

SENATE RESOLUTION NO. 216

Whereas, Unfunded mandates by the United States Congress and the executive branch of the federal government increasingly strain already tight state government budgets if the states are to comply; and

Whereas, To further compound this assault on state revenues, federal district courts, with the blessing of the United States Supreme Court, continue to order states to levy or increase taxes to supplement their budgets to comply with federal mandates; and

Whereas, The court's actions are an intrusion into a legitimate legislative debate over state spending priorities and not a response to a constitutional directive; and

Whereas, The Constitution of the United States of America does not allow, nor do the states need, judicial intervention requiring tax levies or increases as solutions to potentially serious problems; and

Whereas, This usurpation of legislative authority begins a process that over time could threaten the fundamental concept of separation of powers that is precious to the preservation of the form of our government embodied by the Constitution of the United States of America; and

Whereas, Fifteen states, including Alabama, Alaska, Arizona, Colorado, Delaware, Louisiana, Massachusetts, Michigan, Missouri, Nevada, New York, Oklahoma, South Dakota, Tennessee and Utah, have petitioned the United States Congress to propose an amendment to the Constitution of the United States of America that reads as follows:

"Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes."; therefore, be it

Resolved, by the Senate of the Ninety-First General Assembly of the State of Illinois, That this legislative body respectfully requests and petitions the Congress of the United States to propose submission to the states for their ratification an amendment to the Constitution of the United States of America to restrict the ability of the United States Supreme Court or any inferior court of the United States to mandate any state or political subdivision of the state to levy or increase taxes; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States, the Speaker of the United States House of Representatives, the President Pro Tempore of the United States Senate, the Secretary of the United States Senate, the Clerk of the United States House of Representatives, and the members of the Illinois Congressional delegation.

POM-513. A resolution adopted by the Senate of the General Assembly of the State of Illinois relative to the 2000 Census; to the Committee on Government Affairs.

SENATE RESOLUTION NO. 39

Whereas, The U.S. Constitution requires an actual enumeration of the population every ten years, and entrusts Congress with overseeing all aspects of each decennial enumeration; and

Whereas, The sole constitutional purpose of the decennial census is to apportion the seats in Congress among the several states; and

Whereas, An accurate and legal decennial census is necessary to properly apportion U.S. House of Representatives seats among the 50 states and to create legislative districts within the states; and

Whereas, An accurate and legal decennial census is necessary to enable states to comply with the constitutional mandate of drawing state legislative districts within the states; and

Whereas, Article 1, Section 2 of the U.S. Constitution, in order to ensure an accurate count and to minimize the potential for political manipulation, mandates an "actual enumeration" of the population, which requires a physical headcount of the population and prohibits statistical guessing or estimates of the population; and

Whereas, Title 13, Section 195 of the U.S. Code, consistent with this constitutional mandate, expressly prohibits the use of statistical sampling to enumerate the U.S. population for the purpose of reapportioning the U.S. House of Representatives; and

Whereas, Legislative redistricting conducted by the states is a critical subfunction of the constitutional requirement to apportion representatives among the states; and

Whereas, The United States Supreme Court, in *No. 98-404, Department of Commerce, et al. v. United States House of Representatives, et al.*, together with *No. 98-564, Clinton, President of the United States, et al. v. Glavin, et al.* ruled on January 25, 1999, that the Census Act prohibits the Census Bureau's proposed uses of statistical sampling in calculating the population for purposes of apportionment; and

Whereas, In reaching its findings, the United States Supreme Court found the use of statistical procedures to adjust census numbers would create a dilution of voting rights for citizens in legislative redistricting, thus violating legal guarantees of "one-person, one-vote"; and

Whereas, Consistent with this ruling and the constitutional and legal relationship of legislative redistricting by the states to the apportionment of the U.S. House of Representatives, the use of adjusted census data would raise serious questions of vote dilution and violate "one-person, one-vote" legal protections, thus exposing the State of Illinois to protracted litigation over legislative redistricting plans at great cost to the taxpayers of the State of Illinois, and likely result in a court ruling invalidating any legislative redistricting plan using census numbers that have been determined in whole or in part by the use of random sampling techniques or other statistical methodologies that add or subtract persons to the census counts based solely on statistical inference; and

