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## Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable GEORGE ALLEN, a Senator from the State of Virginia.

### PRAYER

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

Today, continuing Jewish Heritage Week, our prayer is taken from the Jewish Book of Service, Daily Prayers. Let us pray.

We gratefully acknowledge that You are the Eternal One, our God, and the God of our fathers evermore; the Rock of our life and the Shield of our salvation. You are He who exists to all ages. We will therefore render thanks unto You and declare Your praise for our lives, which are delivered into Your hand and for our souls, which are confided in Your care; for Your goodness, which is displayed to us daily; for Your wonders, and Your bounty, which are at all times given unto us. You are the most gracious, for Your mercies never fail. Evermore do we hope in You, O Lord our God. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable GEORGE ALLEN 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, April, 25, 2001.

To the Senate:

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

appoint the Honorable GEORGE ALLEN, a Senator from the State of Virginia, to perform the duties of the Chair.

STROM THURMOND,  
President pro tempore.

Mr. ALLEN 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.

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for up to 10 minutes each.

Under the previous order, the time until 10:15 a.m. shall be under the control of the Senator from Illinois, Mr. DURBIN, or his designee.

The Senator from Nevada.

### BROWNFIELDS

Mr. REID. Mr. President, today is a very joyous occasion in the Reid family. At 6:30 this morning, approximately, eastern time—3:30 Reno, NV, time—my tenth grandchild was born. Everyone is doing well. The little baby is 18 inches long—kind of short, really—and weighs 6 pounds 12 ounces. We are very happy for this little boy. He is the third son that my son has had.

I rise today thinking of my new grandson, and I want to discuss Earth Day and what having a good, clean environment means to my grandchildren. I am very concerned, having seen, even in my lifetime, the Earth change—and many times not for the better.

Earth Day is a time for reflecting on the progress of the last century and acting to protect our environment for generations and centuries to come. It

is good that at least 1 day a year we focus on the Earth. We take it for granted. In the last 30 years, the country has taken major steps to achieve clean water, clean air, safe drinking water, hazardous waste cleanup, and reducing pollution across the board.

Take just one thing, clean water. Why do we have a Clean Water Act? We have a Clean Water Act because, for instance, in Ohio the Cuyahoga River kept catching fire. Mr. Nixon was President of the United States at that time. In a bipartisan effort to do something about the polluted waterways in America, Congress joined with the President to pass a Clean Water Act to prevent rivers catching fire.

We have made progress. We still have a lot of polluted water, but at the time that President Nixon recognized the need to do something, probably about 80 percent of our waterways were polluted. Now these many years later probably only about 30 percent of our waterways are polluted. If you fish the rivers and lakes around the United States, now you can actually eat the fish you catch. That is progress. But we have a lot more to do.

We need to clean up that extra 20 percent or 30 percent of the waterways that are polluted. We need to make sure we have safe drinking water so someone can pick up a glass of water and drink it and know they are not going to get sick.

It is not that way around much of our country. And when we travel overseas, we usually take lots of water with us because in many parts of the world we cannot drink the water because it is polluted. In the United States, we are finding much more polluted water. There is lots of polluted water.

In my State of Nevada, we have naturally occurring arsenic in the water and we know that arsenic causes cancer. We need to do something about that.

Even though we have a long way to go, we should be justifiably proud of

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



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the progress we have made. We cannot afford to rest on past successes because millions of people are still breathing unhealthy air, drinking unsafe water, and are unable to swim or fish in many of our Nation's waterways.

As I have said before, there is still much that needs to be done. As the new century dawns, we face even more complex environmental and public health problems. These problems include persistent toxics. We have a new phenomenon and that is, because of our development of nuclear power and nuclear weapons, now we have areas that are polluted with things nuclear. On the Colorado River, we have 13,000 tons of uranium tailings. We need to clean those up because, of course, the Colorado River is a very important waterway in the western part of the United States. We have not provided money to do that. We need to do that. But that is a new threat to our environment.

We have new problems in addition to nuclear issues. We have global warming. We have the dangers of invasive species. For example, in the State of Nevada, we have very little water. It is arid. It is a desert. You could count the rivers in Nevada on the fingers of one hand. Some of those rivers are being very seriously threatened as a result of something called salt cedar or tamarisk, a plant brought in from Iran 100 years ago to stabilize the banks of streams, and it has just taken over everything. They are, frankly, very ugly. They use huge amounts of water. You cannot get rid of them. You can't burn them; you can't poison them; you can't snag them and pull them out. The only thing we found that might work is an insect that eats them, and we are working on that. The Department of Agriculture is working on a program to see if we can get rid of them that way. But these invasive species are all over America and we need to work on their eradication.

Fine air particles from fossil fuel use, land use changes, the need for thoughtful use of our land for housing, recreation, and transportation: these challenges require the energy and enthusiasm that marked the first Earth Day 30 years ago. But also we need a new level of sophistication and commitment.

I like President Bush. I think he is a very good man. I think he means well. From what has happened during the first 100 days of this administration dealing with the environment, I think he is getting bad advice from somebody.

I can't imagine a good man doing such things in the first few months of his administration. His Administrator of EPA gave a speech about the importance and dangers of global warming and about needing to do something about it and referred to the CO<sub>2</sub> contamination. Four days later, the administration cuts her legs out from under her and says they are going to delay implementation.

Greenhouse gas emission is a problem. This would have been the first

tangible U.S. effort to address global warming, and we backed away from it.

Next, the administration proposed drilling on all public lands, including national wildlife refuges, national forests, national monuments, and other public lands. This was followed closely by a delay of the rules designed to protect 60 million acres of national forest from logging and roadbuilding. This "roadless rule" had been published after more than 600 public hearings and consideration of 1.6 million comments. It is not as if it was done in the dead of night.

Soon after that, the administration pulled back a long-awaited regulation lowering the standard of arsenic, a known human carcinogen, in our drinking water supplies. As early as 1962, the US Public Health Service recommended that the standard be lowered to 10 ppb. EPA held an extensive comment period on this rule, including more than 180 days of comment and holding stakeholder meetings beginning as early as 1997. There was a study by the National Science Foundation. Now the administration wants to re-study this issue and further delay the process of getting arsenic out of our drinking water. That is absolutely wrong.

Then, without any apparent regard for the economic, environmental or foreign relations consequences, the administration walked away from international climate change negotiations that were being conducted under a U.S.-ratified treaty. The administration also suspended the rule which requires companies getting federal dollars to be in compliance with federal laws, including environmental laws.

I was in a meeting with Senator BYRD and Senator HAGEL. We agreed, if we are going to do something about this Kyoto treaty, on making sure the Third World nations are also brought into the picture. Senator BYRD said he had the intention of going forward with the discussion. We need to do something about global warming. He said that he is going on 84 years of age and he has been able to see in his lifetime the changes that have taken place in the environment.

This was not good for us. We walked away from this treaty.

And, without explanation, the administration withdrew draft plans for public access to information on potential catastrophic chemical accidents in neighborhoods around the country. These plans are more than a year late and their withdrawal suggests that the administration doesn't want the public to know about these dangers.

In April, the Bush administration weakened the new energy efficiency standards for water heaters and central air conditioners. Over the next 30 years, this change equals the total electricity used by all American households in one year. When electricity supplies are drastically low and high priced, as in California, does it make sense to increase electricity consump-

tion rather than conserving? The answer is no. Similarly, does it make sense to drill in the Arctic National Wildlife Refuge for oil that will arrive years too late to address high gasoline prices this summer when fuel efficiency improvements would be quicker and longer lasting?

The budget proposal by the administration represents yet more bad news for the environment. The budget resolution which passed the Senate on a party line vote eliminates or underfunds environmental programs across a range of agencies, including cuts at EPA in clean water state revolving funds, estuary protection, beach protection, scientific research on clean air, and law enforcement personnel. These cuts would greatly undercut environmental protections, and the protection of public health.

The budget document, which was submitted to us later, among other things, calls for a 30-percent cut in alternative energy research on solar, geothermal, and wind. That is the wrong way to go. These cuts will greatly hurt environmental protection and the protection of public health. It also cuts vital environmental programs at the Department of the Interior, Department of Agriculture, and renewable energy programs at the Department of Energy. We can do better.

Mr. President, I repeat what I said on Monday and Tuesday. We did nothing here Monday. We did nothing yesterday. It appears we are going to do nothing today.

We have a bipartisan bill, the brownfields legislation, S. 350, entitled "The Brownfields Revitalization and Environmental Restoration Act of 2001." We need to consider this bill. This is a bill that has 68 cosponsors. It is supported by the National Governors' Conference, realtors, environmentalists, businesses, and local governments. It is supported by a broad array of outside groups. I cannot imagine why we are not considering this bill. It was reported out of committee 15 to 3.

In addition to that, the problems that three Members had we resolved. I can't speak for all three, but I know Senator VOINOVICH had some problems. We worked those out.

This legislation is so important. We have 500,000 contaminated or abandoned sites in the United States waiting to be cleaned up. Private parties and communities need to be involved. We believe that these sites will create about 600,000 jobs nationally and increase annual tax revenues by \$2.4 billion. We need to move forward on this legislation. It will be good for urban America and rural America. I just can't imagine why we are not doing it.

The testimony on the bill supports moving quickly. Witnesses have called for the bill to move quickly.

For example, the witness for the Conference of Mayors testified, "the Nation's mayors believe that the time has come for bipartisan action on

brownfields. We have waited a long time for final congressional action on brownfields legislation."

Another witness put it even more strongly: "Time is of the essence . . . We look forward to working with you toward timely, expeditious, hopefully almost immediate enactment."

I agree with these sentiments. Let us take up this bill and do what we were elected to do—pass good bills into law. This bill is good for the environment and good for jobs and there is neither need nor justification for any further delay.

We need to find a "green path" forward. We need to make sure we take the steps to protect the earth for our grandchildren, steps which include finalizing the numerous rules and enforcement cases which have been stopped mid-stream, rules which were developed over years and which provide critical protections for our environment.

We need to ensure that the public is informed about threats to their health and their environment. We need a safe and sustainable energy policy. We need steps to address the very real problem of climate change, we need a vision for conserving game and non-game species and their habitat, we need a commitment to reclaiming polluted industrial, agricultural and military sites and we need to make a fundamental investment in conservation that recognizes that we do not inherit the planet from our ancestors, but borrow it from our children.

These measures would be truly planting a tree to honor the Earth.

It is bipartisan. I really can't imagine why we are not considering this bill. We agreed to 2 hours on this side. I hope the majority will allow us to take the bill up immediately. It is good environmental legislation. It speaks for what Earth Day is all about.

The ACTING PRESIDENT pro tempore. The Senator from Indiana is recognized.

Mr. BAYH. Mr. President, I thank my colleague from Nevada for his inspirational work this morning. There is no one who cares more about the quality of the environment than Senator HARRY REID. I join with him in calling for taking up a brownfields bill. It would be good for my State and for all States in this Union. I very much appreciate his leadership on that critical subject.

#### QUALITY EDUCATION

Mr. BAYH. Mr. President, I rise this morning to address what I believe to be most important issue facing our country today; that is, improving the quality of education received by every child across this country. It will affect not only our future prosperity but the kind of Nation in which we live and the vibrancy of our very democracy.

I thank all colleagues who helped bring us to this historic point, starting with my friend and colleague, Senator

JOE LIEBERMAN, with whom I have enjoyed working on this issue for the last several years; our colleagues on the other side of the aisle, Senator GREGG, Senator FRIST, Senator JEFFORDS, and others; and the Democratic members on the HELP Committee, Senator DODD and others, but principally Senator KENNEDY.

I want to say a special word about Senator KENNEDY this morning. His dedication to improving the quality of America's educational system is truly remarkable. He has proven himself to be not only principled but pragmatic. He fights for what he believes in, but he is not willing to sacrifice real progress for America's schoolchildren for the older ideological ideas. Without his hard work and dedication, we would not be where we are today.

I thank all of these leaders for bringing us to where we are. It has been a long road for me personally and a long road for many of us in this Chamber.

My thoughts go back to 1989, my first year as Governor, when President Bush called us to a national summit in the city of Charlottesville.

For only the third time in our Nation's history, all 50 Governors had gathered together to focus on a single subject. The first time was Teddy Roosevelt's focus on the issue of the environment. In this case, it was President Bush's first focus on the subject of education. We came out of that summit dedicated to the standards and accountability movement, and we established the National Education Goals Panel, of which I was an initial member. I had the privilege of serving, in later years, as chairman.

From there I went on and had the privilege of serving as the chairman of the Education Commission of the States, a collection of State and local officials who work to improve the quality of our schools at the State and local levels.

Finally, I had the privilege of serving on the National Assessment of Educational Progress Board, the NAEP Board, trying to devise the very best assessments for our children, authentic assessments, that tell us more than if they can memorize rote knowledge, but instead whether they can think and reason and express themselves intelligently.

It has also been a long road for this Senate. I, again, thank Senator LIEBERMAN and my colleagues at the Progressive Policy Institute, who helped fashion the principles that lie at the heart of the bill we will soon take up. We stand on the precipice of historic progress saying that the status quo that leaves too many of our children behind is no longer good enough. The consequences of failure today are greater than ever before. We must do better. I believe we can.

During the campaign last year, I was very pleased when President Bush adopted many of the principles that lay at the heart of our bill. That was an important step in the right direction. I

give him credit for that. I am proud that the thinking in my own caucus has evolved on many of these critical issues. So there has been a convergence of thought, and now a consensus exists on the part of most of us of what needs to be done to improve the quality of our local schools. The principles and the values are the same, even if occasionally we have differences of opinion about how to embrace those principles and give them full meaning in the context of education today.

We stand on the threshold of great progress, the most significant educational progress in a generation. Accountability lies at the heart of our agenda. We redefine the definition of "success." No longer will we define success for America's schoolchildren merely in terms of how much we spend, but instead we will define success in terms of how much our children learn.

There will be high academic standards and assessments to determine how every child is doing toward meeting those standards. Everyone in the process will be held responsible for making progress—every school, every school district, every State—each and every year.

For the first time, there will be real consequences—real consequences—for academic failure. In relation to some of the new money dedicated to new administrative funding, if progress is not made, it will be reduced, because it only makes sense that if the funding is not achieving the progress for which it was intended, it should be redirected into ways which will achieve real progress.

For the first time, America's parents will be given an important choice. If your local school is not doing well enough for several successive years, you will be allowed to send your child to a better performing public school. You will begin to have an option of receiving supplemental services, additional instruction on top of that provided in your local school, to give your child the reading, writing, and scientific knowledge that your child will need to be successful in meeting the challenges of the 21st century.

We inject competition—true competition—into the system, embracing market forces for the innovation and additional accountability they can bring. We seek to achieve the best of both worlds, with charter schools, magnet schools, robust public school choice, but not withdrawing the important resources necessary to making our public schools flourish.

We avoid the false choices of those who say that the only way to improve the quality of education is to abandon our public schools, on the one hand, and, on the other hand, those who say the status quo is good enough and that the answer to the challenges facing America's schools is simply to add more money.

We embrace the notion of additional flexibility for our local schools and States. We cut through the redtape

that too often has bogged us down at the Federal level. We only ask in return that our local schools and school districts give us additional progress for the flexibility that we provide.

We invest in professional development. Every study I have ever seen—I know the Presiding Officer has labored in these vineyards as a Governor, as did I—every study I have ever seen indicates the two most important variables in determining a child's academic success is, first, whether a parent is involved or engaged in that child's educational activities, making it a priority at the home; and, secondly, whether there is a well-prepared and highly motivated classroom professional teacher in that classroom, helping to provide the individual instruction every one of our children needs and every one of our children deserves.

These are the principles that lie at the heart of our bill: increased accountability for everyone; more competition in parental choice within the context of public education; more flexibility for our States and local school districts; and investing in professional development, to ensure that every classroom has a motivated, highly trained teacher that every child deserves.

But now, my friends, we come to the critical moment. Now we face the acid test which will determine whether our actions will truly live up to our words. We are all for reform. We are all for accountability. But will we do what it takes in a practical sense to make reform and accountability work? I believe we must. We are all for holding everyone else responsible—the classroom teachers, school principals, district superintendents, Governors; everyone else in this process—but will we hold ourselves, this institution, accountable? Will we hold this President and this administration accountable to doing what it takes to give meaning to the words that we speak? I believe we must.

Last week I visited schools across my State, in Evansville, in South Bend, in Fort Wayne, in Indianapolis, in Floyd County. I saw the difference the Title I dollars are making in the lives of our children and in the quality of instruction taking place in our classrooms. It was a wonderful thing to behold. I compliment those teachers and principals and school superintendents who are using those dollars to give those children hope and educational opportunity.

But as I visited those schools and saw what was working and making a difference, I was also saddened to remember that 6.8 million children—6.8 million of our young people—who are qualified to receive that assistance are instead receiving none. What about them? Will they be left behind? If we do not rise to this challenge, I am afraid they will.

President Bush, during the campaign last year, pledged to leave no child behind. I commend him for that pledge. Now it is up to us and to him to redeem

it. And so we must. We will enact a system of standards adopted by the States, assessments to determine how each and every one of our children are doing. We will insist upon results.

But what do we do with the results of those assessments when they tell us so many of our children need to do better? Do we simply pat them on the head, wish them good luck, and say: Now you are on your own? Of course we must do better than that.

Throwing dollars at our schools without accountability is a waste; but accountability without the means to truly improve the quality of instruction our children are receiving is nothing but a cruel hoax.

