TRIBUTE TO CONGRESSMAN DONALD G. BROTZMAN

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of a dear friend, Donald G. Brotzman, distinguished former Colorado Congressman who represented Boulder in the U.S. House of Representatives. Congressman Brotzman passed away on September 15 at the age of 82 in Alexandria, VA.

Don Brotzman was a friend to all who knew him. Highly respected and a man of immense character, he always had time for everyone. His wise counsel was constantly sought by leaders and friends.

Don served in the Colorado State House of Representatives from 1952 to 1954 and in the State Senate from 1954 to 1956. In 1959, President Dwight D. Eisenhower appointed Don as U.S. attorney for Colorado. Congressman Brotzman served in the U.S. House of Representatives from 1963 to 1965 and again from 1967 to 1975. In 1975, President Gerald R. Ford appointed him Assistant Secretary of the Army for Manpower and Reserve Affairs. He served 2 years in that position and was credited with helping lead the way for the implementation of the ''all-volunteer army.''

Don was born on a farm near Sterling, CO. He served in the U.S. Army in the Pacific theater during World War II. He graduated from the University of Colorado Schools of Business and Law where he had begun his undergraduate work before the war on a football scholarship. He was an All Big Eight middle linebacker for the Colorado Buffaloes.

Don Brotzman was preceded in death by his wife of 51 years, Louise Reed Brotzman, who died in 1995. He leaves behind his wife, Gwendolyn Davis Brotzman of Alexandria, whom he married in 1996; two children from his first marriage, Kathy Caldwell of Longmont, CO, and Donald G. ''Chip'' Brotzman Jr. of Carbondale, CO; a stepson, Robert Higgins of Philippi, WV; a brother; and six grandchildren.

We will miss this good man, Don Brotzman. I ask my colleagues to join me and all Americans in honoring World War II veteran and Congressman Donald G. Brotzman.

IMPLEMENTATION OF ACCOUNTABILITY PROVISIONS FOR STUDENTS WITH SPECIAL NEEDS

Mrs. CLINTON. Mr. President, I rise to bring an important matter to the attention of my colleagues. As we all know, the No Child Left Behind Act, NCLB, requires an important shift in accountability for our Nation's public schools. It requires our schools to look at the achievement of all students, including students in several traditionally under-performing subgroups such as students with special needs.

Our goal in passing this law was to make sure that no child was left behind to send a clear message that all American children deserve a world-class education. To do that, we required accountability for results, expanded local control and flexibility, emphasized the importance of valid and reliable educational tools, and expanded parental involvement. We also required schools to show, through transparent processes, sufficient progress for all students, including minorities, low-income students and students with disabilities.

Today I am submitting for the record an August 30, 2004, New York Times article that contains troubling information about how NCLB is being implemented for students with special needs. This article, ''School Achievement Reports Often Exclude the Disabled,'' by Diana Jean Schemo, illustrates that some States are skirting the law in ways that are leaving students with disabilities behind.

According to Schemo and the education officials who corroborated her observations, some States have raised the minimum number of disabled students that must be enrolled before the school has to report on their progress as a separate group. And some States do not break down the test scores for disabled students on school report cards. A number of States even classify special education schools as programs, not schools, therefore exempting them from accountability.

This report is deeply troubling because it makes it impossible for parents to evaluate the effectiveness of their children's schools, and ultimately, could lead to children with special needs being ignored as they too often were in the past.

Over 25 years ago, Congress enacted the Individuals with Disabilities Education Act, a landmark education and civil rights law that ensured that all students—including the 6 million with disabilities—receive quality services in our Nation's public schools. This body has worked hard to reauthorize the IDEA because we continue to believe strongly in the notion that every child with special needs has the right to a free, appropriate, public education. The spirit and the letter of the No Child Left Behind Act builds on that promise, and it is my hope that with better implementation, it will be realized.

I ask unanimous consent that the New York Times article be printed in the RECORD.

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

[From the New York Times, Aug. 30, 2004]

SCHOOL ACHIEVEMENT REPORTS OFTEN EXCLUDE THE DISABLED

(By Diana Jean Schemo)

The first time Tyler Brenneise, a 10-year-old who is autistic and mildly retarded, took the same state achievement tests as California's nondisabled children, his mother, Allison, anxiously awaited the results, along with the state report card on his special education school, the Del Sol Academy, in San Diego. But when the California Department of Education issued its annual report on school performance several months later, Del Sol Academy was nowhere to be found. Ms. Brenneise wrote state officials asking why. ''They wrote back,'' she said, ''that the school doesn't exist.''

That is because San Diego labels Del Sol a program, not a school, said Karen Bachoffer, spokeswoman for the San Diego schools. And like most other states, California does not provide report cards for programs that educate disabled children.