Whereas, Consistent with this ruling, no person enumerated in the census should ever be deleted from the census enumeration; and

Whereas, Consistent with this ruling, every reasonable and practical effort should be made to obtain the fullest and most accurate count of the population as possible, including appropriate funding for state and local census outreach and education programs, as well as a provision for post census local review; therefore, be it

Resolved, by the Senate of the Ninety-First General Assembly of the State of Illinois, That we call on the Bureau of the Census to conduct the 2000 decennial census consistent with the aforementioned United States Supreme Court ruling and constitution mandate, which require a physical headcount of the population and bars the use of statistical sampling to create or in any way adjust the count; and be it further

Resolved, That the Illinois Senate opposes the use of P.L. 94-171 data for state legislative redistricting based on census numbers that have been determined in whole or in

part by the use of statistical inferences derived by means of random sampling techniques or other statistical methodologies that add or subtract persons to the census counts; and be it further

Resolved, That the Illinois Senate demands that it receive P.L. 94-171 data for legislative redistricting identical to the census tabulation data used to apportion seats in the U.S. House of Representatives consistent to the aforementioned United States Supreme Court ruling and constitutional mandate, which require a physical headcount of the population and bars the use of statistical sampling to create or in any way adjust the count; and be it further

Resolved, That the Illinois Senate urges Congress, as the branch of government assigned the responsibility of overseeing the decennial enumeration, to take whatever steps are necessary to ensure that the 2000 decennial census is conducted fairly and legally; and be it further

Resolved, That a copy of this resolution be presented to the Speaker of the U.S. House of Representatives, the Majority Leader of the U.S. Senate, the Vice President of the United States, and the President of the United States.

POM-514. A resolution adopted by the Council of Bar Harbor Village, Florida relative to the redevelopment of Homestead Air Force Base as Homestead Regional Airport; to the Committee on Armed Services.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. THURMOND (for himself and Mr. BIDEN):

S. 2516. A bill to fund task forces to locate and apprehend fugitives in Federal, State, and local felony criminal cases and give administrative subpoena authority to the United States Marshals Service; to the Committee on the Judiciary.

By Mr. ASHCROFT:

S. 2517. A bill to amend the Individuals with Disabilities Education Act and the Gun-Free Schools Act of 1994 to allow school personnel to apply appropriate discipline measures to all students in cases involving weapons, illegal drugs, and assaults upon teachers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MCCAIN:

S. 2518. A bill to provide for the technical integrity of the FM radio band, and for other purposes; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself and Mr. BIDEN):

S. 2516. A bill to fund task forces to locate and apprehend fugitives in Federal, State, and local felony criminal cases and give administrative subpoena authority to the United States Marshals Service; to the Committee on the Judiciary.

FUGITIVE APPREHENSION ACT OF 2000

Mr. THURMOND. Mr. President, I rise today to introduce legislation on

behalf of myself and Senator BIDEN that will help address the growing problem of fugitives by giving the U.S. Marshals Service tools they need to apprehend fugitives from justice. Senator BIDEN and I have worked together many times over the years in support of Federal law enforcement.

Fugitives are those who the courts have found warrant prosecution or have already been found guilty, but are attempting to beat the system. These are individuals who, by their conduct, have indicated a complete lack of respect for our Nation's criminal justice system. This situation represents not only an outrage to the rule of law but also a threat to the safety and security of Americans. Fugitives from justice often continue to commit additional crimes while running free on the streets.

According to some estimates, there are approximately 45,000 fugitives from justice in Federal felony cases. The number of serious Federal offense warrants received by the U.S. Marshals Service has increased each year for the past 4 years. Also, over one-half million fugitives in State and local felony cases have been entered into the database of the National Crime Information Center or NCIC. This number is up from 340,000 reported in 1990. Also, the NCIC receives only about 20 percent of all outstanding State and local felony warrants in the country. If the NCIC estimates are correct, then there could be over 2.5 million State local fugitive warrants in felony cases alone. This does not even include misdemeanor warrants.