I call upon my colleagues in this Chamber and our new President to join with us, to join with us in a historic effort of improving the quality of instruction for our children who need it most, to join with us in embracing reform, but also what it means in a tangible, practical dollars-and-cents way of making reform work.

Our actions in this great Chamber must be more than a facade of reform. The bill that we enact and that the President signs must offer more than an illusion of progress. We must not individually or collectively participate in perpetuating a hoax upon America's schoolchildren. It is important for me to acknowledge that from time to time on this side of the aisle there has been a diversity of thought on this subject. But when it comes to the commitment of resources to make the reform work, to make progress become a reality, we stand united and determined.

This debate is not about accountability versus spending. We are all for accountability. We are all for reform. This debate is a question of priorities and whether we will do what the American people have been asking of us for so very long now; and that is, to make the quality of our children's education our No. 1 priority. I believe we must.

The President's tax package this next year calls for devoting \$68 billion to the cause of tax relief.

That is a cause which I embrace, as do many of my colleagues. We believe some tax relief for the hard-working taxpayers of America is in order for a variety of reasons, but it is not our only priority.

The President's proposal, as it currently stands, calls for investing \$2.6 billion in improving the quality of education, 25 times more for reducing taxes than investing in the quality of our children's education. I support tax cuts. I support tax relief, but it is not 25 times more important than our children's education. We can and should have both. We should not be forced to make this unnecessary choice between two alternatives, both of which can be accommodated if the administration will be more forthcoming with resources.

In conclusion, this debate is about education reform, and it is about the resources to make education reform

work. More important than that, it is about the credibility of this institution and those of us who are privileged to comprise it. Will we do more than read the polls and put together a construct to satisfy our constituents, to make them believe we are doing something about improving the quality of education for our children, when, in fact, we are not; or will we make the difficult decision and allocate the resources that are necessary to live up to the challenge we face, to fulfill the expectations they have a right to expect of us? I believe we should.

I call upon the Members of the Senate and the administration and this President to join with us to redeem the pledge he made in the campaign, the pledge that all of us embrace of leaving no child behind and to devote the resources to our schools to make accountability, reform, and progress be more than empty words but a reality in the daily lives of our schools.

I am privileged to be in the Chamber with my colleague from California with whom I have worked on this issue and so many others. I yield the floor.

The PRESIDING OFFICER (MR. ENSIGN). The Senator from California.

Mrs. FEINSTEIN. Mr. President, I begin by thanking the junior Senator from Indiana for those remarks. He stands in the leadership of this body in terms of his views on education. I, for one, am very appreciative of them.

#### ENERGY CRISIS IN CALIFORNIA

Mrs. FEINSTEIN. Mr. President, I will use my time in morning business to update the Senate on the status of the electricity crisis in California.

April is typically the best time of year for California when it comes to meeting its energy needs. Winter has ended in northern California, and the southern part of the State has not yet begun to get hot. Thus, the demand for energy is low throughout the State, and California has always had more than enough power to meet its needs. As a result, electricity is usually very cheap. So this is as good a time as any to provide an update of where the State is and to see how this year is different from all other years. The last ten months provide a gloomy picture of what may well happen this summer.

The average cost of electricity for California this month has been about \$300 a megawatt hour. This is more than 10 times higher than the average for last April, right before the crisis began. The average price for electricity in the States of Washington and Oregon is even higher, and the price for electricity bought in the futures market for this summer is now averaging more than \$750 a single megawatt hour.

The State Department of Water Resources, which since January has been purchasing all of California's power needs, has now spent \$5.2 billion purchasing power just in the first months of this year. It is spending at a rate of \$73 million a day. This is having a serious financial impact on the State's

credit standing. Yesterday's Standard & Poor's downgraded the State's credit rating two notches from AA to A-plus.

It is important to point out that the money the State is spending to buy electricity is gone. It does not buy a textbook or a computer for a school. It won't repair a bridge or road. It will not build a highway. It doesn't go for law enforcement. It is money that simply disappears. As a result, the State could well be out of money.

At the same time, the Northwest is experiencing what may well be its driest year on record. Consequently, California will not be able to rely on the 7,000 to 8,000 megawatts of power it typically imports from the Northwest in the summer—usually enough for 7 to 8 million homes. There will not be enough power in the Northwest to even meet its own energy needs this summer.

Meanwhile, natural gas prices in most of the United States are about three times higher than their historic average, and in southern California they are eight times higher. Independent analysts, such as the Brattle Group, have raised significant questions about malfeasance on the part of the few companies that have an oligopoly on the natural gas pipelines. Meanwhile, it has been more than 5 months since the Federal Energy Regulatory Commission, the FERC, found that electricity rates were "unjust and unreasonable", and still they have not acted to fulfill the mandate of the Federal Power Act which directs the FERC to set reasonable rates when the market is not functioning properly.

Allow me to read from the language of the Federal Power Act.

Whenever the Commission, after a hearing had upon its own motion or upon complaint, shall find that any rate, charge, or classification, demanded, observed, charged, or collected by any public utility for any transmission or sale subject to jurisdiction of the Commission, or that any rule, regulation, practice, or contract affected such rate, charge, or classification is unjust, unreasonable, unduly discriminatory or preferential, the Commission shall determine the just and reasonable rate, charge, classification, rule, regulation, practice, or contract to be thereafter observed and in force, and shall fix the same by order.

That is the Federal Power Act. The Federal Power Act very clearly says: FERC, once you find that rates are un-

just and unreasonable, you must then fix reasonable rates or charges.

The FERC has not done its duty.

The problems in California began in 1996, when the State became the first to pass a comprehensive energy deregulation bill. That bill was known as AB 1890. The bill passed very quickly at the end of the legislative session. It enjoyed nearly unanimous bipartisan support.

AB 1890 was supposed to increase supplies of energy and decrease prices for consumers, but the exact opposite happened. The bill assumed that increases in energy supply, competition, and efficiency would drive down energy prices. This assumption turned out to be badly flawed, and as a result the State was burned by several provisions of the bill.

First, the bill forced the utilities to purchase at least 95 percent of their electricity in the day-ahead and spot market and did not permit utilities to hedge their bets with long-term, bilateral contracts. That is a huge problem because if 95 percent of the power is bought on the spot market, and those spot market prices go up, the State is in the pickle that it is in today.

Second, the State forced its investor-owned utilities to sell off their generating assets, allowing out-of-State energy generators to purchase the plants and sell the electricity back to the utilities at market rates.

Let me give you an example of that. For Southern California Edison, when it divested of a generating facility, at the time Southern California Edison was selling its power at \$30 a megawatt hour. As soon as it sold it to a generating facility, the out-of-State generating facility turned around to sell the power back to Southern California Edison at \$300 a megawatt hour. That is part of the problem.

Third, the bill immediately deregulated wholesale prices, but left retail rates regulated until March of 2002, or until a utility has sold off all of its generating units, creating a half-regulated, half-deregulated system. So the free market that we heard so much about can't function as a market should because it is broken. The price on the wholesale end is deregulated. The utility cannot pass that price through to the consumer—or has not been able to.

Incidentally, that is going to change because the State will pass more than

a 30-percent rate increase that should go into play in either May or June of this year. So some of that will be corrected.

Fourth, the State set up a power exchange as a product of that bill that aimed to attract sellers by promising the highest clearing price of energy to all bidders. So no matter what you bid your power in for, you are guaranteed the highest price paid to any other bidder. That proved to be fatal.

Energy suppliers realized that simply withholding power from the power exchange and from the California energy market would drastically drive up the prices. And they did.

Spot prices increased dramatically. The costs could not be passed on to consumers. The State's largest investor-owned utility filed for bankruptcy, and the State's second largest investor-owned utility, Southern California Edison, remains on the brink of bankruptcy. The result has been this crisis, and this crisis could well become an economic disaster not only for California, but for the entire West.

Now, what has the State done? I am the first to admit that California has been slow to address the crisis. I think part of this was an actual disbelief that the situation could have gotten this bad this fast. Let me speak about supply because there had not been much supply—very little supply, less than 2,000 megawatts actually—added to the State's power supply in the last decade. But since the first of the year, the State has licensed and approved 14 new gas-fired plants and 8 new peaker plants, which will all be on line within the next 2 years. The State expects to add 9,810 megawatts—that is enough power for 9.810 million households—and have that power on line by the summer of 2003. And the State, in total, will add 20,000 megawatts, enough to power 20 million homes, and have that on line by the end of 2004.

I ask unanimous consent to have printed in the RECORD a chart which lists the plants that have been approved, plant by plant, by the State, and the expected dates they will come on line.

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

#### CALIFORNIA POWER PLANTS COMING ONLINE

Plant name	Capacity	Location—(Peaker?)	Online by
By the end of this summer:			
1. Alliance Century Substation .....	40 MW .....	Colton (peaker) .....	
2. Alliance Drews Substation .....	40 MW .....	Colton (peaker) .....	
3. Indigo Energy Facility* .....	135 MW .....	Palm Springs (peaker) .....	
4. Larkspur Energy Facility* .....	90 MW .....	San Diego County (peaker) .....	
5. Ramco Chula Vista .....	57 MW .....	San Diego County (peaker) .....	
6. Calpine King City .....	50 MW .....	Monterey County (peaker) .....	
7. Hanford Energy Park .....	95 MW .....	Kings County (peaker) .....	
8. Sutter Power* .....	500 MW .....	Sutter County .....	
9. Los Medanos* .....	559 MW .....	Contra Costa County .....	
10. Sunrise Cogeneration* .....	550 MW .....	Kern County .....	
11. United Golden Gate* .....	51 MW .....	San Mateo .....	
Subtotal .....	2,167 MW .....		
From November 2001 to June 2003:			
12. La Paloma* .....	1,048 MW .....	Kern County .....	Nov. 2001
13. Moss Landing* .....	1,060 MW .....	Monterey .....	June 2002
14. Delta Energy Center* .....	880 MW .....	Pittsburg .....	July 2002
15. Elk Hills* .....	500 MW .....	Kern County .....	July 2002

## CALIFORNIA POWER PLANTS COMING ONLINE—Continued

Plant name	Capacity	Location—(Peaker?)	Online by
16. High Desert*	720 MW	Victorville	Winter 2002
17. Western Midway-Sunset*	500 MW	Kern County	March 2003
18. Blythe Energy*	520 MW	Riverside County	March 2003
19. Mountaintview*	1,056 MW	San Bernardino	April 2003
20. Hanford*	99 MW	Kings County	April 2003
21. Otay Mesa*	510 MW	San Diego County	April 2003
22. Pastoria*	750 MW	Kern County	June 2003
Subtotal	7,643 MW		
Total	9,810 MW		

\*Approved by the California Energy Commission.

Mrs. FEINSTEIN. Mr. President, I tell you that because the problem is in this initial period; the problem is going to be for the next 2 years. After that, it is expected that the State will have adequate power supply to begin to create a functioning free market.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. FEINSTEIN. I ask unanimous consent to proceed for another 10 minutes.

Mr. DOMENICI. Mr. President, not desiring to object, I just want to make sure that I follow that time and that there is time for me. I was scheduled at 10:15 was my understanding.

The PRESIDING OFFICER. Under the previous order, the time from 10:15 to 11 was under the control of Senator THOMAS.

Mr. DOMENICI. I am pleased to yield 10 minutes to the Senator from California so long as 10 minutes is added to our side.

The PRESIDING OFFICER. Without objection, the Senator is recognized for an additional 10 minutes.

Mrs. FEINSTEIN. I thank the Senator from New Mexico for his generosity.

Mr. President, the State is adding additional power. The problem comes in the next 2 years. What can be done and what is the appropriate Federal role in the next 2 years? I submit that the appropriate Federal role is to provide a period for liability and stability until the State has brought on line enough additional power to have a functioning free market where supply and demand functions in an appropriate manner.

The State has also planned an \$850 million conservation package that will aim to reduce energy demand across the board by 10 percent or more. So in the immediate future, conservation is the best way for California to avoid days of rolling blackouts this summer. But, in my opinion, it is going to be impossible to achieve enough conservation to avoid all blackouts.

Additionally, the Governor of California has issued a series of executive orders authorizing increased output at existing facilities and ensuring that environmental regulations are not posing any barriers to maximum energy production.

I ask unanimous consent to have printed in the RECORD at this time a letter from Winston Hickox, the Secretary of the California Environmental Protection Agency, asserting that there are no energy plants idling in the

State because of environmental reasons, with the exception of those State plants that are being retrofitted so that they can operate cleaner, more efficiently, and more often this summer.

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

STATE OF CALIFORNIA,  
ENVIRONMENTAL PROTECTION AGENCY,  
Sacramento, CA, March 28, 2001.

Hon. DIANNE FEINSTEIN,  
U.S. Senate, Hart Senate Office Building,  
Washington, DC.

DEAR SENATOR FEINSTEIN: It has been alleged that air quality regulations are a major contributor to California's current power shortage crisis and are constraining energy supplies. In his March 22, 2001, testimony before the House Energy and Air Quality Subcommittee (enclosed), Dr. Alan Lloyd, Chairman of the California Environmental Protection Agency's Air Resources Board (ARB), refuted those statements. The situation in California has not changed. No essential power generation is off-line due to air quality constraints.

As you know, on February 8, 2001, Governor Gray Davis issued a series of Executive Orders to comprehensively address power generation. The Orders boosted generating capacity by authorizing increased output at existing facilities, accelerated power plant construction, streamlined the review process for new facilities, and provided incentives for distributed and renewable generation.

California regulatory agencies are quickly and successfully expediting permits for new generating units. Since April 1999, nine major power projects (including one expansion) totaling an additional 6,300 megawatts (MW) have been approved. Six plants are under construction with four expected to be on-line this year between July and November. Another 14 projects (new sitings and expansions) are under review for an additional 7,700 MW of capacity. All of these projects include the necessary environmental offsets and required emission controls. The State has also realized the need for short-term supply and is expediting permits for smaller peaking plants. These peakers will be on-line for the 2001 summer peak season.

With regard to existing capacity, the ARB is continuing its coordination with the California Independent System Operator (Cal-ISO), local air districts, California Energy Commission (CEC), and plant personnel to identify generating units that may be constrained by air permit limitations and to remove barriers to summer time operation. Governor Davis' Executive Orders dealt with this matter as well, authorizing additional compliance mechanisms to keep both power generation and environmental protection on track. The U.S. Environmental Protection Agency, Region IX, is working closely with California regulatory agencies and has indicated support for this approach.

This spring, a number of generating units are off-line for routine maintenance. Many of them are taking advantage of this down-

time—and available labor—to install air pollution controls. Please note, these installations have been carefully coordinated with Cal-ISO. They were only authorized upon a finding that sufficient supplies and reliability of the power grid system would be maintained.

In summary, air quality agencies realize the seriousness of the State's energy situation and have been working diligently, and effectively, to site new power plants and increase existing capacity while still addressing air quality concerns. Existing state and federal laws provide significant flexibility to make these adjustments. Governor Davis' Executive Orders provide additional means and flexibility to keep generation on-line and quickly permit new power plants. The air quality regulatory system works. We believe that California can increase energy supply while, at the same time, protecting public health and the environment. California citizens expect nothing less.

Sincerely,

WINSTON H. HICKOX,  
Agency Secretary.

Enclosure.

TESTIMONY OF DR. ALAN C. LLOYD, CHAIRMAN, CALIFORNIA AIR RESOURCES BOARD, BEFORE THE HOUSE SUBCOMMITTEE ON ENERGY AND AIR QUALITY, MARCH 22, 2001

Thank you, Mr. Chairman and Members of the Subcommittee. My name is Alan Lloyd, and I serve as Chairman of the California Air Resources Board (ARB). I welcome the opportunity to provide an overview of California's electricity challenge with respect to air quality issues.

Over the past several months, Governor Davis has embarked on a comprehensive strategy to address the electricity situation in California. One of the major components of the State's plan centers around increasing energy supplies by expediting the construction of power plants and other sources of generation. Specifically, we are in the midst of an aggressive effort to bring 5,000 megawatts on line by this summer and 20,000 megawatts by 2004 in order to meet anticipated energy demand this summer and beyond.

Mr. Chairman, my main message is this: We can accomplish this goal within the existing framework of California's air quality regulations. Furthermore, environmental laws do not pose a barrier in terms of our ability to bring new generation on line and ensure that existing power plants can operate at maximum capacity. In short, we can increase energy supply in an expedited manner while at the same time maintaining our commitment to the environment.

Air pollution controls have been identified as a major contributor to California's current energy challenge. That perception is not accurate. Air quality issues are a very small part of the State's overall power production problem. Where air quality rules have affected or might have potentially affected the ability to create essential power, state and local regulators have moved swiftly and successfully to keep needed plants on line. Simply put, no essential electricity generation

has been curtailed due to air emission limitations. California's programs to protect public health are not a major factor in the electricity shortages experienced to date.

No single factor can explain the current energy crisis. The matter is far too complex. However, it can be said with certainty that environmental laws are not to blame. Under existing environmental programs and the policy direction of Governor Davis, state and local air regulators have had, have used, and will continue to use, the considerable flexibility included in California's regulatory programs to ensure that power generating sources remain in operation under environmentally sound conditions. While the review process and decision making timelines have been streamlined, substantive environmental standards and mitigation requirements have not been compromised.