''He doesn't count,'' Ms. Brenneise said. ''He's left behind.''

The problem is not confined to California. Around the country, states and school districts are sidestepping the spirit, and sometimes the letter, of the federal No Child Left Behind Education Act when it comes to recording their successes and failures in teaching disabled youngsters.

Federal officials have acknowledged permitting a growing number of states to exclude many special education students from reports on school progress, on the grounds that they account for only a small portion of enrollment.

But a review of state education records shows that some states and districts are going far beyond this measure to avoid disclosing the quality of the education they provide to such students.

Some exempt schools for disabled students. Still others simply do not disclose basic information required by the federal law, for example the percentage of disabled education students who graduate from high school, and about 10 states have not been fully reporting how students do on achievement tests tailored to disabled students, federal officials say. New York City's all-special-education district of 20,000 mentally or physically disabled students, District 75, gives only fragments of the information the federal law requires for accountability, reporting schools ''in good standing'' despite dismal results.

The trend toward avoiding accountability is alarming advocates for the nation's six million disabled students, who see it as an erosion of the education act's disclosure requirements. In them, parents and advocates say, they saw a crucial lever for helping their children meet higher academic standards, and a way of finding out which schools were meeting the challenge.

''The reporting system is a shambles,'' said James Wendorf, executive director of the National Center for Learning Disabilities. Without full disclosure, Mr. Wendorf said, parents have no handy way of knowing what kinds of services schools are providing each day and how the schools, as a whole, measure up. ''It's like flying a plane without instruments,'' he said. ''How does a parent know where the plane is expected to land if they don't have that kind of information?''

Federal officials say that aside from the 10 or so states not fully reporting scores on achievement tests tailored to disabled students, most have made great strides to satisfy the complex new law, but they say they are monitoring to see that states follow through. Under the law, schools must report on the test scores of disabled children to show they are making adequate progress toward proficiency in reading and math by 2014. The states are left to determine what is proficient. Eugene W. Hickok, the under secretary of education, acknowledged that many schools that exclusively serve disabled children were not issuing report cards. But he said that in such cases, the test scores of children in those schools were instead reported at the school district level and, if not there, at the state level.

''Every child is part of an accountability system,'' Mr. Hickok said. ''That doesn't mean there aren't people who are trying to

find ways to get around the law.'' State officials deny any effort to shortchange disabled students. Rather, many say they were overwhelmed by the new law and could not initially meet some of its more cumbersome reporting provisions.

In some states, like New York, officials said that local and statewide systems did not meet the federal law's demands and that they had not entirely worked out the conflicts. New York officials pledged to correct the problems but also expressed misgivings about the value of report cards for some schools.

Particularly in the city's special education district, said Lori Mei, executive director of the division of accountability for the city's public schools, ''you really can't have a cookie-cutter approach.'' Ms. Mei added, ''it may be that we have to have different kinds of outcome measures that are not really tests.''

To close the achievement gap, the federal law requires schools to report test scores separately for various groups of students, including African-Americans, Latinos, immigrants and low-income and disabled children.

Schools must show sufficient progress by each of these groups or face steadily tougher consequences that can ultimately include closing.

But states are skirting the law in a range of ways. About a dozen have raised the minimum number of disabled students that must be enrolled before the school has to report on their progress as a separate group. In Maine, school report cards, available on the state's Web site, do not break down test scores for groups like disabled students or report the percentage that took the exams. Nor do they in New Mexico, Colorado or Arkansas, while in Michigan, report cards say only whether particular groups, like disabled students, met targets for proficiency and 95 percent participation in exams.

About 10 states, including Missouri, Utah, Delaware, Colorado and Hawaii, have failed to properly report the scores of disabled children on the special achievement tests and are receiving federal money under ''special conditions'' obligating them to do so in the future, federal officials say.

Most states are not issuing public report cards on special education schools. Like California, states generally contend that these are not schools, but programs, and thus are exempt from the federal law, an argument largely accepted by officials in Washington. In California, the determination of what is a program and not a school can be made at the local level, but it is often made by states or a consortium of school districts.

As a result, the scores for students attending special education schools are frequently mixed in with the larger pool of scores of disabled students from throughout the districts, making it impossible for parents to get a snapshot of achievement at the institution their children actually attend each day, and for taxpayers to judge their effectiveness.

Dee Alpert, a lawyer who has researched the issue extensively for her newsletter, The Special Education Muckraker, said that parents of children who must attend special education schools, usually those with severe disabilities, must ''go through 97 different steps'' to get information that is readily available to parents of normal children.

''Being the parent of a kid with a disability is tough enough,'' said Ms. Alpert, whose son was in special education. ''Trying to be an informed involved parent of a kid with a disability is tougher, by far.''