Mr. President, this is a serious problem. We must do more to address the growing threat of fugitives on the State and Federal level. It is critical to our fight against crime.

Task forces have been shown to be successful in tracking fugitives. This legislation would create more multi-agency task forces around the country to locate and apprehend the enormous number of fugitives nationwide. The marshals involved would be directed by headquarters, so they would not be diverted to tasks such as courtroom security. Also, the task forces would be a joint effort, staffed by U.S. Marshals and State and local law enforcement authorities. These task forces would share case workload and intelligence to locate and apprehend fugitives wanted in their jurisdictions.

Fugitives are the one investigative priority of the U.S. Marshals Service. Because of this expertise, the marshals have been able to specialize their personnel and investigative techniques to deal with this one critical mission. Conducting an investigation to make a criminal case against someone is nothing like trying to find a person who does not want to be found. The same techniques used to conduct criminal investigations cannot be used success-

fully in fugitive investigations. This puts the majority of law enforcement agencies at a disadvantage, especially State and local law enforcement, who are forced to put their resources into a wide variety of normal police duties. These task forces can help State and local law enforcement develop greater expertise in this area so they can be more efficient and successful in tracking fugitives.

Fugitive investigations are very fluid and time sensitive. The difference between locating and apprehending a fugitive or missing the individual can be merely a matter of minutes.

The time-sensitive nature of these investigations often creates problems under current Federal law. As a general matter, if there is no intent to indict the fugitive for escape, which is true in most fugitive cases, investigators may not use a grand jury subpoena to obtain information on the fugitive. Although investigators can get information through application to the court, the time necessary in seeking Federal court orders can make the difference between apprehension and further flight of the fugitive.

This bill would remedy this deficiency in the law by providing the U.S. Marshals Service administrative subpoena authority in fugitive investigations. This subpoena authority is based on the same authority current law already provides to the Drug Enforcement Administration in drug investigations.

In summary, this bill would help bring to justice dangerous fugitives that are roaming the streets of America. I hope my colleagues will support this important initiative.

I ask unanimous consent to print into the RECORD a copy of the bill and a section-by-section explanation of its provisions.

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

S. 2516

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fugitive Apprehension Act of 2000".

SEC. 2. FUGITIVE APPREHENSION TASK FORCES.

(a) IN GENERAL.—The Director of the United States Marshal Service shall establish permanent Fugitive Apprehension Task Forces in areas of the United States as determined by the Director to locate and apprehend fugitives.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the United States Marshal Service to carry out the provisions of this section \$32,100,000 for the fiscal year 2001, \$5,000,000 for fiscal year 2002, and \$8,000,000 for fiscal year 2003.

SEC. 3. ADMINISTRATIVE SUBPOENAS TO APPREHEND FUGITIVES.

(a) IN GENERAL.—Chapter 49 of title 18, United States Code, is amended by adding at the end the following:

"§1075. Administrative subpoenas to apprehend fugitives

"(a) In this section—

"(1) the term 'fugitive' means a person who—

"(A) having been indicted under Federal law or having been convicted of committing a felony under Federal law, flees or attempts to flee from or evades or attempts to evade the jurisdiction of the court with jurisdiction over the felony;

"(B) having been indicted under State law or having been convicted of committing a felony under State law, flees or attempts to flee from, or evades or attempts to evade, the jurisdiction of the court with jurisdiction over the felony;

"(C) escapes from lawful Federal or State custody after having been indicted or having been convicted of committing a felony under Federal or State law; or

"(D) is in violation of subparagraph (2) or (3) of the first undesignated paragraph of section 1073;

"(2) the term 'investigation' means, with respect to a State fugitive described in subparagraph (B) or (C) of paragraph (1), an investigation in which there is reason to believe that the fugitive fled from or evaded, or attempted to flee from or evade, the jurisdiction of the court, or escaped from custody, in or affecting, or using any facility of, interstate or foreign commerce, or as to whom an appropriate law enforcement officer or official of a State or political subdivision has requested the Attorney General to assist in the investigation, and the Attorney General finds that the particular circumstances of the request give rise to a Federal interest sufficient for the exercise of Federal jurisdiction pursuant to section 1075;

"(3) the term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

"(4) the term 'relevant or material' means there are articulable facts that show the fugitive's whereabouts may be discerned from the records sought.