Over the last several months, there has been an increasing focus on environmental laws as contributors to the energy crisis. This concern has taken two distinct forms:

1. The charge that environmental laws have prevented maximum utilization of existing electrical generation facilities; and
2. The allegation that environmental laws have prevented bringing new electrical generation facilities online.

There have also been charges that the State of California has not been responsive enough in addressing the power issues, and has not been willing to take the extraordinary actions needed to deal with how environmental requirements have affected electricity production.

Mr. Chairman, I submit to you that these statements have diverted attention from the true and complex causes of the current energy situation. As a result, they have not contributed to productive efforts to resolve it. I would like to briefly address each of these issues.

Although existing laws and regulations provide mechanisms for addressing our power needs, they can also require substantial time and process. Governor Davis, through the exercise of his emergency powers under state law, has significantly expanded state and local agencies' ability to apply flexibility and common sense to act quickly to ensure that power generation will continue.

By using his emergency powers and issuing Executive Orders, Governor Davis has added substantially to the state's ability to deal with our current energy situation. Executive Orders D-24-01, D-26-01, and D-28-01 ensure that where statutory and regulatory impediments exist—related to either the continued operation of an existing plant or the construction of a new clean facility—they will be swiftly addressed and resolved. The Executive Orders also provide that these actions will be accomplished without sacrificing needed air quality protections.

State and local agencies now have both the direction the authority they need to expeditiously review and approve permits. Under the Governor's Executive Orders, they are:

Allowing the continued operation of existing facilities that might otherwise face limits on hours of operation.

Expediting the review and permit approval for new peaking facilities that have acquired the needed control technology and mitigation, but need rapid processing to come on line quickly.

Enabling new peaking plants to obtain emission credits needed for permitting through the state, rather than arranging for them through private transactions.

Completing permit reviews and approvals for new large facilities in as little as four months to enable new capacity to begin construction expeditiously.

The Governor's Executive Orders maintain all substantive environmental protections.

For example, existing units must continue to utilize all of the required emission control equipment, and must provide funds to mitigate the impact of their increased hours of operation. Similarly, new units must utilize the best available control equipment and must continue to provide emission reduction credits to mitigate their emission increases. Permitting will take less time, but will not be less protective.

All central station electrical generating facilities are permitted by local air pollution control districts under rules incorporated in the State Implementation Plan (SIP). These permits reflect operator-provided information, including factors such as intended hours of operation and fuel type. This information has a direct bearing on the facility's anticipated emissions. Based on operator-provided data, emission limits are established through the air permits. It is these operator-defined limits that have been at issue. In many cases, these facilities are now in a position of having, or wanting to generate additional electrical power in excess of the time periods assumed in the original permitting process.

Despite this unanticipated high level of operation, through the joint efforts of local air districts, the Air Resources board (ARB), and the California Energy Conservation and Development Commission (CEC), as well as the assistance of the U.S. Environmental Protection Agency (U.S. EPA), needed electrical generation has not been interrupted. State law and local regulations provide several means to address permit limitations without disruption of electrical generation or unmitigated damage to air quality.

The ARB has assisted local air districts in addressing any potential issues arising out of their efforts to maintain power generation. ARB has maintained close coordination with the U.S. EPA to ensure that state and local response to the energy situation does not raise concerns at the federal level. We have approached the electricity shortage with an environmentally sound balance of need awareness and impact concern. U.S. EPA has indicated its understanding of the complexities California is facing and has indicated a continued willingness to assist.

At the Governor's direction, the ARB and air districts have been able to balance the State's energy needs with the public's right to clean air. Existing air quality regulations have provided the flexibility to address expeditiously the unexpected power demands of the State without material harm to air quality. These accommodations have been completed in very short time frames and have ensured continued power generation. This flexibility has been used numerous times over the last six months to enable continued power production. These have affected both large and small plants are summarized in Attachment 1.

The additional grants of authority to the Governor under the Emergency Services Act augments existing statutes and increases the ability of state and local agencies to work together in significantly reduced time frames. Whether it is providing for an existing source to operate beyond its permitted hours of operation of streamlining certification of new peaking sources, the Governor's emergency Executive Orders provide even greater flexibility in responding to source specific generation issues than previously existed.

All new proposed power plants must be constructed and operated in compliance with applicable federal, state, and local air pollution requirements. Within California, the 35 local air districts are responsible for regulating emissions from stationary sources, including power plants. At the state level, ARB is the agency charged with coordi-

nating efforts to attain and maintain federal and state ambient air quality standards and comply with the requirements of the federal Clean Air Act. To this end, ARB coordinates the activities of all the districts in order to comply with the Clean Air Act.

Some have cited California's environmental laws as the reason new power generation has not been built in recent years. However, a review of CEC data demonstrates otherwise. Since April 1999, CEC has approved 13 major power projects (including one expansion) totaling over 8,400 MW of additional capacity. Six of these plants are under construction and four of those six are expected to be on line this year, with start dates spanning from July through November. Another 15 projects (new sitings and expansions) are currently under review for an additional 6,700 MW of capacity. Lastly, there is still an additional 7,960 MW of capacity that has been publicly announced and for which the CEC anticipates receiving applications this year.

Some have also argued that costs of compliance with air quality regulations are too substantial and must be relaxed to achieve needed power generation. This argument is also flawed. Today, approximately 15,000 MW of new electrical generation has either been approved or is in the licensing process. All of these projects have included the necessary environmental offset packages and have incorporated all required emission controls. Compliance with these requirements has proven to be both technically and economically feasible.

To bring new, additional peaking facilities on line, Governor Davis has created both a streamlined review process and an ARB-operated emission offset bank. These actions will ensure that all necessary peaking facilities can also be sited.

The CEC's siting process is designed to take 12 months. However, a number of factors, other than environmental regulations, have recently influenced individual project timelines. Over the last two to three years, the actions of local activists, businesses, and others have slowed the pace of some projects. In fact, power generators themselves have utilized the siting process to hold up the licensing of a competitor.

Since 1997, competing companies have intervened in 12 of the 21 projects proposed for licensing. Their participation has slowed the process in at least four cases.

Constraints on electrical generation capacity from central station powerplants have caused increased interest in the use of distributed generation (DG). DG is electrical generation at or near the place of use. Governor Davis supports legislation action that will provide incentives for distributed generation. Last September, the Governor signed Senate Bill 1298, which directs ARB to establish a certification program and adopt uniform emissions standards and general air quality guidelines for DG technologies. By law, this program must be in effect by January 1, 2003. ARB is on a fast track and expects to complete this December—over a year ahead of schedule.

As the foregoing demonstrates, it is not environmental regulation that has prevented the creation of additional power generation. Rather, many factors have contributed to the current crisis. Among those is also the fact that market participants can and do manipulate the electrical power market by withholding capacity in order to maximize their price of electricity.

Even the Federal Energy Regulatory Commission (FERC) agrees. Although it found insufficient evidence of market manipulation by any individual market participant: "... there was clear evidence that the California market structure and rules provide the opportunity for sellers to exercise market



power when supply is tight and can result in unjust and unreasonable rates under the FPA . . . we reaffirm our findings that unjust and unreasonable rates were charged and could continue to be charged unless remedies are implemented."

The Air Resources Board is continuing its efforts to ensure that California has the maximum electrical power output possible, while still protecting public health and mitigating any adverse effects of increased electrical output. This is being done within the confines of existing law as recently expanded through the Governor's Executive Orders. To quote Governor Davis, California is demonstrating that we can cut red tape, build more power plants and continue to protect the environment.

Our State's history reflects a pattern of success even in the face of unparalleled challenges. California, the most populous state in the nation, has made incredible strides in improving air quality and protecting public health. At the same time, the State has enjoyed immense population and business growth. During this current energy situation, California will maintain its record of achieving a balance among all the issues to ensure that a reasonable and successful solution is achieved.

In sum, the air quality regulatory system works. The Governor's utilization of his emergency powers to expedite the process of power siting while maintaining environmental standards confirms that California can maintain its environmental and economic objectives.

Thank you, Mr. Chairman, for the opportunity to testify this morning.

Mrs. FEINSTEIN. Mr. President, the point I am trying to make is that there is no environmental law that is holding up either the approval or the functioning of any generation facility in the State of California. Also, I have written the CEOs of all of the energy generators that sell power to California and I have confirmation of this. I have not heard of one single example that contradicts Secretary Hickox's statement. So I believe that California is really doing all it can right now to maximize energy supply, to reduce its demand, but it is still not likely to be enough for the summer.

Now, this summer we are projected to have a shortfall on a warm day, with all plants operating, of 2,000 megawatts. On a hot day, with some plants down, the shortfall is estimated to be 10,000 megawatts. That could well be a serious disaster. Because hydropower in the Northwest is also low, there will also be shortages in other Western States as well. Our State has already experienced several days of rolling blackouts, and when a blackout hits, it means traffic lights go out, elevators stop, fuel pumps are down, food begins to rot, and production stops. The economic losses are measured in billions, and there well could be loss of life.

Let me put price on the table. This chart shows that in 1999 the total cost for energy in the State of California was \$7 billion. In the year 2000, those costs became \$32 billion. The cost predicted for energy to the State of California in 2001 is \$65 billion.

Look at this cost jump in 3 years. This is the problem—this deregulated

wholesale market has run amok, and there are no controls. If the FERC has found these prices to be unjust and unreasonable and refuses to regulate, what happens this year with these prices and no regulation? So the situation we are in is inordinately serious.

I want to make a couple of points about natural gas. Natural gas stocks are low everywhere, and the price for natural gas for most of the country is averaging about 3 times more than the historic average. However, in Southern California, the prices are 8 to 9 times higher. CN&H Sugar, a refiner in Crockett, CA, generally pays about \$450,000 a month for its steam generated through natural gas.

During the peaks of this past year, \$450,000 a month has risen to \$2 million a month. That plant can employ 1,000 to 1,200 people. That plant cannot continue to operate under these conditions.

There is a real problem in the transportation costs of natural gas because they are not transparent and because profits are hidden. The transportation of natural gas, the cost of moving gas from, let's say, San Juan, New Mexico, to San Diego has always been regulated. When it was, that cost was about 70 cents per decatherm.

If natural gas is selling for \$5 in San Juan and it costs 70 cents to transport it to southern California, when it gets to southern California it should be selling for no more than \$5.70.

The price of natural gas today in San Juan, NM, is \$4.80. However, the price in southern California today is \$14.71. In northern California it is \$9.59. Something is clearly wrong. This price need be no more than \$6 per decatherm, not \$14.71.

In February of 2000, the FERC decided to experiment, and it removed the cap on the transportation of natural gas for 2½ years, believing the market would actually drive down the price. Clearly, the opposite happened. The absence of transparency allowed companies to withhold parts of that natural gas transportation pipeline just for the purpose of increasing prices, and prices have risen.

Senator GORDON SMITH and I, along with Senator BINGAMAN, Senator CANTWELL, Senator MURRAY, and Senator LIEBERMAN, introduced legislation yesterday directing FERC to do its job. The legislation says that since you, FERC, have found the prices to be unjust and unreasonable, you must now do your job and you must set either cost-based rates on a temporary basis or a rate cap on a temporary basis for the western grid within 60 days.

It requires that those costs must be passed on to the consumer in a manner that the State believes just. The cost can be staggered over years and passed on through real-time pricing, tiered pricing, or by setting a baseline, but it must be passed on, again, to create a functioning marketplace.

The bill also requires that all future orders to sell natural gas or electricity

to an affected State must include a reasonable assurance of payment.

We believe this is a bill that must be passed by this body. The Energy Committee has had two hearings on the subject, and I am hopeful this body will pass this bill in a timely manner. The inability or failure to do so I think is going to create a human and an economic disaster in the Western States come summer because these costs, not only of natural gas but electricity, in the hot months are going to be serious and extraordinarily high.

I thank the Chair for the opportunity to give this status report. I end by particularly thanking Senator SMITH of Oregon. He has worked with me in a bipartisan way. He has gone with me to see members of the committees on the House side. He has stood very solid and steady in support of this legislation. I am very proud to have him as a major cosponsor. I also thank the Senators from the great State of Washington and the Senator from Connecticut who also recognize what this problem is and are determined to do something about it.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the time until 11:10 a.m. shall be under the control of the Senator from Wyoming, Mr. THOMAS, or his designee.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, as a designee, I ask that I be permitted to speak for up to 10 minutes.

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

#### EDUCATION

Mr. DOMENICI. Mr. President, I rise today to speak about education. Since we are going to seriously consider education reform in this Chamber during the ensuing days, I thought it might be appropriate for me to talk about it before I, and many others, offer amendments.

New Mexicans and Americans agree, from everything I can tell, that improving the educational opportunities available to our children should be our top priority. The issue is whether or not we can reform the school system such that our children will perform better as they are educated in our public school systems in ensuing years.

There is ample evidence that it is absolutely imperative the public school systems do better, that more and more of our schools be held accountable, and that an accountability requirement be part of the reform measures the Senate will be considering in the next few days or weeks.

For starters, going back to the days of our origin, I quote a very distinguished American who talked about investing resources. Benjamin Franklin said:

An investment in knowledge always pays the highest interest.

Obviously, that is a very simple way of talking about our priorities and



where we put our resources and where we might expect the best benefits for society. This great American in our founding days said: You will always get the best interest when you invest in knowledge.

Later in the discussions there will be ample opportunity for Senators to assess the performance of the school systems across America and what is happening to our children—not everywhere but some places; not to all children but to substantial numbers by way of our desire to give them the basic skills with which to perform as students, as growing Americans, and ultimately as adults in our society, which is requiring more and more that people be skilled of mind, their cognitive skills be developed to the highest extent possible.

The President of the United States, in suggesting reform of the educational system, also suggested with that reform there should be a substantial increase in the level of funding by the Federal Government. The President suggested we spend \$44.5 billion for the Department of Education. That is an 11.5-percent increase over last year, but it is also \$1 billion in new funding for a new reading program for young children, tied into the reform measures that we will talk about as the bill proceeds.

It increases special education funding to a Federal share of 17 percent. That is 17 of the 40 percent we have committed. It is the highest proportional share by the Federal Government in the history of the program. It doesn't do justice to our original commitment of 40, but for a 1-year add-on to the program, it is substantial. It provides \$2.6 billion in the area of teacher quality funds. That is a 17-percent increase. It provides a  $\frac{1}{2}$  billion increase for title I grants to serve disadvantaged children.

There is already bipartisan discussion between the committee members and the President. There will be a lot of discussion as to how to change the underlying laws we have had on the books for a long time, the bill that provides most of the funding for education and how that will be changed.

The Senate will begin debate on a new act which is going to be called the Better Education For Students and Teachers Act. I will take a few moments to talk about my specific input which I will offer to the Senate.

Americans and New Mexicans are concerned. Their highest priority is education. Second, most Americans and most New Mexicans are worried about what is happening to the character and the morals of our society, of our culture. That seems to be almost the second most important issue around. I will be offering on the floor what will be called the Strong Character for Strong Schools Act.

It is important to note that reform does not only apply to math, science, and reading. While the current debate is centered on reform, our bill simply

encourages the creation of character education programs at the State and local level by providing grants to eligible entities. The bill builds upon a highly successful demonstration program to increase character education contained in last year's ESEA bill.

Since 1994, the Department of Education has granted seed money to some of our school systems to develop character education programs. Currently, there are 36 States that have either received some Federal funding or on their own have enacted laws encouraging or mandating character education. Thus, the time is now to ensure that there will be a permanent and dedicated funding source made available for character education programs.

When we first look at character education, questions are asked. What is it? Will it work? Will teachers want to do it? I will cite an example of how it is being done in my State under a program called the Six Pillars of Good Character. I will read the words that equate to the six pillars and discuss it. The words are trustworthiness, respect, responsibility, fairness, caring, and citizenship. These were developed a few years ago when a large group of Americans, under the leadership of a foundation in the United States that brought them together to talk about good character, the Josephson Institute for Ethics, essentially a foundation that promoted ethics, was specific in coming up with six pillars of character.

In my State, we have the largest number of public schools at the grade school level, junior high level, of any State in the Union that has incorporated these six pillars into the daily education of our children. The teachers love it. It empowers them to do some things they have always wanted to do. There are lesson plans that help them get across these six pillars as part of the normal education of our children.

It is a joy to go to a school and see what is occurring in the hallways of the school. They chose one of the pillars of character for each month. If you go to the school when they chose "responsibility," you will see the hallways laden with posters that contain ideas and events about responsibility. At the end of the month, they get together and talk about that pillar. You will see the most enthusiastic group of teachers and young people discussing what happened during that month with respect to encouraging responsibility and understanding of it and actions based upon it.

Without telling the Senate how that got started, it is a glimpse of what can happen across America if we continue to encourage this kind of character education and ask more and more of our States to get involved and encourage them but not order them to do this.

I thank Senator DODD for his leadership. Since the departure of Senator Nunn, he has joined with me in promoting the encouraging startup funding for character education in the United States.

In addition to that measure, Senator KENNEDY will join me in a bill which will address itself to mental health needs in our schools. Essentially, it will say the mental health resources not in the school but which are in the community and are public should be used in collaboration with the schools for the counselors and for the young people. I think that bill will find general acceptance in the Senate and is something we ought to encourage.

