the Parliamentarian truly believes that the law and precedents of the Senate require, then the office of the Parliamentarian ceases to exist.

If the Parliamentarian merely says what the majority leader wishes, then the majority leader has taken over the job. And in that case, the Senate has become less a body governed by rules and precedent and more a body that proceeds according to rule and precedent only when it pleases, in effect at the whim of the majority leader.

That the Senate rules constrain the majority has been one of its strengths. It is oft-recounted lore that when Jefferson returned from France, he asked Washington why he had agreed that the Congress should have two chambers. "Why," replied Washington to Jefferson, "did you pour that coffee into your saucer?" "To cool it," said Jefferson. "Even so," said Washington, "we pour legislation into the senatorial saucer to cool it."

It is the Senate's rules that allow legislation to cool. It is the Senate's adherence to its precedents and not to a rule adopted for this day and this day only that distinguishes the Senate from the House of Representatives. The Parliamentarian is a vital link in that chain of precedents. It is the Parliamentarian's advice to the Chair that makes this a body governed by rules.

The Senate has had an officer with the title of Parliamentarian since July