"(b) In any investigation with respect to the apprehension of a fugitive, the Attorney General may subpoena witnesses for the purpose of the production of any records (including books, papers, documents, electronic data, and other tangible and intangible items that constitute or contain evidence) that the Attorney General finds relevant or material in the investigation. The attendance of witnesses and the production of records may be required from any place in any State or other place subject to the jurisdiction of the United States at any designated place where the witness was served with a subpoena, except that a witness shall not be required to appear more than 500 miles distant from the place where the witness was served. Witnesses summoned under this section shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(c) A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to that person or by certified mail with return receipt requested. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association that is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

“(d) In the case of the contumacy by or refusal to obey a subpoena issued to any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, or in which he carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Attorney General to produce records if so ordered. Any failure to obey the order of the court may be punishable by the court as contempt thereof. All process in any such case may be served in any judicial district in which the person may be found.

“(e) This section shall be construed and applied in a manner consistent with section 2703 and with section 1102 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3402).

“(f) The United States Marshals Service shall report to the Attorney General on a quarterly basis regarding administrative subpoenas issued pursuant to this section. The Attorney General shall transmit the report to Congress.

“(g) The Attorney General shall issue guidelines governing the issuance of administrative subpoenas by the United States Marshals Service. Such guidelines shall mandate that administrative subpoenas shall issue only after review and approval of the Director of the Marshals Service or his designee in a position of Assistant Director or higher.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for chapter 49 of title 18, United States Code, is amended by adding at the end the following:

“1075. Administrative subpoenas to apprehend fugitives.”.

SECTION-BY-SECTION ANALYSIS—FUGITIVE APPREHENSION ACT OF 2000

Section 1. Short title

The title is the “Fugitive Apprehension Act of 2000.”

Section 2. Fugitive apprehension task forces

The purpose of this provision is to assist Federal, state and local law enforcement authorities by forming several multiagency task forces around the country to locate and apprehend fugitives wanted by their jurisdictions.

The bill would authorize to be appropriated to the U.S. Marshal Service funds to establish new permanent Fugitive Apprehension Task Forces and supplement task forces already operating in areas throughout the United States. The task forces would be totally dedicated to locating and apprehending fugitives under the direction of a National Director and not under a specific District to insure that they are not utilized for other USMS missions.

Section 3. Administrative subpoena authority

As a general matter, under Federal law, if there is no intent to seek Federal indictment—as is true in a great majority of fugitive apprehension investigations—law enforcement officers may not use a grand jury subpoena to obtain information relevant to a fugitive investigation. Indeed, to do so would constitute abuse of the grand jury process. Although there are some mechanisms to obtain this information through application to the court, time spent by law enforcement seeking state and federal court orders to obtain the release of information can make the difference between apprehension or further flight of a fugitive.

This provision would remedy the current deficiency in the law by providing for admin-

istrative subpoena authority in fugitive investigations. The provision is based on the administrative subpoena authority provided in title 21, United States Code, Section 876, which authorizes the Attorney General to issue administrative subpoenas in controlled substance related criminal investigations and administrative proceedings. However, this provision incorporates significant restrictions on its use in order to satisfy concerns over an expansion in the use of administrative subpoenas.

First, this is more narrowly tailored than Title 21, United States Code, Section 876. The proposed section 1075 authorizes the Attorney General to obtain only documents in response to the subpoena, not testimony.

Second, the statute is limited in its application to fugitives in Federal and state felony cases, not just those suspected of committing crimes. The authority would only apply to those who had been indicted.

Third, the statute strictly controls any delegation of the Attorney General's authority to issue such subpoenas, by requiring that any such delegation be accomplished only through formal Attorney General guidelines that would be subject to scrutiny. These guidelines would require that an official at the level of Assistant Director in the Marshals Service must approve any such subpoena.