The third amendment I will introduce with a number of cosponsors has to do with the recruitment and retention of teachers. Rather than detailing this, I will do so when I introduce the amendment. It is obvious we need teacher recruitment and teacher development. We will promote this idea by advocating teacher recruitment and development retention centers within our States for the exchange of names to provide a program in the country on a purely voluntary grant basis where there would be internships by budding teachers with senior teachers known for their quality and competency, thus permitting a number of young Americans to have a half year or year service as an intern with an educator before they are placed in the classroom.

I think it is going to be a worthwhile debate. There are many participating from the committee in the Senate. I do not happen to be on that committee, but I will participate to the maximum extent so these three amendments and ideas will be incorporated in amendments that will be offered on the floor.

I know Senator SMITH is waiting and I have exceeded my time, so I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, under the time allotted to Senator THOMAS I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

#### HONORING THOSE LOST IN THE JOINT TASK FORCE FOR FULL ACCOUNTING HELICOPTER CRASH

Mr. SMITH of New Hampshire. Mr. President, in early April, April 6 to be exact, the Senate recessed. The following day, April 7, a Saturday, a helicopter, in the fog, crashed into the side of a mountain in Vietnam. In that crash, seven American military personnel were killed as were nine Vietnamese. It is a grim yet a vivid reminder of the fact that every day American servicemen throughout the world are serving their country in harm's way. Even though the Nation is not at war, we sometimes forget these men and women put their lives on the line for us.

I want to share with the Senate what these men were doing. These men were searching for the remains of American missing personnel, MIAs from the Vietnam war. These young men volunteered for this job and put their lives

on the line to find answers for the families of those who are missing.

In a statement issued April 7 by the National Alliance of Families expressing their sympathy to the families, the National Alliance of Families said:

We extend our sincere condolences to the families of these service members and hope they will be comforted by the fact that their loved ones will always be remembered for their commitment to finding our loved ones.

I just came back about 45 minutes ago from a memorial service at Fort Myer for those seven Americans and their nine Vietnamese counterparts. To sit there with some of the families of those missing was difficult. But, again, it is a reminder of what these men and women in uniform do, all across the world. I honor them today in the Senate by letting the American people know who they are. These are not anonymous people; these are real people with, now, real grieving widows, real grieving mothers and fathers.

The members on board were members of the Army, the Air Force, and the Navy. To be specific, there were three members of the U.S. Army, three members of the U.S. Air Force, and one Navy personnel. They were black, they were Hispanic, they were Caucasian—they were Americans. They were American military. They were: Army LTC Rennie Melville Cory, Jr., of Oklahoma City, OK; LTC George D. Martin III of Hopkins, SC; and SFC Tommy James Murphy of Georgia—hometown not available; they were Air Force MAJ Charles E. Lewis of Las Cruces, NM; MSG Steven L. Moser of San Diego, CA; and TSgt Robert M. Flynn of Huntsville, AL; they were Navy CPO Pedro Juan Gonzalez of Buckeye, AZ—real people, real Americans.

I used to teach high school, and oftentimes I would be amazed at the heroes some of our young people sought out—many in the athletic world, some in the world of entertainment, some whom I might not have picked as heroes. But if you are looking for heroes to admire, here they are, seven of them, who sacrificed their lives in the line of duty to search for the remains of American men and women missing from the Vietnam war. What an honor to serve your country in that capacity.

At least five times that I can recall, I as a Member of either the Congress or the Senate had the opportunity to visit Vietnam—indeed, fly on maybe the same helicopter, but certainly similar helicopters with Vietnamese pilots. We flew all over Vietnam, Laos, and Cambodia, flying these missions, trying to find answers for POWs and MIAs. These wonderful people who make these sacrifices—long days, weeks away from their families, on the ground, sifting through dirt, trying to find remains, looking at wreckage, digging into the files and the archives—whatever it takes, they are out there doing it day in and day out with very few accolades.

I honor them today by simply saying thank you. Thank you for caring enough to search for your colleagues

and comrades in arms who are missing. Thank you for serving your country. Thank you for making the ultimate sacrifice doing it. I also thank the families, those who survive, who will now endure this pain.

It is special with me because I have also endured it. When I was 3 years old my father, who served in World War II, died in the service of his country in a military aircraft accident. My mother, as a widow, raised me and my brother for all those years.

These are heroes. These were members of what is called the Joint Task Force—Full Accounting. I ask all of us, my colleagues in the Senate and the American people who are listening, tonight, when you put your head down, you might just remember these men in your prayers and say thank you from a grateful nation for your service.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### THE EDUCATION BILL

Mr. LOTT. Mr. President, I know there have been a number, more or less, of opening statements or statements with regard to education in America in the hope that we can move forward on a very important education reform bill that has been requested by President Bush and has been worked on in our Health, Education, Labor, and Pensions Committee. The bill was reported out overwhelmingly some months ago.

At that point, negotiations began between Republicans on the committee, Democrats on the committee, and the administration. I had the impression that good progress had been made. That is as it should be. Education is a very high priority in America with the President and with the Congress but, most importantly, with the American people.

I have stated in this Chamber many times before how importantly I view education. In my State of Mississippi, we are struggling mightily to improve the quality of our education to make sure that quality education is available to all of our students. We are truly working on the idea that no child should be left behind.

We had a \$100 million contribution from Jim and Sally Barksdale for fourth grade reading only in my State.

We are now at a point where we have 50 schools that have been approved for the Power-Up Program where students from the fifth grade to the eighth grade have access to privately donated computers with specifically trained teachers on how to teach these children to use them to learn to read. This pro-

gram allows them to become computer literate and improve their reading skills.

Now we have unique programs in my State for fourth graders, and fifth through the eighth grade for reading alone. We are focusing on where there is a tremendous need. That story can be replicated all across America.

In addition to that, I am a son of a schoolteacher. She taught for 19 years before she got into bookkeeping and eventually into radio announcing. So I care a lot about education.

I worked for the University of Mississippi in placement and in the financial office for the alumni association and for the law school placement bureau. I have been involved in working with guidance counselors and teachers and promoting education generally. I care mightily about this.

As a Member of Congress for 29 years, I have watched us try to have a constructive role from the Federal level with the States and local school officials. We have put billions of dollars into trying to be helpful from the Federal level. The number is well over \$130-plus billion for title I since I think 1965.

As we poured more and more money from the Federal level into local education, the test scores have continued to slide downward. There is something missing. Money alone is not the answer. Money is part of the answer. We need to put more funds at the local, State, and Federal level into education, but we need more than that. We need fundamental reform. We need flexibility. We need accountability. We need to make sure the children are learning to read and to do math. We need to know we are getting results for the efforts that are put into this important area of education.

We need to make sure teachers have the training they need to do the job, and that there are more and better programs to make sure we have teachers who have been taught how to teach the use of computers. We have computers in backs of classrooms and in hallways that aren't being used because they do not have teachers who are trained or qualified to teach their usage. We need more progress for our teachers. We need accountability for teachers.

Testing is something I have struggled with a little bit. We need to have a way to know how our students are doing. I worry about a national testing system. But the President has convinced me that there must be some sort of testing mechanism with a lot of local discretion, and it must occur regularly, not just sporadically.

There is much we can do in this area. I had been prepared to and have been under the impression that we were going to be able to move on the education reform package on Monday of this week. But there was an objection to the motion to proceed. My attitude was, fine, we will begin talking about the issue and emphasize its importance, and surely we can go to the bill

on Tuesday. Tuesday came and went. Even though great progress was made on negotiations and reform and movement on the money issue, there was still no agreement to go forward on the bill. Now here we are on Wednesday. Each time I have called and talked to the Democratic leader, I have had the impression that he would like to move forward, but, he was just not quite ready yet.

I understand what is occurring. Leverage is being applied on the President to try to get more money, and to get a commitment to spend more and more money. It is obvious what is happening. But I don't think that is the responsible thing to do.

I think we should go forward with the bill. In the past I have been criticized because I wouldn't move to a bill and just said let's let the Senate work its will. Let's have amendments. Let's have votes. Some amendments win; some lose. In the end, you have a product, and then you vote and go forward.

I am being told until a total agreement is reached, we cannot go forward. I do not understand. Education is the highest priority in America with the President, the legislative branch, the States, the Governors, local school officials—everybody—and here we are. We stand, and we wait.

We are ready to go to the bill. Let's take it up. Let's have a free-flowing debate. Let's have amendments. Let's have votes. Let's do our job. Yet I am told we cannot even proceed to the bill.

Well, I am going to be patient. I am hoping that by this afternoon we can at least proceed to this bill. It was reported unanimously out of committee. Let's go to the underlying bill. We can have some amendments offered. Then, if there is agreement between all the parties, the manager can offer an amendment, and we can amend that.

So I say to my colleagues on both sides of the aisle, let's begin. Let's do our job on education. We have had enough time. We should have done the bill in February. But I was told by the committee it was not ready. Then I was told we were making progress. And then it was reported out overwhelmingly. Everybody was happy. We are ready to go, and yet here we are and we cannot go forward.

So rather than just at this point mark time, I thought it was important that we go forward and try to take up another bill while we hope that some agreement can be reached and we can move forward on the education bill.

I talked to the chairman of the committee that has jurisdiction over the brownfields legislation. I had thought maybe there would be a need to go to this legislation as we were getting ready to go home for the Easter period. I indicated to the chairman I thought it would be necessary for him to be prepared to go forward. He is ready to do so.

So I think I am going to ask for an agreement I believe the Democratic leadership is agreeable to this that we

would go forward with this legislation which affects all of our States, a lot of communities. This is some reform legislation that hopefully will allow more of these brownfields to actually be cleaned up and not just be a lawyers' enhancement act. This will be a plus for the institution and it will get us some results. I believe we can do this in a couple hours and we would be prepared to have a vote at about 2 o'clock or so.

I inquire of the chairman of the committee, is your counterpart ready?

Mr. SMITH of New Hampshire. Yes.

Mr. LOTT. I see the Senator from Nevada.

Mr. SMITH of New Hampshire. We are ready.

Mr. LOTT. I thank the chairman and the ranking member for the work they have already done and for being ready to go to this bill on short notice.

#### UNANIMOUS-CONSENT AGREEMENT—S. 350

Mr. LOTT. Mr. President, I ask unanimous consent that at 11:15 today the Senate proceed to the consideration of Calendar No. 19, S. 350, the brownfields legislation, and it be considered under the following limitation: There be 2 hours of debate equally divided between the two managers, and no amendments be in order to the bill other than a managers' amendment.

Finally, I ask unanimous consent that following the use or yielding back of time, the managers' amendment be agreed to, the committee substitute be agreed to, the bill be read a third time, and the bill then be temporarily set aside with a vote occurring on passage at 2 p.m. today, with no intervening action or debate.

Mr. REID addressed the Chair.

The PRESIDING OFFICER (Mr. BUNNING). The Senator from Nevada is recognized.

Mr. REID. Mr. President, I reserve the right to object.

The Senator from West Virginia has an important statement to give regarding one of our valued employees in the Senate. The Senator from West Virginia, I understand, wants to speak for 10 or 15 minutes.

Mr. BYRD. Fifteen at the most.

Mr. REID. Maybe we could start this at 11:25.

Mr. LOTT. I modify my request so that we would begin then at 11:25, to allow Senator BYRD to go forward with his statement between now and then.

Mr. REID. I say to the majority leader, that would leave 2 hours and 35 minutes until 2 o'clock.

Mr. LOTT. Yes.

Mr. REID. There are no amendments in order anyway. We may have some people who wish to speak on it. Would that be OK with the leader?

Mr. LOTT. I am not sure I understand what the request is.

Mr. REID. Rather than ending the debate at approximately 1:25, we would do it at 2 o'clock and just vote at 2 o'clock.

Mr. LOTT. That would be fine.

The PRESIDING OFFICER. Is there objection to the request, as modified?

Without objection, it is so ordered.

Mr. LOTT. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished majority leader and the distinguished minority whip for their kindness and courtesy to me.

#### TRIBUTE TO JIM ENGLISH

Mr. BYRD. Mr. President, I rise today with a heavy heart. And I do not say that without justification. I measure my words in saying that I rise today with a heavy heart, for it will shortly be time for me to say goodbye, for now at least, to one of the most extraordinary men I have ever had the pleasure of knowing in my 83 years on God's footstool, this Earth.

The minority staff director of the Senate Appropriations Committee, Mr. Jim English, has decided to retire this year. Jim English has been my right arm, figuratively speaking, since 1989, when I assumed the chairmanship of the Appropriations Committee of the Senate. We have been through so many battles together, that sometimes it seems as if Jim English has always been with me. I could almost say, I can never remember a time in my life when Jim was not beside me.

In fact, I met Jim English in 1973, when he worked on the Transportation Subcommittee, but he did not actually work directly for me until 1989.

Jim English was born on a farm near Homer, LA. That simple fact explains a great deal. Jim English has a head full of brains. And he knows how to use them. They do not go to waste. They are not dormant. They are always working. But while he has a head full of brains, he does not have a thimble full of arrogance or supercilious attitude.

He is rock solid. He is honest. And he is full of good humor. He is the type of person whose values and character reflect the very best of America, and indeed the very best of human nature, and the preeminently best of nobility. Few persons have I seen in life that I would think of as being noble. Jim English is one. I do not recall ever having said this about anybody else. It does not mean that I have not seen other very noble people. The man who raised me, Titus Dalton Byrd, a man of little education, but with a big heart and a great soul, was a noble man.

James English has had a working career which includes being an accounting clerk for the D.C. Government, revenue officer for the IRS, clerk of the Transportation Appropriations Subcommittee, vice president for government affairs at Amtrak, Assistant Secretary of the Senate, staff director of the Senate Appropriations Committee, and minority staff director of the Appropriations Committee. I daresay that

he has worn all of those many hats, those many badges with distinction. There is probably no position that Jim would not improve just by occupying it.

He is without doubt—and I have had some extraordinarily fine staff people—he is without a doubt, overall, the finest staff member I have ever employed in my 48 years on Capitol Hill.

I have employed some top-notch, very fine staff people. I say this about Jim English because of his versatility, for one. He is multitalented, he is supremely capable, and he is completely undaunted by any challenge. Jim English is also unrelentingly curious. He will dig and dig and dig until he gets an answer to a question.

It has been said by someone that curiosity is one of the certain characteristics of a vigorous mind. When you stop and think about it, that is a very apt saying. Never was there a better example of the truth of that observation than we have seen in Jim English. Moreover, I have never met anyone so consistently good humored, even in the most stressful of situations. As my dear friend, Senator TED STEVENS, chairman of the Appropriations Committee, knows, there are certainly times when being on the Appropriations Committee staff can be dreadfully stressful and demanding.

I cannot recall ever seeing Jim English angry in all of the years I have known him. I have rarely ever even seen him become impatient.

Emerson once observed:

It is easy in the world to live after the world's opinion; it is easy in solitude to live after our own; but the great man is he who in the midst of a crowd keeps with perfect sweetness the independence of solitude.

That is Jim English. He is the epitome of Emerson's thoughts in that regard: Gentle with everyone, yet the toughest of adversaries when he must be tough. Jim English seems always to maintain perfect control and equanimity. In all the years I have worked with Jim English, I have never heard him tell an off-color joke. I have never heard him use profanity. If he had, he wouldn't stay on my staff. I don't use it in front of my staff. Not that I have never used it in my life, but I don't use it anymore. And Jim English doesn't use it. My staff people don't use it. He is just a good man.

The Bible says no man is good, but Jim English comes as near to it as anyone I have ever met. Losing him will be like losing an arm. Jim has given over 30 years to Federal service, with 23 of those years spent with the Senate Appropriations Committee. Almost 13 of those 23 years he has spent working closely with me.

I shall miss him professionally, and I shall miss him personally, but I know he wants to spend more time with his lovely and good wife Phyllis, with his daughters Kathleen Pfost and Elizabeth Arensdorf, and with his four grandchildren, Ashley, Alex, Evan, and Jimmy. As much as I regret losing Jim

English—and I couldn't keep him if I wanted to—no one could begrudge him these desires.

I wish for him all the best that life has to offer, and I want him to know I am grateful for the loyalty, the service, and the friendship he has offered to me for so many good years.

My dear colleague—and I say "dear colleague" meaning it—TED STEVENS is on the floor. He wants to share his thoughts on this subject.

I ask unanimous consent that I may yield to Senator STEVENS, after which I be recognized again for just a few lines, and that the time be extended to whatever is necessary, which will not be very long but not more than 10 additional minutes.

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

Mr. STEVENS. Mr. President, I am grateful to my great friend from West Virginia. I am chairing a hearing at the present time of the Defense Subcommittee of Appropriations. But I am saddened to come to the Chamber for this occasion to recognize and comment upon the retirement of Jim English from the staff of our Appropriations Committee.

I say to Jim, very frankly, all of the members of our staff, minority, majority, Members and staff, extend to him our heartfelt congratulations and thanks for all he has done and our desire that he and his wife Phyllis and their daughters and grandchildren will have a grand time.

I can't fathom a young man such as that deciding to retire, but I hope there are some fishing holes along the line that he will explore, and other activities to do. My first father-in-law told me that English is the only language in which "retire" means other than go to bed. I hope it is a misuse of the term "retire" in terms of referring to Jim English because he has much yet to contribute to our country and to his family.

Senator BYRD and I have worked together with Jim English since 1973. Although he left the committee and worked for Amtrak, as my colleague mentioned, and he worked under the leadership of the Senator from West Virginia on his staff and with the leadership staff, he has been back again with our committee since 1989, according to our figures, and has served as Senator BYRD's majority staff director and now as the Democratic staff director in this equalness we are now celebrating.