But Mitchell Chester, the assistant superintendent for policy and accountability in Ohio, said there were sound reasons for attributing disabled children's performance to their home districts, as Ohio does.

''We think districts have to remain accountable for whether or not those children are served,'' Dr. Chester said. ''So districts can't just make the decisions to farm kids out and wash their hands of their progress.''

Officials in Colorado, Maine and New Mexico said they would release the breakdown of scores of disabled students on standardized tests in the coming months. In Colorado, officials said they had just begun reporting scores on the special tests tailored to the disabled, while Delaware said it had been reporting such scores, but not in the way the federal law requires. Both said they were now complying with the requirement.

In Michigan, Ed Roeber, the director for assessment and accountability, said school report cards did not detail performance by particular groups like disabled students because it ''would be confusing to people.'' Michigan grades schools based on 11 indicators, only one of which is test scores for the school as a whole. But reporting on separate groups of students would be ''misleading,'' he said, because test scores were unreliable indicators at that level. ''To me, that's a major fault with the No Child Left Behind Act,'' Mr. Roeber added.

Ms. Brenneise, who is the chairwoman of a special education advisory committee to the San Diego Board of Education, said many schools were reluctant to honestly disclose their record in educating disabled students, believing that these students by definition cannot reach the same academic heights as other students, and thus will always drag down the school as a whole. Aside from discovering that no report card existed for her son's school, she said that she never officially received his test results. Eventually, Ms. Brenneise said, she filed a formal records request and a district employee gave her a slip of paper on which she had written what she said were the son's test scores. Ms. Brenneise is now home schooling her son.

But much sidestepping of the law appears independent of the intellectual disability involved. In Ohio, as in New York, Oregon and many other states, public schools for the deaf and the blind issue no reports on how well their students are performing. Ohio officials acknowledge that deafness and blindness do not typically imply lower intelligence, and said they would release report cards for these schools next year.

In New York, state education officials acknowledged that the city's special education district was not fully reporting on student achievement. Many of the district's schools exclude more than half their students from the state's standardized tests and do not report how they do on the special achievement tests. Nor do they report how many graduate or drop out.

Though Albany issues report cards for many schools, state officials said District 75 preferred to report its performance to the public in a report card of its own design.

''Clearly, it was less than perfect, but I don't think it was intentional,'' said Martha P. Musser, director of information reporting services for the State Education Department. ''New York City never had to deal with these accountability issues for District 75 before.'' Ms. Musser added that the state had ordered District 75 to improve its public disclosure.

The failure to report leaves parents like Martin Schwartzman of Queens to make decisions in a vacuum. The state recently ordered Mr. Schwartzman's 11–year old son, Robby, who is autistic, to leave the private school he had attended at taxpayer expense since first grade and return to public school, along with 75 classmates.

''How can I get a measure of what's out there when there's so little data available for District 75?'' Mr. Schwartzman asked.

Ms. Alpert, the lawyer, contends that the reticence to report school results is too pervasive to be accidental, and said the information being withheld was crucial for parents and advocates.

Several years ago, she represented a boy with attention deficit disorder and learning disabilities whom the city wanted to place in one of the special education district schools. The boy was talented in math, and his parents believed that with extra support, he could earn a Regents diploma at a regular high school, she said.

Using online school report cards that showed its reading scores had fallen 20 percentile points in three years, while math scores stagnated, Ms. Alpert refuted claims that the school offered any ''foreseeable benefit'' for her client.

''We won the hearing,'' Ms. Alpert said. Within a year, she added, the cumulative scores disappeared from the city's school report cards.

''That's what score and graduation-dropout information does for parents of kids with disabilities,'' she said, ''and that's why school, district,'' regional programs and state education officials ''don't want to publish it.''

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On July 16, a 32-year-old man in Austin, TX, went to Oilcan Harry's, a popular gay bar. Four men accompanied the man home when the bar closed, and once there, broke a glass over the victim's head. The four men then ripped off his clothes, beating and kicking him. They also tried choking him with a cord cut from his vacuum cleaner. The assailants allegedly forced the victim to sodomize himself with an object at knifepoint while they used homosexual slurs. After the attackers left, the police were called and the victim taken to a local hospital.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

OPENING OF THE NATIONAL MUSEUM OF THE AMERICAN INDIAN

Mr. DOMENICI. Mr. President, I want to bring due attention to the Smithsonian Institution's newest museum on the National Mall in Washington. The National Museum of the American Indian celebrates its grand opening tomorrow.

This new museum is a wonderful place, and its collection has been a long time coming. It is a beautiful and suitable home for honoring centuries of American Indian history and their contributions to our Nation today. Never