Fourth, the statute requires that before a subpoena can be issued, the Attorney General must find that the records sought are “relevant or material,” i.e., there are “articulable facts” that show the fugitive's whereabouts may be discerned from the records sought.

Fifth, the statute makes clear that an administrative subpoena issued under this section does not “trump” protections accorded records under existing statutes, such as electronic records whose production is covered by section 2703 of Title 18 and financial records whose production is covered by section 3402 of Title 12. Rather, this statute is to be construed and applied consistent with such existing statutes.

Sixth, the statute requires the Marshals Service to report to the Attorney General quarterly regarding the number of administrative subpoenas issued, and this report will be submitted to the Congress.

This provision would help bring to justice the larger number of federal fugitives whom the government has already decided merit prosecution insofar as they have been charged with and/or convicted of a Federal felony offense or have escaped after having been convicted of such an offense. By their conduct, these individuals have indicated a complete lack of respect for our nation's criminal justice system. As to these fugitives, the government does not need proof that they have moved in interstate commerce prior to issuing a subpoena.

The provision also would allow Federal law enforcement officials to issue an administrative subpoena to assist state law enforcement officials in apprehending state fugitives when they affect interstate commerce or when there is a request for assistance from the appropriate state official, and the Attorney General finds that the request gives rise to a Federal interest sufficient to warrant the exercise of Federal jurisdiction under section 1705. This portion of the statute is modeled on similar provisions in Title 28 U.S.C. sections 540 and 540a. It responds to the need of state officials to use the unique, nationwide detection and enforcement capabilities of Federal law enforcement agencies in apprehending fugitives, many of whom

cross state lines to avoid capture. It also recognizes the importance of, and provides additional support for, ongoing cooperation between state and Federal officials in capturing fugitives, particularly in joint Federal/state task forces.

Under Title 28 U.S.C. Section 566(e)(1)(B), the U.S. Marshal Service has authority to investigate fugitive matters “as directed by the Attorney General.” The FBI has authority to investigate fugitive matters (in violation of Title 18 U.S.C. section 1073) under Title 28 U.S.C. section 533(l). This bill would neither increase nor decrease the Attorney General's authority under those statutory provisions to direct the activities of the Marshal Service and the FBI.

Finally, it would provide investigators a mechanism to obtain documentary information in cases alleging a violation under the Unlawful Flight to Avoid Prosecution (UFAP) statute for fugitives fleeing from the testimonial responsibilities or to avoid lawful process, 18 U.S.C. section 1073(2) and (3). For this lower priority category of fugitives, it incorporates by reference the UFAP interstate movement requirement.

By Mr. ASHCROFT:

S. 2517. A bill to amend the Individuals with Disabilities Education Act and the Gun-Free Schools Act of 1994 to allow school personnel to apply appropriate discipline measures to all students in cases involving weapons, illegal drugs, and assaults upon teachers, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SCHOOL SAFETY ACT OF 2000

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

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

S. 2517

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “School Safety Act of 2000”.

SEC. 2. AMENDMENTS TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

(a) PROCEDURAL SAFEGUARDS.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended by adding at the end the following:

“(n) DISCIPLINE BY LOCAL AUTHORITY WITH RESPECT TO WEAPONS, DRUGS, AND TEACHER ASSAULTS.—

“(1) AUTHORITY OF SCHOOL PERSONNEL WITH RESPECT TO WEAPONS, DRUGS, AND TEACHER ASSAULTS.—Notwithstanding any other provision of this title, school personnel may discipline (including expel or suspend) a child with a disability in the same manner in which such personnel may discipline a child without a disability if the child with a disability—

“(A) carries or possesses a weapon to or at a school, on school premises, or to or at a school function under the jurisdiction of a State or a local educational agency;

“(B) threatens to carry, possess, or use a weapon to or at a school, on school premises, or to or at a school function under the jurisdiction of a State or a local educational agency;

“(C) possesses or uses illegal drugs or sells or solicits the sale of a controlled substance

while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency; or

“(D) assaults or threatens to assault a teacher, teacher’s aid, principal, school counselor, or other school personnel, including independent contractors and volunteers.