In the time I have been chairman, Jim English has not just been an adviser to Senator BYRD, he has been our adviser, the committee's adviser, and he has worked with us in a way that has been deserving of the trust we have imposed and conferred upon him. He is a man who believes in close bipartisan relationships. On a committee such as ours, he has fostered that by his actions and by his work. Much of the credit for the close bipartisan relationship we have now comes from the work

he did before when Senator BYRD was chairman of the committee. That period has extended through the time I have been chairman.

We have a different relationship on our committee. It is a committee that recognizes the work has to be done. There is only one committee that actually has to pass 13 bills every year. No matter what happens, those bills have to pass the Congress. They have to be approved by our committee. As my colleague mentioned, there are many issues that arise, many specific battles where animosities develop within our ranks. I have never seen Jim English take part in that. He has been a man of calm temper—unlike me, I might add—and he is one who has worked to ensure that the processes we follow are fair and honorable.

I can say without any question that my staff and I have trusted Jim completely. If he tells us anything, it is accepted on its face. There is no reason to go behind Jim English's word. He is a man who has played a central role in the appropriations process for many years.

I come to the Chamber to say I will miss him. I really don't like the idea of seeing a young man such as him leave. It raises a question in my mind: Who is the smarter of the two?

Anyone who recognizes the caliber of Jim English and his professionalism will understand how much we are going to miss him.

I am sure you will find someone to replace him, and it is my hope that we will have the same relationship with whomever that is. But it is a difficult time to have a person such as Jim decide to leave, and I want to say to Jim English that the doors of my offices will always be open to you, no matter the issue and I will continue to rely upon your advice, no matter where you go. I think you have earned the reputation to be accepted in this body as a man of integrity and honor and one who has always kept his word. There is nothing better you can say about a man, in my opinion.

I wish I had the capability the Senator from West Virginia has to remember quotes from distinguished authors. I have never tried to develop that capability. But I do want Jim to know we have benefited greatly from his service, whether Republican or Democrat. The country is better off for you having spent time with us. We hope you will enjoy your life from now on and come back to see us from time to time. Whatever your new endeavors may be, you have our best wishes, and you have my assurance that I would be ready to help you in any regard.

Mr. BYRD. Mr. President, I thank Senator STEVENS for those remarks. In my judgment, having served on the Appropriations Committee longer than any other Senator serving, going on 43 years—and I have seen some good chairmen of the Appropriations Committee—I have no hesitancy in saying Senator STEVENS is the best chairman

of the Appropriations Committee—and that includes myself as chairman—he is the best chairman the Senate Appropriations Committee has had during my long tenure in this body. I know that what he says brings pride to the heart of this man—Jim English—who is about to leave the employ of the Senate.

Let me close with a few lines which I think are most fitting when we think of Jim English.

#### IT WILL SHOW IN YOUR FACE

You don't have to tell how you live each day  
You don't have to say if you work or play;  
For a tried and true barometer—right in its place,  
However you live, my friend, it will show in your face.

The false, the deceit that you bear in your heart  
Won't stay down inside where it first got its start;  
For sinew and blood are a thin veil of lace  
What you carry in your heart will show in your face.

If you have gambled and won in the great game of life  
If you feel you have conquered sorrow and strife;  
If you played the game square and you stand on first base,

You won't have to tell it, it will show in your face.

Then if you dissipate nights till the day is most nigh,  
There is only one teller, and one that won't lie;

Since your facial barometer is right in its place,  
However you live, my friend, it will show in your face.

Well, if your life is unselfish and for others you live,

Not for what you can get but for what you can give,

And if you live close to God in his infinite grace,

You won't have to tell it, it will show in your face.

#### COMMENDING JAMES HAROLD ENGLISH FOR HIS 23 YEARS OF SERVICE TO THE UNITED STATES SENATE

Mr. BYRD. Mr. President, I have the approval of the distinguished majority leader and the distinguished minority leader to ask unanimous consent that the Senate proceed to the consideration of S. Res. 73 submitted earlier today by Senator LEAHY and myself.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 73) to commend James Harold English for his 23 years of service to the United States Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BYRD. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors of the resolution: Senators STEVENS, LEAHY, and DASCHLE.

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

Mr. REID. Would the Senator yield?

Mr. BYRD. Yes.

Mr. REID. I ask that I be added as a cosponsor. Jim English is a great public servant and has been a good friend of mine.

Mr. BYRD. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid on the table, and that any statements relating thereto be printed in the RECORD, all with no intervening action or debate.

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

The resolution (S. Res. 73) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 73

Whereas James Harold English became an employee of the United States Senate in 1973, and has ably and faithfully upheld the high standards and traditions of the staff of the United States Senate;

Whereas James Harold English served as Clerk of the Transportation Appropriations Subcommittee from 1973 to 1980;

Whereas James Harold English served as the Assistant Secretary of the Senate in 1987 and 1988;

Whereas James Harold English has served as Democratic Staff Director of the Appropriations Committee of the United States Senate from 1989 to 2001;

Whereas James Harold English has faithfully discharged the difficult duties and responsibilities of Staff Director and Minority Staff Director of the Appropriations Committee of the United States Senate with great pride, energy, efficiency, dedication, integrity, and professionalism;

Whereas he has earned the respect, affection, and esteem of the United States Senate; and

Whereas James Harold English will retire from the United States Senate on April 30, 2001, with over 30 years of Government Service—23 years with the United States Senate: Now, therefore, be it

*Resolved*, That the United States Senate—

(1) Commends James Harold English for his exemplary service to the United States Senate and the Nation, and wishes to express its deep appreciation and gratitude for his long, faithful, and outstanding service.

(2) The Secretary of the Senate shall transmit a copy of this resolution to James Harold English.

#### BROWNFIELDS REVITALIZATION AND ENVIRONMENTAL RESTORATION ACT OF 2001

The PRESIDING OFFICER. The clerk will report S. 350 by title.

The legislative clerk read as follows:

A bill (S. 350) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance State response programs, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the “Brownfields Revitalization and Environmental Restoration Act of 2001”.

(b) *TABLE OF CONTENTS.*—The table of contents of this Act is as follows:

*Sec. 1. Short title; table of contents.*

#### TITLE I—BROWNFIELDS REVITALIZATION FUNDING

*Sec. 101. Brownfields revitalization funding.*

#### TITLE II—BROWNFIELDS LIABILITY CLARIFICATIONS

*Sec. 201. Contiguous properties.*

*Sec. 202. Prospective purchasers and windfall liens.*

*Sec. 203. Innocent landowners.*

#### TITLE III—STATE RESPONSE PROGRAMS

*Sec. 301. State response programs.*

*Sec. 302. Additions to National Priorities List.*

#### TITLE I—BROWNFIELDS REVITALIZATION FUNDING

#### SEC. 101. BROWNFIELDS REVITALIZATION FUNDING.

(a) *DEFINITION OF BROWNFIELD SITE.*—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following:

“(39) *BROWNFIELD SITE.*—

“(A) *IN GENERAL.*—The term ‘brownfield site’ means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

“(B) *EXCLUSIONS.*—The term ‘brownfield site’ does not include—

“(i) a facility that is the subject of a planned or ongoing removal action under this title;

“(ii) a facility that is listed on the National Priorities List or is proposed for listing;

“(iii) a facility that is the subject of a unilateral administrative order, a court order, an administrative order on consent or judicial consent decree that has been issued to or entered into by the parties under this Act;

“(iv) a facility that is the subject of a unilateral administrative order, a court order, an administrative order on consent or judicial consent decree that has been issued to or entered into by the parties, or a facility to which a permit has been issued by the United States or an authorized State under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1321), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

“(v) a facility that—

“(I) is subject to corrective action under section 3004(u) or 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u), 6928(h)); and

“(II) to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures;

“(vi) a land disposal unit with respect to which—

“(I) a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted; and

“(II) closure requirements have been specified in a closure plan or permit;

“(vii) a facility that is subject to the jurisdiction, custody, or control of a department, agency, or instrumentality of the United States, except for land held in trust by the United States for an Indian tribe;

“(viii) a portion of a facility—

“(I) at which there has been a release of polychlorinated biphenyls; and

“(II) that is subject to remediation under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); or

“(ix) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

“(C) **SITE-BY-SITE DETERMINATIONS.**—Notwithstanding subparagraph (B) and on a site-by-site basis, the President may authorize financial assistance under section 128 to an eligible entity at a site included in clause (i), (iv), (v), (vi), (viii), or (ix) of subparagraph (B) if the President finds that financial assistance will protect human health and the environment, and either promote economic development or enable the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property, or other property used for nonprofit purposes.

“(D) **ADDITIONAL AREAS.**—For the purposes of section 128, the term ‘brownfield site’ includes a site that—

“(i) meets the definition of ‘brownfield site’ under subparagraphs (A) through (C); and

“(ii) (I) is contaminated by a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

“(II) is mine-scarred land.”

(b) **BROWNFIELDS REVITALIZATION FUNDING.**—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

**“SEC. 128. BROWNFIELDS REVITALIZATION FUNDING.**

“(a) **DEFINITION OF ELIGIBLE ENTITY.**—In this section, the term ‘eligible entity’ means—

“(1) a general purpose unit of local government;

“(2) a land clearance authority or other quasi-governmental entity that operates under the supervision and control of or as an agent of a general purpose unit of local government;

“(3) a government entity created by a State legislature;

“(4) a regional council or group of general purpose units of local government;

“(5) a redevelopment agency that is chartered or otherwise sanctioned by a State;

“(6) a State; or

“(7) an Indian Tribe.

“(b) **BROWNFIELD SITE CHARACTERIZATION AND ASSESSMENT GRANT PROGRAM.**—

“(1) **ESTABLISHMENT OF PROGRAM.**—The Administrator shall establish a program to—

“(A) provide grants to inventory, characterize, assess, and conduct planning related to brownfield sites under paragraph (2); and

“(B) perform targeted site assessments at brownfield sites.

“(2) **ASSISTANCE FOR SITE CHARACTERIZATION AND ASSESSMENT.**—

“(A) **IN GENERAL.**—On approval of an application made by an eligible entity, the Administrator may make a grant to the eligible entity to be used for programs to inventory, characterize, assess, and conduct planning related to 1 or more brownfield sites.

“(B) **SITE CHARACTERIZATION AND ASSESSMENT.**—A site characterization and assessment carried out with the use of a grant under subparagraph (A) shall be performed in accordance with section 101(35)(B).

“(c) **GRANTS AND LOANS FOR BROWNFIELD REMEDIATION.**—

“(1) **GRANTS PROVIDED BY THE PRESIDENT.**—Subject to subsections (d) and (e), the President shall establish a program to provide grants to—

“(A) eligible entities, to be used for capitalization of revolving loan funds; and

“(B) eligible entities or nonprofit organizations, where warranted, as determined by the President based on considerations under paragraph (3), to be used directly for remediation of 1 or more brownfield sites owned by the entity or organization that receives the grant and in amounts not to exceed \$200,000 for each site to be remediated.

“(2) **LOANS AND GRANTS PROVIDED BY ELIGIBLE ENTITIES.**—An eligible entity that receives a grant under paragraph (1)(A) shall use the grant funds to provide assistance for the remediation of brownfield sites in the form of—

“(A) 1 or more loans to an eligible entity, a site owner, a site developer, or another person; or

“(B) 1 or more grants to an eligible entity or other nonprofit organization, where warranted, as determined by the eligible entity that is providing the assistance, based on considerations under paragraph (3), to remediate sites owned by the eligible entity or nonprofit organization that receives the grant.

“(3) **CONSIDERATIONS.**—In determining whether a grant under paragraph (1)(B) or (2)(B) is warranted, the President or the eligible entity, as the case may be, shall take into consideration—

“(A) the extent to which a grant will facilitate the creation of, preservation of, or addition to a park, a greenway, undeveloped property, recreational property, or other property used for nonprofit purposes;

“(B) the extent to which a grant will meet the needs of a community that has an inability to draw on other sources of funding for environmental remediation and subsequent redevelopment of the area in which a brownfield site is located because of the small population or low income of the community;

“(C) the extent to which a grant will facilitate the use or reuse of existing infrastructure;

“(D) the benefit of promoting the long-term availability of funds from a revolving loan fund for brownfield remediation; and

“(E) such other similar factors as the Administrator considers appropriate to consider for the purposes of this section.

“(4) **TRANSITION.**—Revolving loan funds that have been established before the date of enactment of this section may be used in accordance with this subsection.

“(d) **GENERAL PROVISIONS.**—

“(1) **MAXIMUM GRANT AMOUNT.**—

“(A) **BROWNFIELD SITE CHARACTERIZATION AND ASSESSMENT.**—

“(i) **IN GENERAL.**—A grant under subsection (b)—

“(I) may be awarded to an eligible entity on a community-wide or site-by-site basis; and

“(II) shall not exceed, for any individual brownfield site covered by the grant, \$200,000.

“(ii) **WAIVER.**—The Administrator may waive the \$200,000 limitation under clause (i)(II) to permit the brownfield site to receive a grant of not to exceed \$350,000, based on the anticipated level of contamination, size, or status of ownership of the site.

“(B) **BROWNFIELD REMEDIATION.**—

“(i) **GRANT AMOUNT.**—A grant under subsection (c)(1)(A) may be awarded to an eligible entity on a community-wide or site-by-site basis, not to exceed \$1,000,000 per eligible entity.

“(ii) **ADDITIONAL GRANT AMOUNT.**—The Administrator may make an additional grant to an eligible entity described in clause (i) for any year after the year for which the initial grant is made, taking into consideration—

“(I) the number of sites and number of communities that are addressed by the revolving loan fund;

“(II) the demand for funding by eligible entities that have not previously received a grant under this section;

“(III) the demonstrated ability of the eligible entity to use the revolving loan fund to enhance remediation and provide funds on a continuing basis; and

“(IV) such other similar factors as the Administrator considers appropriate to carry out this section.

“(2) **PROHIBITION.**—

“(A) **IN GENERAL.**—No part of a grant or loan under this section may be used for the payment of—

“(i) a penalty or fine;

“(ii) a Federal cost-share requirement;

“(iii) an administrative cost;

“(iv) a response cost at a brownfield site for which the recipient of the grant or loan is potentially liable under section 107; or

“(v) a cost of compliance with any Federal law (including a Federal law specified in section 101(39)(B)), excluding the cost of compliance with laws applicable to the cleanup.

“(B) **EXCLUSIONS.**—For the purposes of subparagraph (A)(iii), the term ‘administrative cost’ does not include the cost of—

“(i) investigation and identification of the extent of contamination;

“(ii) design and performance of a response action; or

“(iii) monitoring of a natural resource.

“(3) **ASSISTANCE FOR DEVELOPMENT OF LOCAL GOVERNMENT SITE REMEDIATION PROGRAMS.**—A local government that receives a grant under this section may use not to exceed 10 percent of the grant funds to develop and implement a brownfields program that may include—

“(A) monitoring the health of populations exposed to 1 or more hazardous substances from a brownfield site; and

“(B) monitoring and enforcement of any institutional control used to prevent human exposure to any hazardous substance from a brownfield site.

“(e) **GRANT APPLICATIONS.**—

“(1) **SUBMISSION.**—

“(A) **IN GENERAL.**—

“(i) **APPLICATION.**—An eligible entity may submit to the Administrator, through a regional office of the Environmental Protection Agency and in such form as the Administrator may require, an application for a grant under this section for 1 or more brownfield sites (including information on the criteria used by the Administrator to rank applications under paragraph (3), to the extent that the information is available).

“(ii) **NCP REQUIREMENTS.**—The Administrator may include in any requirement for submission of an application under clause (i) a requirement of the National Contingency Plan only to the extent that the requirement is relevant and appropriate to the program under this section.

“(B) **COORDINATION.**—The Administrator shall coordinate with other Federal agencies to assist in making eligible entities aware of other available Federal resources.

“(C) **GUIDANCE.**—The Administrator shall publish guidance to assist eligible entities in applying for grants under this section.

“(2) **APPROVAL.**—The Administrator shall—

“(A) at least annually, complete a review of applications for grants that are received from eligible entities under this section; and

“(B) award grants under this section to eligible entities that the Administrator determines have the highest rankings under the ranking criteria established under paragraph (3).

“(3) **RANKING CRITERIA.**—The Administrator shall establish a system for ranking grant applications received under this subsection that includes the following criteria:

“(A) The extent to which a grant will stimulate the availability of other funds for environmental assessment or remediation, and subsequent reuse, of an area in which 1 or more brownfield sites are located.

“(B) The potential of the proposed project or the development plan for an area in which 1 or more brownfield sites are located to stimulate economic development of the area on completion of the cleanup.

“(C) The extent to which a grant would address or facilitate the identification and reduction of threats to human health and the environment.

“(D) The extent to which a grant would facilitate the use or reuse of existing infrastructure.

“(E) The extent to which a grant would facilitate the creation of, preservation of, or addition to a park, a greenway, undeveloped property, recreational property, or other property used for nonprofit purposes.

“(F) The extent to which a grant would meet the needs of a community that has an inability to draw on other sources of funding for environmental remediation and subsequent redevelopment of the area in which a brownfield site is located because of the small population or low income of the community.

“(G) The extent to which the applicant is eligible for funding from other sources.



“(H) The extent to which a grant will further the fair distribution of funding between urban and nonurban areas.

