

this unbelievable—was that the child was allowed to be in the classroom for 15 minutes a day. After all of that.

As part of that settlement, the school was obligated to pay the lawyer who brought the allegation because the child had prevailed—at least in some part. So they had to pay the lawyer's fee for their lawyers and the lawyer's fee of the people on the other side. The teachers and all who had relevant information about this had to disrupt their first day of school to meet and meet and meet. They had to prepare and they had to talk to experts and have expert testimony about this child and what they could do—all because of the Federal education disabilities act.

We want to help children who can be in the classroom—children who have sight disability, who can't hear, or children who have other disabilities and are in wheelchairs; they need to be mainstreamed. We want to achieve that. Nothing here would say otherwise. There are a lot of problem areas, though, and there is a cottage industry of lawyers who are filing lawsuits regularly.

The District of Columbia tells us they had nearly 2,000 cases last year, and they are over the kinds of issues about which I am talking. These children are not being thrown on the ash heap. The question often is, What kind of program or benefit do they get? Do they stay in the main classroom or go to a special education classroom.

We had a case in Alabama—and this is true all over America—where a child was so unable to control himself—apparently unable, or at least did not control himself—an aide was hired by the State to meet him at the school bus stop in the morning, go to school with that child, sit with him all day in the classroom, and come home with him in the afternoon. This is happening all over America.

The lawyers and the regulations are impacting principals and teachers who love children. They want to see children do well, and they want to see every child reach their highest and fullest potential; but they are being handicapped by complex regulations and litigation. I say that in general. Then I will say this: \$150 an hour is not unusual. There are a lot of regulations that we have where the hourly fees are lower than that. Criminal defense attorneys are paid less than that in most States in America. \$150 an hour is a 20-percent increase over the current law.

This Hutchison amendment is a 20-percent increase over current law in the District of Columbia. This was requested by the District of Columbia. They say, well, you don't cap other lawyer's fees. Other lawyers don't have their fees capped.

Let me say this: If someone cheats you on a contract and you sue them and you win the lawsuit, they don't pay you anything for legal fees, unless

it is in the contract, which it normally is not. Most people in America file a lawsuit, they pay their lawyer out of what they recover. So we have given a special advantage to lawyers in disability cases and in several other instances in lawsuits against Government agencies. We have agreed to pay their legal fees, but they are not guaranteed unlimited legal fees, guaranteed to be paid forever, however much they want or whatever some judge may agree to award them.

So I think this is a reasonable amendment. It is a serious request of the school board of this city, which is facing an avalanche of lawsuits. There were nearly 2,000 last year. None of this money that is expended—the \$10.5 million that was saved last year is not being thrown away. The \$10.5 million that is saved can be used to help disabled children and provide them better programs. If we pay out more money in legal fees, from where do people think it is coming? It is coming from the children. That is where it is coming from—the people we want to help. We need to address nationally some of the litigation that is arising with the Individuals with Disabilities Education Act. There is not a superintendent of schools in America who has been on the job very long, I suggest—or certainly very few who would suggest this system is working effectively.

Principals tell me all the time it is a nightmare for them. It is disrupting their ability to educate our children. They tell me the child who is getting hurt is the average child. There are special programs for the bright children and for those with disabilities, but the average child is getting short-changed. Oftentimes, teachers are so frustrated they are leaving the profession. They are being sued for how they handle difficult circumstances.

The PRESIDING OFFICER. The time of the Senator from Alabama has expired.

Mr. SESSIONS. I thank the Chair and reiterate my support for the Hutchison amendment.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I want to speak for a moment. The Senator from Washington wants to be recognized. I want to say this: I voted with Senator SESSIONS on the last amendment he offered on this subject. I actually agreed very strongly with what he said. Many of us on both sides of the aisle voted with him, as he has outlined so beautifully some of the real problems with special education as far as Federal rules and regulations go. We are all well intended. We all want to help these children, but there is a major disagreement and debate about whether the rules are actually helping or hurting.

The Senator is absolutely correct that many of our resources are not

being devoted to sort of mainstream children because of the complicated rules about special needs and also gifted children. It is a problem and it has to be worked out. I agree with the Senator. My disagreement is that this amendment doesn't actually fix that problem, and it makes it worse, not better, which is why I probably cannot support this exact amendment and why we have tried to work out some compromise between the Senators.

I wanted to say that for the record, and I want to also say that in limiting the attorney's fees to \$150 an hour, which doesn't seem to many people to be much of a limit—that is quite a lot of money to make, particularly in these times. But the problem the Senator, as an attorney and prosecutor, should know is the real problem is the overall limit of \$3,000 per case.

So what happens is an attorney basically can only spend 2½ days. That would allow them to process one or two motions and may not cover them until the end of the case.

These are long and complicated and, as he has described, very difficult cases. That is the problem Senator DURBIN is trying to raise. So I hope we can resolve it. Maybe the good prosecutor, my colleague from Alabama, would have a suggestion about that to us.

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#### MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 2:30 p.m. with Senators permitted to speak therein for up to 10 minutes each and with the time to be equally divided and controlled by the two leaders or their designees.

The Senator from Washington.

Mrs. MURRAY. Madam President, I intend to speak as in morning business. I believe the Senator from Minnesota would like to propound a unanimous consent request.

Mr. WELLSTONE. Madam President, I ask unanimous consent that I follow the remarks of the Senator from Washington in morning business.

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

The Senator from Washington is recognized.

Mrs. MURRAY. I thank the Chair.

(The remarks of Mrs. MURRAY and Ms. SNOWE pertaining to the introduction of S. 1643 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Minnesota.