“(2) INDIVIDUAL DETERMINATIONS.—In carrying out any disciplinary action described in paragraph (1), school personnel have discretion to consider all germane factors in each individual case and modify any disciplinary action on a case-by-case basis.

“(3) DEFENSE.—Nothing in paragraph (1) shall be construed to prevent a child with a disability who is disciplined pursuant to the authority provided under paragraph (1) from asserting a defense that the alleged act was unintentional or innocent.

“(4) FREE APPROPRIATE PUBLIC EDUCATION.—

“(A) CEASING TO PROVIDE EDUCATION.—Notwithstanding section 612(a)(1)(A), or any other provision of this title, a child expelled or suspended under paragraph (1) shall not be entitled to continued educational services, including a free appropriate public education, under this subsection, during the term of such expulsion or suspension, if the State in which the local educational agency responsible for providing educational services to such child does not require a child without a disability to receive educational services after being expelled or suspended.

“(B) PROVIDING EDUCATION.—Notwithstanding subparagraph (A), the local educational agency responsible for providing educational services to a child with a disability who is expelled or suspended under paragraph (1) may choose to continue to provide educational services to such child. If the local educational agency so chooses to continue to provide the services—

“(i) nothing in this subsection shall be construed to require the local educational agency to provide such child with a free appropriate public education, or any particular level of service; and

“(ii) the location where the local educational agency provides the services shall be left to the discretion of the local educational agency.

“(5) RELATIONSHIP TO OTHER REQUIREMENTS.—

“(A) PLAN REQUIREMENTS.—No agency shall be considered to be in violation of section 612 or 613 because the agency has provided discipline, services, or assistance in accordance with this subsection.

“(B) PROCEDURE.—None of the procedural safeguards or disciplinary procedures of this Act shall apply to this subsection, and the relevant procedural safeguards and disciplinary procedures applicable to children without disabilities may be applied to the child with a disability in the same manner in which such safeguards and procedures would be applied to children without disabilities.

“(6) DEFINITIONS.—In this subsection:

“(A) THREATEN TO CARRY, POSSESS, OR USE A WEAPON.—The term ‘threaten to carry, possess, or use a weapon’ includes behavior in which a child verbally threatens to kill another person.

“(B) WEAPON, ILLEGAL DRUG, CONTROLLED SUBSTANCE, AND ASSAULT.—The terms ‘weapon’, ‘illegal drug’, ‘controlled substance’, ‘assault’, ‘unintentional’, and ‘innocent’ have the meanings given such terms under State law.”

(b) CONFORMING AMENDMENTS.—Section 615 of the Individuals with Disabilities Education Act (20 U.S.C. 1415) is amended—

(1) in subsection (f)(1), by striking “Whenever” and inserting the following: “Except as provided in section 615(n), whenever”; and

(2) in subsection (k)—

(A) in paragraph (1), by striking subparagraph (A) and inserting the following:

“(A) In any disciplinary situation except for such situations as described in subsection (n), school personnel under this section may order a change in the placement of a child with a disability to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives would apply to children without disabilities).”;

(B) by striking paragraph (3) and inserting the following:

“(3) Any interim alternative educational setting in which a child is placed under paragraph (1) or (2) shall—

“(A) be selected so as to enable the child to continue to participate in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the child’s current IEP, that will enable the child to meet the goals set out in that IEP; and

“(B) include services and modifications designed to address the behavior described in paragraphs (1) or (2) so that it does not recur.”;

(C) in paragraph (6)(B)—

(i) in clause (i), by striking “(i) In reviewing” and inserting “In reviewing”; and

(ii) by striking clause (ii);

(D) in paragraph (7)—

(i) in subparagraph (A), by striking “paragraph (1)(A)(ii) or” each place it appears; and

(ii) in subparagraph (B), by striking “paragraph (1)(A)(ii) or”;

(E) by striking paragraph (10) and inserting the following:

“(10) SUBSTANTIAL EVIDENCE.—The term ‘substantial evidence’ means beyond a preponderance of the evidence.”