“(I) The extent to which the grant provides for involvement of the local community in the process of making decisions relating to cleanup and future use of a brownfield site.

“(f) IMPLEMENTATION OF BROWNFIELDS PROGRAMS.—

“(1) ESTABLISHMENT OF PROGRAM.—The Administrator may provide, or fund eligible entities or nonprofit organizations to provide, training, research, and technical assistance to individuals and organizations, as appropriate, to facilitate the inventory of brownfield sites, site assessments, remediation of brownfield sites, community involvement, or site preparation.

“(2) FUNDING RESTRICTIONS.—The total Federal funds to be expended by the Administrator under this subsection shall not exceed 15 percent of the total amount appropriated to carry out this section in any fiscal year.

“(g) AUDITS.—

“(1) IN GENERAL.—The Inspector General of the Environmental Protection Agency shall conduct such reviews or audits of grants and loans under this section as the Inspector General considers necessary to carry out this section.

“(2) PROCEDURE.—An audit under this paragraph shall be conducted in accordance with the auditing procedures of the General Accounting Office, including chapter 75 of title 31, United States Code.

“(3) VIOLATIONS.—If the Administrator determines that a person that receives a grant or loan under this section has violated or is in violation of a condition of the grant, loan, or applicable Federal law, the Administrator may—

“(A) terminate the grant or loan;

“(B) require the person to repay any funds received; and

“(C) seek any other legal remedies available to the Administrator.

“(h) LEVERAGING.—An eligible entity that receives a grant under this section may use the grant funds for a portion of a project at a brownfield site for which funding is received from other sources if the grant funds are used only for the purposes described in subsection (b) or (c).

“(i) AGREEMENTS.—Each grant or loan made under this section shall—

“(1) include a requirement of the National Contingency Plan only to the extent that the requirement is relevant and appropriate to the program under this section, as determined by the Administrator; and

“(2) be subject to an agreement that—

“(A) requires the recipient to—

“(i) comply with all applicable Federal and State laws; and

“(ii) ensure that the cleanup protects human health and the environment;

“(B) requires that the recipient use the grant or loan exclusively for purposes specified in subsection (b) or (c), as applicable;

“(C) in the case of an application by an eligible entity under subsection (c)(1), requires the eligible entity to pay a matching share (which may be in the form of a contribution of labor, material, or services) of at least 20 percent, from non-Federal sources of funding, unless the Administrator determines that the matching share would place an undue hardship on the eligible entity; and

“(D) contains such other terms and conditions as the Administrator determines to be necessary to carry out this section.

“(j) FACILITY OTHER THAN BROWNFIELD SITE.—The fact that a facility may not be a brownfield site within the meaning of section 101(39)(A) has no effect on the eligibility of the facility for assistance under any other provision of Federal law.

“(k) FUNDING.—There is authorized to be appropriated to carry out this section \$150,000,000 for each of fiscal years 2002 through 2006.”.

## TITLE II—BROWNFIELDS LIABILITY CLARIFICATIONS

### SEC. 201. CONTIGUOUS PROPERTIES.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

“(o) CONTIGUOUS PROPERTIES.—

“(1) NOT CONSIDERED TO BE AN OWNER OR OPERATOR.—

“(A) IN GENERAL.—A person that owns real property that is contiguous to or otherwise similarly situated with respect to, and that is or may be contaminated by a release or threatened release of a hazardous substance from, real property that is not owned by that person shall not be considered to be an owner or operator of a vessel or facility under paragraph (1) or (2) of subsection (a) solely by reason of the contamination if—

“(i) the person did not cause, contribute, or consent to the release or threatened release;

“(ii) the person is not—

“(I) potentially liable, or affiliated with any other person that is potentially liable, for response costs at a facility through any direct or indirect familial relationship or any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship that is created by a contract for the sale of goods or services); or

“(II) the result of a reorganization of a business entity that was potentially liable;

“(iii) the person takes reasonable steps to—

“(I) stop any continuing release;

“(II) prevent any threatened future release; and

“(III) prevent or limit human, environmental, or natural resource exposure to any hazardous substance released on or from property owned by that person;

“(iv) the person provides full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural resource restoration at the vessel or facility from which there has been a release or threatened release (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action or natural resource restoration at the vessel or facility);

“(v) the person—

“(I) is in compliance with any land use restrictions established or relied on in connection with the response action at the facility; and

“(II) does not impede the effectiveness or integrity of any institutional control employed in connection with a response action;

“(vi) the person is in compliance with any request for information or administrative subpoena issued by the President under this Act;

“(vii) the person provides all legally required notices with respect to the discovery or release of any hazardous substances at the facility; and

“(viii) at the time at which the person acquired the property, the person—

“(I) conducted all appropriate inquiry within the meaning of section 101(35)(B) with respect to the property; and

“(II) did not know or have reason to know that the property was or could be contaminated by a release or threatened release of 1 or more hazardous substances from other real property not owned or operated by the person.

“(B) DEMONSTRATION.—To qualify as a person described in subparagraph (A), a person must establish by a preponderance of the evidence that the conditions in clauses (i) through (viii) of subparagraph (A) have been met.

“(C) BONA FIDE PROSPECTIVE PURCHASER.—Any person that does not qualify as a person described in this paragraph because the person had, or had reason to have, knowledge specified in subparagraph (A)(viii) at the time of acquisition of the real property may qualify as a bona fide prospective purchaser under section 101(40) if the person is otherwise described in that section.

“(D) GROUND WATER.—With respect to a hazardous substance from 1 or more sources that are not on the property of a person that is a contiguous property owner that enters ground water beneath the property of the person solely as a result of subsurface migration in an aquifer, subparagraph (A)(iii) shall not require the person to conduct ground water investigations or to install ground water remediation systems, except in accordance with the policy of the Environmental Protection Agency concerning owners of property containing contaminated aquifers, dated May 24, 1995.

“(2) EFFECT OF LAW.—With respect to a person described in this subsection, nothing in this subsection—

“(A) limits any defense to liability that may be available to the person under any other provision of law; or

“(B) imposes liability on the person that is not otherwise imposed by subsection (a).

“(3) ASSURANCES.—The Administrator may—

“(A) issue an assurance that no enforcement action under this Act will be initiated against a person described in paragraph (1); and

“(B) grant a person described in paragraph (1) protection against a cost recovery or contribution action under section 113(f).”.

### SEC. 202. PROSPECTIVE PURCHASERS AND WINDFALL LIENS.

(a) DEFINITION OF BONA FIDE PROSPECTIVE PURCHASER.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) (as amended by section 101(a)) is amended by adding at the end the following:

“(40) BONA FIDE PROSPECTIVE PURCHASER.—The term ‘bona fide prospective purchaser’ means a person (or a tenant of a person) that acquires ownership of a facility after the date of enactment of this paragraph and that establishes each of the following by a preponderance of the evidence:

“(A) DISPOSAL PRIOR TO ACQUISITION.—All disposal of hazardous substances at the facility occurred before the person acquired the facility.

“(B) INQUIRIES.—

“(i) IN GENERAL.—The person made all appropriate inquiries into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices in accordance with clauses (ii) and (iii).

“(ii) STANDARDS AND PRACTICES.—The standards and practices referred to in clauses (ii) and (iv) of paragraph (35)(B) shall be considered to satisfy the requirements of this subparagraph.

“(iii) RESIDENTIAL USE.—In the case of property in residential or other similar use at the time of purchase by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.

“(C) NOTICES.—The person provides all legally required notices with respect to the discovery or release of any hazardous substances at the facility.

“(D) CARE.—The person exercises appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to—

“(i) stop any continuing release;

“(ii) prevent any threatened future release; and

“(iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance.

“(E) COOPERATION, ASSISTANCE, AND ACCESS.—The person provides full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural resource restoration at a vessel or facility (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response actions or natural resource restoration at the vessel or facility).

“(F) INSTITUTIONAL CONTROL.—The person—



“(i) is in compliance with any land use restrictions established or relied on in connection with the response action at a vessel or facility; and

“(ii) does not impede the effectiveness or integrity of any institutional control employed at the vessel or facility in connection with a response action.

“(G) REQUESTS; SUBPOENAS.—The person complies with any request for information or administrative subpoena issued by the President under this Act.

“(H) NO AFFILIATION.—The person is not—

“(i) potentially liable, or affiliated with any other person that is potentially liable, for response costs at a facility through—

“(I) any direct or indirect familial relationship; or

“(II) any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship that is created by the instruments by which title to the facility is conveyed or financed or by a contract for the sale of goods or services); or

“(ii) the result of a reorganization of a business entity that was potentially liable.”.

(b) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 201) is amended by adding at the end the following:

“(p) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—

“(I) LIMITATION ON LIABILITY.—Notwithstanding subsection (a)(1), a bona fide prospective purchaser whose potential liability for a release or threatened release is based solely on the purchaser's being considered to be an owner or operator of a facility shall not be liable as long as the bona fide prospective purchaser does not impede the performance of a response action or natural resource restoration.

“(2) LIEN.—If there are unrecovered response costs incurred by the United States at a facility for which an owner of the facility is not liable by reason of paragraph (1), and if each of the conditions described in paragraph (3) is met, the United States shall have a lien on the facility, or may by agreement with the owner, obtain from the owner a lien on any other property or other assurance of payment satisfactory to the Administrator, for the unrecovered response costs.

“(3) CONDITIONS.—The conditions referred to in paragraph (2) are the following:

“(A) RESPONSE ACTION.—A response action for which there are unrecovered costs of the United States is carried out at the facility.

“(B) FAIR MARKET VALUE.—The response action increases the fair market value of the facility above the fair market value of the facility that existed before the response action was initiated.

“(4) AMOUNT; DURATION.—A lien under paragraph (2)—

“(A) shall be in an amount not to exceed the increase in fair market value of the property attributable to the response action at the time of a sale or other disposition of the property;

“(B) shall arise at the time at which costs are first incurred by the United States with respect to a response action at the facility;

“(C) shall be subject to the requirements of subsection (1)(3); and

“(D) shall continue until the earlier of—

“(i) satisfaction of the lien by sale or other means; or

“(ii) notwithstanding any statute of limitations under section 113, recovery of all response costs incurred at the facility.”.

#### SEC. 203. INNOCENT LANDOWNERS.

Section 101(35) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(35)) is amended—

(1) in subparagraph (A)—

(A) in the first sentence, in the matter preceding clause (i), by striking “deeds or” and inserting “deeds, easements, leases, or”; and

(B) in the second sentence—

(i) by striking “he” and inserting “the defendant”; and

(ii) by striking the period at the end and inserting “, provides full cooperation, assistance, and facility access to the persons that are authorized to conduct response actions at the facility (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility), is in compliance with any land use restrictions established or relied on in connection with the response action at a facility, and does not impede the effectiveness or integrity of any institutional control employed at the facility in connection with a response action.”; and

(2) by striking subparagraph (B) and inserting the following:

“(B) REASON TO KNOW.—

“(i) ALL APPROPRIATE INQUIRIES.—To establish that the defendant had no reason to know of the matter described in subparagraph (A)(i), the defendant must demonstrate to a court that—

“(I) on or before the date on which the defendant acquired the facility, the defendant carried out all appropriate inquiries, as provided in clauses (ii) and (iv), into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices; and

“(II) the defendant took reasonable steps to—

“(aa) stop any continuing release;

“(bb) prevent any threatened future release; and

“(cc) prevent or limit any human, environmental, or natural resource exposure to any previously released hazardous substance.

“(ii) STANDARDS AND PRACTICES.—Not later than 2 years after the date of enactment of the Brownfields Revitalization and Environmental Restoration Act of 2001, the Administrator shall by regulation establish standards and practices for the purpose of satisfying the requirement to carry out all appropriate inquiries under clause (i).

“(iii) CRITERIA.—In promulgating regulations that establish the standards and practices referred to in clause (ii), the Administrator shall include each of the following:

“(I) The results of an inquiry by an environmental professional.

“(II) Interviews with past and present owners, operators, and occupants of the facility for the purpose of gathering information regarding the potential for contamination at the facility.

“(III) Reviews of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records, to determine previous uses and occupancies of the real property since the property was first developed.

“(IV) Searches for recorded environmental cleanup liens against the facility that are filed under Federal, State, or local law.

“(V) Reviews of Federal, State, and local government records, waste disposal records, underground storage tank records, and hazardous waste handling, generation, treatment, disposal, and spill records, concerning contamination at or near the facility.

“(VI) Visual inspections of the facility and of adjoining properties.

“(VII) Specialized knowledge or experience on the part of the defendant.

“(VIII) The relationship of the purchase price to the value of the property, if the property was not contaminated.

“(IX) Commonly known or reasonably ascertainable information about the property.

“(X) The degree of obviousness of the presence or likely presence of contamination at the property, and the ability to detect the contamination by appropriate investigation.

“(iv) INTERIM STANDARDS AND PRACTICES.—

“(I) PROPERTY PURCHASED BEFORE MAY 31, 1997.—With respect to property purchased before

May 31, 1997, in making a determination with respect to a defendant described of clause (i), a court shall take into account—

“(aa) any specialized knowledge or experience on the part of the defendant;

“(bb) the relationship of the purchase price to the value of the property, if the property was not contaminated;

“(cc) commonly known or reasonably ascertainable information about the property;

“(dd) the obviousness of the presence or likely presence of contamination at the property; and

“(ee) the ability of the defendant to detect the contamination by appropriate inspection.

“(II) PROPERTY PURCHASED ON OR AFTER MAY 31, 1997.—With respect to property purchased on or after May 31, 1997, and until the Administrator promulgates the regulations described in clause (ii), the procedures of the American Society for Testing and Materials, including the document known as ‘Standard E1527-97’, entitled ‘Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process’, shall satisfy the requirements in clause (i).

“(v) SITE INSPECTION AND TITLE SEARCH.—In the case of property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.”.

#### TITLE III—STATE RESPONSE PROGRAMS

##### SEC. 301. STATE RESPONSE PROGRAMS.

(a) DEFINITIONS.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) (as amended by section 202) is amended by adding at the end the following:

“(41) ELIGIBLE RESPONSE SITE.—

“(A) IN GENERAL.—The term ‘eligible response site’ means a site that meets the definition of a brownfield site in subparagraphs (A) and (B) of paragraph (39), as modified by subparagraphs (B) and (C) of this paragraph.

“(B) INCLUSIONS.—The term ‘eligible response site’ includes—

“(i) notwithstanding paragraph (39)(B)(ix), a portion of a facility, for which portion assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986; or

“(ii) a site for which, notwithstanding the exclusions provided in subparagraph (C) or paragraph (39)(B), the President determines, on a site-by-site basis and after consultation with the State, that limitations on enforcement under section 129 at sites specified in clause (iv), (v), (vi) or (viii) of paragraph (39)(B) would be appropriate and will—

“(I) protect human health and the environment; and

“(II) promote economic development or facilitate the creation of, preservation of, or addition to a park, a greenway, undeveloped property, recreational property, or other property used for nonprofit purposes.

“(C) EXCLUSIONS.—The term ‘eligible response site’ does not include—

“(i) a facility for which the President—

“(I) conducts or has conducted a preliminary assessment or site inspection; and

“(II) after consultation with the State, determines or has determined that the site obtains a preliminary score sufficient for possible listing on the National Priorities List, or that the site otherwise qualifies for listing on the National Priorities List;

unless the President has made a determination that no further Federal action will be taken; or

“(ii) facilities that the President determines warrant particular consideration as identified by regulation, such as sites posing a threat to a sole-source drinking water aquifer or a sensitive ecosystem.”.

(b) **STATE RESPONSE PROGRAMS.**—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 101(b)) is amended by adding at the end the following:

**“SEC. 129. STATE RESPONSE PROGRAMS.**

**“(a) ASSISTANCE TO STATES.—**

**“(1) IN GENERAL.—**

**“(A) STATES.**—The Administrator may award a grant to a State or Indian tribe that—

**“(i)** has a response program that includes each of the elements, or is taking reasonable steps to include each of the elements, listed in paragraph (2); or

**“(ii)** is a party to a memorandum of agreement with the Administrator for voluntary response programs.

**“(B) USE OF GRANTS BY STATES.—**

**“(i) IN GENERAL.**—A State or Indian tribe may use a grant under this subsection to establish or enhance the response program of the State or Indian tribe.

**“(ii) ADDITIONAL USES.**—In addition to the uses under clause (i), a State or Indian tribe may use a grant under this subsection to—

**“(I)** capitalize a revolving loan fund for brownfield remediation under section 128(c); or

**“(II)** develop a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions under a State response program.

**“(2) ELEMENTS.**—The elements of a State or Indian tribe response program referred to in paragraph (1)(A)(i) are the following:

**“(A)** Timely survey and inventory of brownfield sites in the State.

**“(B)** Oversight and enforcement authorities or other mechanisms, and resources, that are adequate to ensure that—

**“(i)** a response action will—

**“(I)** protect human health and the environment; and

**“(II)** be conducted in accordance with applicable Federal and State law; and

**“(ii)** if the person conducting the response action fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities, the necessary response activities are completed.

**“(C)** Mechanisms and resources to provide meaningful opportunities for public participation, including—

**“(i)** public access to documents that the State, Indian tribe, or party conducting the cleanup is relying on or developing in making cleanup decisions or conducting site activities; and

**“(ii)** prior notice and opportunity for comment on proposed cleanup plans and site activities.

**“(D)** Mechanisms for approval of a cleanup plan, and a requirement for verification by and certification or similar documentation from the State, an Indian tribe, or a licensed site professional to the person conducting a response action indicating that the response is complete.