SEC. 3. AMENDMENT TO THE GUN-FREE SCHOOLS ACT OF 1994.

Subsection (c) of section 14601 of the Gun-Free Schools Act of 1994 (20 U.S.C. 8921) is amended to read as follows:

“(c) SPECIAL RULE.—Notwithstanding any other provision of this section, this section shall be subject to section 615(n) of the Individuals with Disabilities Education Act (20 U.S.C. 1415(n)).”

SEC. 4. APPLICATION.

The amendments made by sections 2 and 3 shall not apply to conduct occurring prior to the date of enactment of this Act.

By Mr. McCain:

S. 2518. A bill to provide for the technical integrity of the FM radio band, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FM RADIO ACT OF 2000

● Mr. McCain: Mr. President, I rise today to introduce a bill to resolve the controversy that has erupted over the Federal Communications Commission’s creation of a new, noncommercial low-power FM radio service.

As you undoubtedly know, the FCC’s low-power FM rules will allow the creation of thousands of new non-commercial FM radio stations with coverage of about a mile or so. Although these new stations will give churches and community groups new

outlets for expression of their views, commercial FM broadcasters as well as National Public Radio oppose the new service. They argue that the FCC ignored studies showing that the new low-power stations would cause harmful interference to the reception of existing full-power FM stations.

Mr. President, legislation before the House of Representatives would call a halt to the institution of low-power FM service by requiring further independent study of its potential for causing harmful interference to full-power stations, and Senator Gregg has introduced the same legislation in the Senate. While this would undoubtedly please existing FM radio broadcasters, it understandably angers the many parties who are anxious to apply for the new low-power licenses. Most importantly, it would delay the availability of whatever new programming these new low-power licensees might provide, even where the station would have caused no actual interference at all had it been allowed to operate.

With all due respect to Senator Gregg and to the supporters of the House bill, I think we can reach a fairer result, and the bill I am introducing, the FM Radio Act of 2000, is intended to do just that.

Unlike Senator Gregg’s bill, the FM Radio Act would allow the FCC to license low-power FM radio stations. The only low-power FM stations that would be affected would be those whose transmissions are actually causing harmful interference to a full-power radio station. The National Academy of Sciences—an expert body independent of the FCC—would determine which stations are causing such interference and what the low-power station must do to alleviate it.

It gives full-power broadcasters the right to sue any low-power FM licensee for causing harmful interference, and stipulates that the costs of the suit shall be borne by the losing party. Finally, to make sure that the FCC does not relegate the interests of full-power radio broadcasters to secondary importance in its eagerness to launch the new lower-power FM service, the bill requires the FCC to complete all rulemakings necessary to implement full-power stations’ transition to digital broadcasters no later than June 1, 2001.

Mr. President, this legislation strikes a fair balance by allowing non-interfering low-power FM stations to operate without further delay, while affecting only those low-power stations that an independent scientific body finds to be causing harmful interference in their actual, everyday operations. This is totally consistent with the fact that low-power FM is a secondary service which, by law, must cure any interference caused to any primary, full-power service. This legislation will provide an efficient and impartial means

to detect and resolve harmful interference. By providing a judicial remedy with costs assigned to the losing party, the bill will discourage the creation of low-power stations most likely to cause harmful interference even as it discourages full-power broadcasters from making unwarranted interference claims. And for these reasons it will provide a more definitive resolution of opposing interference claims than any number of further studies ever could.

Mr. President, in the interests of would-be new broadcasters, existing broadcasters, but, most of all, the listening public, I urge the enactment of the FM Radio Act of 2000.●

ADDITIONAL COSPONSORS

S. 74

At the request of Mr. DASCHLE, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 74, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 345

At the request of Mr. ALLARD, the name of the Senator from Nevada (Mr. BRYAN) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 514

At the request of Mr. COCHRAN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 514, a bill to improve the National Writing Project.