**“(3) FUNDING.**—There is authorized to be appropriated to carry out this subsection \$50,000,000 for each of fiscal years 2002 through 2006.

**“(b) ENFORCEMENT IN CASES OF A RELEASE SUBJECT TO STATE PROGRAM.—**

**“(1) ENFORCEMENT.—**

**“(A) IN GENERAL.**—Except as provided in subparagraph (B) and subject to subparagraph (C), in the case of an eligible response site at which—

**“(i)** there is a release or threatened release of a hazardous substance, pollutant, or contaminant; and

**“(ii)** a person is conducting or has completed a response action regarding the specific release that is addressed by the response action that is in compliance with the State program that specifically governs response actions for the protection of public health and the environment;

the President may not use authority under this Act to take an administrative or judicial enforcement action under section 106(a) or to take

a judicial enforcement action to recover response costs under section 107(a) against the person regarding the specific release that is addressed by the response action.

**“(B) EXCEPTIONS.**—The President may bring an administrative or judicial enforcement action under this Act during or after completion of a response action described in subparagraph (A) with respect to a release or threatened release at an eligible response site described in that subparagraph if—

**“(i)** the State requests that the President provide assistance in the performance of a response action;

**“(ii)** the Administrator determines that contamination has migrated or will migrate across a State line, resulting in the need for further response action to protect human health or the environment, or the President determines that contamination has migrated or is likely to migrate onto property subject to the jurisdiction, custody, or control of a department, agency, or instrumentality of the United States and may impact the authorized purposes of the Federal property;

**“(iii)** after taking into consideration the response activities already taken, the Administrator determines that—

**“(I)** a release or threatened release may present an imminent and substantial endangerment to public health or welfare or the environment; and

**“(II)** additional response actions are likely to be necessary to address, prevent, limit, or mitigate the release or threatened release; or

**“(iv)** the Administrator determines that information, that on the earlier of the date on which cleanup was approved or completed, was not known by the State, as recorded in documents prepared or relied on in selecting or conducting the cleanup, has been discovered regarding the contamination or conditions at a facility such that the contamination or conditions at the facility present a threat requiring further remediation to protect public health or welfare or the environment.

**“(C) PUBLIC RECORD.**—The limitations on the authority of the President under subparagraph (A) apply only at sites in States that maintain, update not less than annually, and make available to the public a record of sites, by name and location, at which response actions have been completed in the previous year and are planned to be addressed under the State program that specifically governs response actions for the protection of public health and the environment in the upcoming year. The public record shall identify whether or not the site, on completion of the response action, will be suitable for unrestricted use and, if not, shall identify the institutional controls relied on in the remedy. Each State and tribe receiving financial assistance under subsection (a) shall maintain and make available to the public a record of sites as provided in this paragraph.

**“(D) EPA NOTIFICATION.—**

**“(i) IN GENERAL.**—In the case of an eligible response site at which there is a release or threatened release of a hazardous substance, pollutant, or contaminant and for which the Administrator intends to carry out an action that may be barred under subparagraph (A), the Administrator shall—

**“(I)** notify the State of the action the Administrator intends to take; and

**“(II)(aa)** wait 48 hours for a reply from the State under clause (ii); or

**“(bb)** if the State fails to reply to the notification or if the Administrator makes a determination under clause (iii), take immediate action under that clause.

**“(ii) STATE REPLY.**—Not later than 48 hours after a State receives notice from the Administrator under clause (i), the State shall notify the Administrator if—

**“(I)** the release at the eligible response site is or has been subject to a cleanup conducted under a State program; and

**“(II)** the State is planning to abate the release or threatened release, any actions that are planned.

**“(iii) IMMEDIATE FEDERAL ACTION.**—The Administrator may take action immediately after giving notification under clause (i) without waiting for a State reply under clause (ii) if the Administrator determines that 1 or more exceptions under subparagraph (B) are met.

**“(E) REPORT TO CONGRESS.**—Not later than 90 days after the date of initiation of any enforcement action by the President under clause (ii), (iii), or (iv) of subparagraph (B), the President shall submit to Congress a report describing the basis for the enforcement action, including specific references to the facts demonstrating that enforcement action is permitted under subparagraph (B).

**“(2) SAVINGS PROVISION.—**

**“(A) COSTS INCURRED PRIOR TO LIMITATIONS.**—Nothing in paragraph (1) precludes the President from seeking to recover costs incurred prior to the date of enactment of this section or during a period in which the limitations of paragraph (1)(A) were not applicable.

**“(B) EFFECT ON AGREEMENTS BETWEEN STATES AND EPA.**—Nothing in paragraph (1)—

**“(i)** modifies or otherwise affects a memorandum of agreement, memorandum of understanding, or any similar agreement relating to this Act between a State agency or an Indian tribe and the Administrator that is in effect on or before the date of enactment of this section (which agreement shall remain in effect, subject to the terms of the agreement); or

**“(ii)** limits the discretionary authority of the President to enter into or modify an agreement with a State, an Indian tribe, or any other person relating to the implementation by the President of statutory authorities.

**“(3) EFFECTIVE DATE.**—This subsection applies only to response actions conducted after February 15, 2001.

**“(c) EFFECT ON FEDERAL LAWS.**—Nothing in this section affects any liability or response authority under any Federal law, including—

**“(1)** this Act, except as provided in subsection (b);

**“(2)** the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

**“(3)** the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

**“(4)** the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and

**“(5)** the Safe Drinking Water Act (42 U.S.C. 300f et seq.).”

**SEC. 302. ADDITIONS TO NATIONAL PRIORITIES LIST.**

Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) is amended by adding at the end the following:

**“(h) NPL DEFERRAL.—**

**“(1) DEFERRAL TO STATE VOLUNTARY CLEANUPS.**—At the request of a State and subject to paragraphs (2) and (3), the President generally shall defer final listing of an eligible response site on the National Priorities List if the President determines that—

**“(A)** the State, or another party under an agreement with or order from the State, is conducting a response action at the eligible response site—

**“(i)** in compliance with a State program that specifically governs response actions for the protection of public health and the environment; and

**“(ii)** that will provide long-term protection of human health and the environment; or

**“(B)** the State is actively pursuing an agreement to perform a response action described in subparagraph (A) at the site with a person that the State has reason to believe is capable of conducting a response action that meets the requirements of subparagraph (A).

**“(2) PROGRESS TOWARD CLEANUP.**—If, after the last day of the 1-year period beginning on the date on which the President proposes to list

an eligible response site on the National Priorities List, the President determines that the State or other party is not making reasonable progress toward completing a response action at the eligible response site, the President may list the eligible response site on the National Priorities List.

"(3) **CLEANUP AGREEMENTS.**—With respect to an eligible response site under paragraph (1)(B), if, after the last day of the 1-year period beginning on the date on which the President proposes to list the eligible response site on the National Priorities List, an agreement described in paragraph (1)(B) has not been reached, the President may defer the listing of the eligible response site on the National Priorities List for an additional period of not to exceed 180 days if the President determines deferring the listing would be appropriate based on—

"(A) the complexity of the site;

"(B) substantial progress made in negotiations; and

"(C) other appropriate factors, as determined by the President.

"(4) **EXCEPTIONS.**—The President may decline to defer, or elect to discontinue a deferral of, a listing of an eligible response site on the National Priorities List if the President determines that—

"(A) deferral would not be appropriate because the State, as an owner or operator or a significant contributor of hazardous substances to the facility, is a potentially responsible party;

"(B) the criteria under the National Contingency Plan for issuance of a health advisory have been met; or

"(C) the conditions in paragraphs (1) through (3), as applicable, are no longer being met."

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I ask that my friend, the chairman of the committee, yield for a brief minute.

Mr. President, we have nine Senators who wish to speak on this legislation, and there may be others at a subsequent time. I wonder if my friend from New Hampshire would allow us to give a rough idea of when people should be here. I know the Senator from Oklahoma, a valuable member of the committee, wishes to speak before the chairman, and I have no problem with that. I am wondering, how long does the Senator from Oklahoma wish to speak?

Mr. INHOFE. Five minutes.

Mr. REID. Following that, Mr. President, I wonder if we may have a unanimous consent agreement that the Senator from New Hampshire speak for up to 20 minutes; the Senator from Nevada, Mr. REID, 15 minutes; Senator CHAFEE, 15 minutes; Senator BOXER, 15 minutes; Senator BOND, 15 minutes; Senator Clinton, 15 minutes; Senator CRAPO, 15 minutes; and Senator Corzine, 15 minutes. That will use about an hour and 20 minutes and still leave time for others who wish to come.

Mr. INHOFE. Let me change that to about 7 minutes.

Mr. REID. Let's make it 10 minutes.

Mr. INHOFE. All right.

Mr. REID. I have failed to list Senator CARPER, but we will do him after that for 15 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SMITH of New Hampshire. Mr. President, I yield 10 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, while I was one who opposed S. 350 when it was in committee because of some problems that were there that we have tried to address, we have gotten a lot of cooperation from the committee in the meantime to address the problems. I think S. 350 contains provisions that would be a positive first step toward revitalizing brownfields in this country.

S. 350 provides developers with moderate assurances for Superfund-forced cleanups. While some of my concerns over the finality of the language remain, I am comforted by the remarks of the chairman and ranking member of the committee concerning new information. That is, the information referred to in S. 350 pertains to information of the highest quality, objectivity, and weight which is acquired after cleanup has begun. With this language, I don't think the abuses I was concerned about are going to be there. If they are, we will be monitoring it.

The scope of the cleanup finality provision is still of concern. The EPA could simply sidestep the bill by using RCRA, the Resource Conservation and Recovery Act, or even the Toxic Substances and Control Act to force parties to clean up sites. This is one of the concerns we tried to address in the committee. I don't think it has been addressed to our satisfaction, but at least we are in a position to monitor it.

It has been the argument of supporters of the legislation that EPA has never overfiled on a brownfields site. If the EPA overfiles a State cleanup, S. 350 now requires the EPA to notify Congress. I wasn't satisfied with just the fact that they had not done this in the past because there is always that first time. We will be closely monitoring this to make sure that provision stays in the legislation.

I still have concerns that businesses will not feel adequately protected, and, therefore, brownfields may not get cleaned up. In the end, the developers and businesses will be the judges of S. 350's successes or failures.

A lot of people forget this and look at the bureaucracy and say: We are going to have all this language. I can assure you, Mr. President, if we do not have some protection for developers and businesses that are willing to bid on cleanup sites, they are not going to be able to do it. It does not do any good to pass legislation unless there is enough confidence in the business community that they will not be abused if they bid on these projects.

According to the EPA's figures, there are 200,000 sites contaminated primarily from petroleum. This is roughly half the approximately 450,000 brownfields in the United States. During the markup, I had concerns that by failing to address RCRA, Congress was neglecting the 200,000-plus sites that are petroleum-contaminated brownfield sites in this country. By not ad-

ressing these sites in S. 350, Congress is preventing almost half the brownfields in this country from being cleaned up and developed.

I insisted Congress must address this issue. I stated that it was not right to allow so many brownfields to remain contaminated under this program.

I am proud to say today help is on the way for these sites. The Inhofe amendment, which is incorporated into the managers' amendment, will take a first major step toward cleaning up petroleum-contaminated sites.

Specifically, the Inhofe amendment, A, allows relatively low-risk brownfield sites contaminated by petroleum or petroleum products to apply for brownfields revitalization funding and, B, authorizes \$50 million to be used for petroleum sites.

My amendment will allow the large amount of abandoned gas stations and other mildly petroleum-contaminated sites all across the Nation to be cleaned up and put back into productive use.

Finally, I still want to work to place a cap on the administrative costs set aside by the Federal EPA. A cost cap will ensure States and parties seeking to clean up and redevelop brownfields are getting the vast majority of the funds for brownfields programs and not just for administrative costs.

EPA has informed us they are currently using approximately 16 percent of brownfields funds appropriated on administrative costs. This amount is unacceptable. I will be watching very closely to see what can be done perhaps in the appropriations process. Senator BOND and some others can perhaps propose an amendment to get this cap on and avoid excessive administrative costs.

Over the last several years, the Senate Committee on Environment and Public Works has worked very hard on Superfund reform. With S. 350, the committee has decided for now to address only brownfields.

There are a lot of other problems. In the very beginning, I said let's not cherry-pick this thing; let's not just address brownfields. Let's get into it and look at retroactive liability, natural resource damages, joint and several liability, and some of the abuses that have taken place in this system.

I believe we now have the assurance of enough Members that we will go ahead with a more comprehensive program and address these other problems.

I thank the chairman and the ranking member and specifically Senators CRAPO, BOND, and VOINOVICH who are helping me on some of the issues about which I have concerns and also the staff who have spent many hours coming up with a bill that I think is acceptable. I yield the floor.

Mr. REID. Mr. President, Senator SMITH is right outside the door. I am told that is the case.

Based on a prior unanimous consent agreement, Senator SMITH will speak from 11:40 a.m. until 12 o'clock. I will

speak from 12 to 12:15 p.m. Senator CHAFEE will speak from 12:15 p.m. to 12:30 p.m. Senator BOXER will speak from 12:30 p.m. to 12:45 p.m. Senator BOND will speak from 12:45 p.m. to 1 p.m. Senator CLINTON will speak from 1 p.m. to 1:15 p.m. Senator CRAPO will speak from 1:15 p.m. to 1:30 p.m. Senator CORZINE will speak from 1:30 p.m. to 1:45 p.m. Senator CARPER will speak from 1:45 p.m. to 2 p.m.

If anyone wants to juggle those times, they can contact the Members. That is the way it is now.

Mr. President, while Senator SMITH is on his way, I wish to express my appreciation to the majority leader. I have been on the floor the last 3 days indicating why we did not go to this legislation, and we are now considering it.

I extend my appreciation to Senator LOTT for moving forward this very important piece of legislation. It is something that is long overdue, years overdue, but it is something that could not be more timely to clean up half a million sites and do a lot of good things about which we will hear in the next couple of hours.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I am very proud to be debating the brownfields legislation, known as the Brownfields Revitalization and Environmental Restoration Act of 2001, or S. 350. It is a bill we have worked on for a long time—many years actually. It is exciting to be at this point and to have bipartisan legislation that, frankly, we know after we finish the debate is going to pass. That does not happen every day in the Senate. So it is exciting.

I am proud that two-thirds of the Senate, both political parties, are cosponsors—68 to be exact. Also, the President supports the bill. If we can get the cooperation of the House of Representatives, this will pass quickly, and the President will sign it. We are very excited about that.

This bill has the full bipartisan support of all members of the Environment and Public Works Committee across the political spectrum.

Make no mistake about it, in spite of the support the bill has, it has not been an easy process. Superfund, so-called, is a very difficult subject. That is an issue I have worked on and I know Senator REID and Senator CHAFEE and others have for many years.

Ever since I began my service in the Congress, I have tried to reform this flawed Superfund law. It has been a bitter battle with a lot of differences of opinion as to how we do it, sometimes partisan and sometimes regional. But basically on reforming Superfund, other than a few short fixes on certain things such as recyclers, we really have not accomplished very much in the last 11 years.

I have always believed we are in need of comprehensive Superfund reform to make the program work. I still believe

after we pass the bill there is a lot to be done. Today we have a chance to do something good. It is not comprehensive Superfund reform. Frankly, I am at the point now where comprehensive Superfund reform is not going to happen, and maybe it should not happen. Maybe we should just move forward on a piece-bill basis and do the right thing.

I was pleased to be joined by the committee's ranking member, the Superfund subcommittee chairman and its ranking member, Senators REID, CHAFEE, and BOXER. I commend all of my colleagues who are present—Senator REID, Senator BOXER, Senator CHAFEE—for their leadership and working tirelessly and in good faith in a bipartisan manner. Without their cooperation and help, we would not be here today.

It is always easy to reach agreement on easy issues, but the difficult issues, such as some of the issues with which we deal in the environment, are not that easy and we have to work hard, respect the other side's position, and try to come to a compromise.

If there is any positive spinoff from a 50/50 Senate, about which so much is written and spoken, it is that, even if we do not want to, we have to work together because we are not going to pass anything meaningful, anything positive. We will not pass anything out of committee going anywhere on the floor unless it is bipartisan.

We may not always agree on how to achieve our goals, but we all share the same desire for a safe and healthy environment for all of our families and for the future and our future generations. As I have said many times, environment should be about the future. It shouldn't be about politics of today. It should be about tomorrow and our children. Sometimes in the decisions we make we would like to have immediate results, but we don't get them. It takes time to see the fruits of our labors.

I think you will see in the brownfields legislation, when it passes, the process of cleaning up the old abandoned industrial sites.

I thank President Bush, as well, and his new EPA administrator, Christine Whitman, for unwavering support. When they first took office, my very first meeting was with then-Governor Whitman, now Administrator Whitman. She gave me her full support and commitment on this issue, as did the President. The President stated the brownfields reform is a top environmental priority for his administration. It will now pass the Senate within the first 100 days of the administration. That is a promise made and a promise kept—sometimes rare in politics these days.

The President recognizes what it means for the environment. I am proud the Senate will pass this priority and do it today.

As former Governors, both President Bush and Administrator Whitman understand the importance of cleaning up

the sites, and the President deserves credit for making this a top priority, as do my colleagues in the Senate. Without the support of the President, we would not see this legislation become law. To his credit, President Clinton, as well, was a supporter of the brownfields bill.