S. 577

At the request of Mr. HATCH, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 577, a bill to provide for injunctive relief in Federal district court to enforce State laws relating to interstate transportation of intoxicating liquor.

S. 890

At the request of Mr. WELLSTONE, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 890, a bill to facilitate the naturalization of aliens who served with special guerrilla units or irregular forces in Laos.

S. 1921

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 1921, a bill to authorize the placement within the site of the Vietnam Veterans Memorial a plaque to honor Vietnam veterans who died after their service in the Vietnam war, but as a direct result of that service.

At the request of Mr. CAMPBELL, the names of the Senator from North Carolina (Mr. HELMS), the Senator from

Idaho (Mr. CRAPO), and the Senator from Maryland (Mr. SARBANES) were added as a cosponsors of S. 1921, supra

S. 1988

At the request of Mr. DASCHLE, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1988, a bill reform the State inspection of meat and poultry in the United States, and for other purposes.

S. 2005

At the request of Mr. BURNS, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2005, a bill to repeal the modification of the installment method.

S. 2018

At the request of Mrs. HUTCHISON, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2018, a bill to amend title XVIII of the Social Security Act to revise the update factor used in making payments to PPS hospitals under the medicare program.

S. 2084

At the request of Mr. LUGAR, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2084, a bill to amend the Internal Revenue Code of 1986 to increase the amount of the charitable deduction allowable for contributions of food inventory, and for other purposes.

S. 2232

At the request of Mr. GRAHAM, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2232, a bill to promote primary and secondary health promotion and disease prevention services and activities among the elderly, to amend the XVIII of the Social Security Act to add preventive benefits, and for other purpose.

S. 2241

At the request of Mr. CRAPO, the names of the Senator from Idaho (Mr. CRAIG), the Senator from North Carolina (Mr. HELMS), the Senator from Kansas (Mr. ROBERTS), and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 2241, a bill to amend title XVIII of the Social Security Act to adjust wages and wage-related costs for certain items and services furnished in geographically reclassified hospitals.

S. 2274

At the request of Mr. GRASSLEY, the names of the Senator from Utah (Mr. HATCH) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 2274, a bill to amend title XIX of the Social Security Act to provide families and disabled children with the opportunity to purchase coverage under the medicaid program for such children.

S. 2277

At the request of Mr. ROTH, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 2277, a bill to terminate the application

of title IV of the Trade Act of 1974 with respect to the People's Republic of China.

S. 2280

At the request of Mr. MCCONNELL, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 2280, a bill to provide for the effective punishment of online child molesters.

S. 2311

At the request of Mr. JEFFORDS, the name of the Senator from Rhode Island (Mr. L. CHAFEE) was added as a cosponsor of S. 2311, a bill to revise and extend the Ryan White CARE Act programs under title XXVI of the Public Health Service Act, to improve access to health care and the quality of health care under such programs, and to provide for the development of increased capacity to provide health care and related support services to individuals and families with HIV disease, and for other purposes.

S. 2330

At the request of Mr. BREAU, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of S. 2330, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communication services.

S. 2334

At the request of Mr. L. CHAFEE, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2334, a bill to amend the Internal Revenue Code of 1986 to extend expensing of environmental remediation costs for an additional 6 years and to include sites in metropolitan statistical areas.

S. 2386

At the request of Mrs. FEINSTEIN, the names of the Senator from Rhode Island (Mr. L. CHAFEE), the Senator from North Carolina (Mr. HELMS), the Senator from Wyoming (Mr. THOMAS), and the Senator from Texas (Mr. GRAMM) were added as cosponsors of S. 2386, a bill to extend the Stamp Out Breast Cancer Act.

S. 2387

At the request of Mr. LEAHY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2387, a bill to improve global health by increasing assistance to developing nations with high levels of infectious disease and premature death, by improving children's and women's health and nutrition, by reducing unintended pregnancies, and by combating the spread of infectious diseases, particularly HIV/AIDS, and for other purposes.

S. 2393

At the request of Mr. DURBIN, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2393, a bill to prohibit the use of racial and other discriminatory profiling