It has not been easy, but we have worked in good faith. I thank all Senators involved for their willingness to work together toward this common goal. It is amazing what can be accomplished when we set aside the rhetoric and focus on the goal; or, indeed, if we have the rhetoric, complete the rhetoric and sit down and get focused on getting the job done.

Last year, the committee was successful in passing good, balanced, bipartisan legislation, including estuaries restoration, clean beaches, and the most famous of all, the historic Everglades restoration, which was a prime project of the Senator from Rhode Island, our distinguished father and former colleague, Mr. John Chafee.

I made a commitment after Senator Chafee's passing that I would, in fact, shepherd that bill through the Senate, which we did, and President Clinton signed it. It is now law. We will see that great natural resource restored.

Again, it will take time. It will not happen tomorrow. We will not see the Everglades restored tomorrow, but we will see it done over a period of 10, 20, 30 years. We will not see every brownfield restored today after passage of the bill, but we will see industrial site after industrial site, abandoned industrial sites all over America, gradually become green or restored in a way that they are productive and producing tax revenues in the communities across our Nation.

When you see a brownfield, abandoned site, and you see activity, with people working and cleaning it up, and it is looking nice in your community, you can reference back to this legislation and know that is why it is being done.

People say, why do you need the legislation? The answer is, under current law no one will clean them up. I will discuss the reasons in a moment. With brownfields, we have proven we can work together in cooperation, as opposed to confrontation, and we can accomplish great things. When we talk about all the great issues of the day, whether China, the budget, or whatever, brownfields is not exactly something that gets a lot of glamour. We had a huge debate on the Ashcroft confirmation. That received a lot of publicity. However, down in the trenches, these are the kinds of issues that don't get a lot of attention. Maybe the trade press follows them. The national press doesn't do much. Indeed, sometimes not even your local press, but it is important. It is very important to the communities because we will be restoring these sites.

I am hopeful the effort will set the stage for more cooperation and also get

at more of the old Superfund law to pick away and try to reform various parts of the bill so we don't need Superfund anymore. We will be cleaning up all of these sites as soon as we can.

We have learned environmental politics delays environmental protection. Let me repeat that: Environmental politics delays environmental protection. The more we argue about things, the longer it takes to get something in place that will bring this to resolution, and the resolution would be the cleanup. The expedited cleanup of brownfield sites is very important to my constituents in New Hampshire, as it is to other constituents in other States. My State helped to drive this economy during the industrial age—little old New Hampshire, with the mills along the Merrimack. We have more than our share of these likely contaminated sites waiting to be turned back into positive assets, including abandoned railroad sites, along the railroads, along the rivers. Frequently, these are the sites we are talking about. It could be Bradford, Keene, Concord, or New Ipswich. This bill will be of monumental benefit to not only those towns but many towns all over America. This bill will also create opportunities for the development of more facilities such as the Londonderry eco-industrial park. Now these brownfield sites will turn into industrial parks. Or, indeed, if they are not parks, they may very well be "green" parks as opposed to industrial parks. Again, this bill provides help in that regard.

If you take an abandoned industrial site and convert it to a good commercial site, producing revenues for the community, it enhances the community in a beautification way, produces revenue, puts people to work. It is a win-win-win. Furthermore, it takes the pressure off of green space. We won't go outside of Frankfurt, KY, somewhere and pull off acres of land to build an industrial park if we have 10 acres of abandoned brownfield sites to bring back and revitalize and use again. That is the beauty of the legislation.

I am proud to help communities all across the Nation. We estimate as many as 400,000 to 500,000 brownfield sites exist across America. We will see activity now on these sites.

A brief background on the bill. On March 8, the Environmental and Public Works Committee reported S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001. There were a few dissenting votes, but we worked with those individuals who had concerns and the Members now have been able to reconcile those differences. As far as I know, we have a totally united front. That is a tribute to every member of that committee, on both sides, a tribute to the staffs of the members working hard to address the concerns to come out with a totally unified effort on a bipartisan bill.

This is a strong bill. It deserves the support of the full Senate, not only the

68 cosponsors but the other 32 out there, as well.

How is S. 350 better than current law? That is the issue. Current law is what it is and we are now cleaning up sites. How do we improve it? Simply stated, our bill provides an element of finality that does not exist today in current law. While allowing for Federal involvement under specific conditions, current law allows EPA to act whenever there is a release or a threatened release. Again, current law allows EPA to act whenever there is a release or threatened release.

This bill changes that requirement, ups the ante a little bit, and provides four things: One, EPA to find that "the release or threatened release may present an imminent and substantial endangerment to public health, welfare or the environment" and after taking into consideration response activities already taken, "additional response actions are likely to be necessary to address, prevent, limit, or mitigate the release or threatened release."

We put some conditions on there for the EPA's finding.

We also find that the action should come at the request of the State if we need to come back.

Third, contamination may have migrated across a State line.

Fourth, there may be new information to emerge after the cleanup that results in the site presenting a threat.

That is not all our bill does. It also authorizes \$200 million in critically needed funds to assess and clean up brownfield sites as well as \$50 million to assist State cleanup programs. This is more than double the level of funding currently expended on the EPA brownfield program.

I also want to point out this is not about only Federal dollars. The Federal dollars, the \$200 million we are talking about here, are nowhere near enough money to clean up 500,000 brownfield sites. What this does is it limits the liability and brings us closer to finality in cleanup so we can now get contractors to go on these sites. They can get the insurance, they can take the risk, and they are not going to be held accountable if a hot spot or some other problem that was not their fault occurs several years down the road. That has been the problem to date. They cannot do it because they will be held liable so they say, fine, we are not going to go on the site and clean it up and take the risk.

If a contractor comes onto a site, he is responsible. If he does what he is supposed to do, follows the plans as he is supposed to, cleans it up and does it in good faith and we find something later, he is not accountable. That is why this bill will go so far toward moving us in the right direction, getting these sites cleaned up.

Individuals and towns and property owners will now invest in cleaning up these sites. Banks will lend money. There are millions and millions of dollars—tens of millions, if not hundreds

of millions—that will be used now from the private sector to clean up these sites, far beyond the \$200 million we are talking about in this bill.

This will promote conservation through redevelopment, as I said before, as opposed to new greenfield development, and will help to revitalize our city centers and create new jobs in the inner cities. It is a win for the environment, a win for the economy, a win for the Nation, a win for every State, including New Hampshire, and a lot of communities with those brownfield sites. It is a giant step forward. We now have a chance to move forward on a piece of legislation that will make a significant difference in communities across the Nation.

The real winners are the people who live near these abandoned sites—sometimes those are minorities—the renewed urban centers that will see development and jobs replace blighted, contaminated sites, the local communities that will be revitalized, and the green space that is preserved. It is a win, win, win, win, win, no matter how you cut it. Thanks to the leadership of my colleagues, Senators REID, BOXER, and CHAFEE, and all my colleagues on the committee, we have a chance to enact now, for the first time in all the years I have been in Congress, which is 16—the first time to enact meaningful brownfields reform. We came out of the gate running. I hope the House will follow suit, because if they do, it will be on the President's desk shortly and the President can sign this bill before the end of the summer.

There are numerous interests that support S. 350. I ask unanimous consent that several letters of support I have received—and all of us have received them—be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL CONFERENCE OF  
STATE LEGISLATURES,  
March 7, 2001.

Hon. BOB SMITH,  
*Chairman, Committee on Environment and Public Works, Dirksen Senate Office Building, Washington, DC.*

DEAR CHAIRMAN SMITH: I am writing on behalf of the National Conference of State Legislatures (NCSL) to commend you for your continued commitment to the issue of Brownfields revitalization. Without the necessary reforms to the Comprehensive Response, Compensation and Liability Act (CERCLA), clean up and redevelopment opportunities are lost as well as new jobs, new tax revenues, and the opportunity to manage growth. NCSL's Environment Committee has made this a top priority and we applaud the committee's leadership for designating it as one of the first environmental issues to be brought before the 107th Congress.

The Brownfields Revitalization and Environmental Restoration Act of 2001 (S. 350) provides a welcome increase in federal funding for the assessment and cleanup of state brownfields. We are encouraged by the committee's efforts to provide some level of liability reform for innocent property owners. NCSL would also like to acknowledge the committee's success in garnering broad bipartisan support on an issue that is of concern in all 50 states.

As you continue work on The Brownfields Revitalization and Environmental Restoration Act of 2001, we urge you to reexamine the following:

The 20% cost share (under CERCLA the cost share is 10%)—this could discourage states with tight budgets from participating in the program. NCSL suggests that you maintain the cost share provision of 10% under CERCLA.

NCSL recognizes that finality has been a contentious issue. NCSL acknowledges that the bill provides relief from Superfund liability, but we urge the committee to reexamine the power of the Administrator with a view towards according the states the appropriate deference prior to initiation of an enforcement action.

Additions to the National Priorities List—NCSL supports the listing of a facility only after the Administrator obtains concurrence from the Governor of the respective state.

We appreciate the efforts of the chief sponsors of S. 350 and the subcommittee to bring forward a bill to further advance brownfields cleanup and redevelopment. We look forward to working with you on this issue. For additional information, please contact Molly Stauffer in NCSL's Washington, D.C. office at (202) 624-3584 or by email at [molly.stauffer@ncsl.org](mailto:molly.stauffer@ncsl.org).

Sincerely,

Representative JOE HACKNEY,  
Chair, NCSL Environment Committee.

THE UNITED STATES  
CONFERENCE OF MAYORS,

Washington, DC, February 14, 2001.

Hon. BOB SMITH,  
Chairman, Committee on Environment and Public Works, Dirksen Senate Office Building, Washington, DC.

Hon. LINCOLN CHAFEE,  
Chairman, Subcommittee on Superfund, Waste Control, and Risk Assessment, Senate Office Building, Washington, DC.

Hon. HARRY REID,  
Ranking Minority Member, Committee on Environment and Public Works, Dirksen Senate Office Building, Washington, DC.

Hon. BARBARA BOXER,  
Ranking Minority Member, Subcommittee on Superfund, Waste Control, and Risk Assessment, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS SMITH, REID, CHAFEE AND BOXER: On behalf of The United States Conference of Mayors, I am writing to express the strong support of the nation's mayors for your bipartisan legislation, the "Brownfields Revitalization and Environmental Restoration Act of 2001." The mayors believe that this legislation can dramatically improve the nation's efforts to recycle abandoned and other underutilized brownfield sites, providing new incentives and statutory reforms to speed the assessment, cleanup and redevelopment of these properties.

This is a national problem that deserves a strong and prompt federal response. The mayors believe that this bipartisan legislation will help accelerate ongoing private sector and public efforts to recycle America's land.

We thank you for your leadership on this priority legislation for the nation's cities. We strongly support this legislation and we encourage you to move forward expeditiously so that the nation can secure the many positive benefits to be achieved from the reuse and redevelopment of the many thousands of brownfields throughout the U.S.

Sincerely,

H. BRENT COLES,  
President,  
Mayor of Boise.

Hon. BOB SMITH,  
Chairman, Environment and Public Works Committee, U.S. Senate, Washington, DC.

Hon. HARRY REID,  
Ranking Member, Environment and Public Works Committee, U.S. Senate, Washington, DC.

Hon. LINCOLN CHAFEE,  
Chairman, Subcommittee on Superfund, Waste Control and Risk Assessment, U.S. Senate, Washington, DC.

Hon. BARBARA BOXER,  
Ranking Member, Subcommittee on Superfund, Waste Control and Risk Assessment, U.S. Senate, Washington, DC.

DEAR CHAIRMAN SMITH, CHAIRMAN CHAFEE, SENATOR REID, AND SENATOR BOXER: We are writing to thank you for the outstanding leadership you have demonstrated by your re-introduction of the Brownfields Revitalization and Environmental Restoration Act of 2001. Our organizations, and our many community partners across America, are heartened by the benefits that this legislation would impart upon our landscapes, economies, public parks and our communities as a whole. Transforming abandoned brownfield sites into greenfields or new development will provide momentum for increasing "smart growth" and reducing sprawl by utilizing existing transportation infrastructure, which in turn will lead to better transportation systems and the revitalization of historic areas and our urban centers.

As you are well aware, brownfields pose some of the most critical land-use challenges—and afford some of the most promising revitalization opportunities—facing our nation's communities, from our cities to more rural locales. Revitalization of these idled sites into urgently needed parks and green spaces or into appropriate redevelopment will provide great benefits to our neighborhoods and local economies. In the process, it has also proven to be an extremely powerful tool in local effort to control urban sprawl by directing economic growth to already developed areas, encouraging the restoration and reuse of historical sites, and in addressing longstanding issues of environmental justice in underserved areas.

We acknowledge the commitment that the Environmental Protection Agency and other federal agencies have demonstrated to brownfields restoration through existing programs. At the same time, given that there are an estimated 450,000–600,000 brownfield properties nationwide, we recognize that these limited resources have been stretched too far to allow for an optimal federal role. Additional investment, at higher levels and in new directions, is essential to meeting the enormous backlog of need and to establish the truest federal partnership with the many state, local, and private entities working to renew brownfield sites.

The Brownfield Revitalization and Environmental Restoration Act of 2001 would provide this much needed federal response. Through our work with local governments, our organizations have witnessed firsthand—and have often worked as a partner to help create—the benefits that this bill would provide. We are particularly gratified by the emphasis your legislation places on brownfields-to-parks conversion, and the flexibility it provides to tailor funding based on a community's particular needs. In all, this bill provides the framework and funding that an effective national approach to brownfields will require.

Accordingly, we appreciate your vision in developing this legislation, and we look forward

to working with you towards its enactment.

Sincerely,

THE TRUST FOR PUBLIC  
LAND.  
SCENIC AMERICA.  
AMERICAN PLANNING  
ASSOCIATION.  
THE ENTERPRISE  
FOUNDATION.  
NATIONAL ASSOCIATION OF  
REGIONAL COUNCILS.  
SMART GROWTH AMERICA.  
SURFACE TRANSPORTATION  
POLICY PROJECT.  
NATIONAL RECREATION AND  
PARK ASSOCIATION.

AMERICAN BAR ASSOCIATION,  
GOVERNMENTAL AFFAIRS OFFICE,  
Washington, DC, March 6, 2001.

Hon. ROBERT C. SMITH,  
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the American Bar Association, we write to express our support for the liability reforms contained in S. 350, the "Brownfield Revitalization and Environmental Restoration Act of 2001," and we urge you and your committee to support these provisions during the markup of the measure scheduled for March 8, 2001. By enacting these reforms, Congress can help to expedite the cleanup and redevelopment of more than 450,000 contaminated brownfield sites throughout the country while at the same time breathing new life into the inner cities in which these sites are concentrated.

As the largest association of attorneys in the United States with over 400,000 members nationwide, the American Bar Association has a strong interest in working with Congress in order to ensure that federal environmental law, including the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA" or "Superfund"), encourages and does not impede the cleanup of brownfields. In an effort to play a meaningful role in this area, the ABA House of Delegates adopted a resolution in 1999 outlining detailed suggestions for encouraging the redevelopment of brownfields, and this resolution and the accompanying background report are enclosed.

In recent years, brownfields increasingly have reduced the quality of urban life in America. These contaminated properties often lie unused or underutilized for long periods of time largely due to the perceived legal liabilities that confront potential new owners and developers of these properties. While these sites remain idle, employment levels suffer, particularly among disadvantaged communities within the inner city. Often this accelerates urban flight, increases sprawl, and creates the need to carve out yet more space for suburban development, with the related infrastructure needs that such development requires. By encouraging the redevelopment of brownfields, we can revitalize our urban core, preserve open space, conserve resources, and make far better use of public dollars.

By now, almost all of the states have adopted their own state brownfields programs, including statutes and regulations designed to encourage the voluntary remediation of brownfields. These programs generally set clear cleanup standards that are designed to protect human health and the environment while also taking future site use into consideration. In order to encourage developers to participate in these voluntary cleanup programs, most states also grant liability relief to those who successfully clean up the sites to the states' standards.



These programs have been recognized as being among the most successful state environmental programs of the last decade. Through these programs, sites across the country are being cleaned up and redeveloped, creating new jobs and economic opportunities, limiting the development of so called "greenfields," and restoring state and local tax bases. While these programs have met with considerable success, the continuing threat of Superfund liability discourages many developers from buying and then voluntarily cleaning up contaminated property. As a result, many brownfield sites remain idle for extended periods of time, despite the state cleanup programs.

The ABA supports a number of key provisions contained in S. 350, including those provisions that encourage developers to participate in state brownfields cleanup programs. The ABA believes that in order to promote the continued economic use of contaminated properties and reduce unnecessary litigation, Congress should eliminate all Superfund liability for parties who successfully clean up properties pursuant to a state brownfields program, so long as the state programs (1) impose cleanup standards that are protective of human health and the environment; (2) ensure appropriate public notice and public participation; and (3) provide the financial and personnel resources necessary to carry out their programs.

S. 350 goes a long way towards achieving these aims by preventing the President and the EPA from pursuing enforcement actions against those involved in state brownfields cleanup programs except in certain specific circumstances, such as when a state requests federal assistance, the contamination migrates across state lines or onto federal property, or there is an imminent and substantial endangerment to public health, welfare or the environment so that additional response actions are likely to be necessary. By preventing the EPA from intervening in state cleanups except in these limited situations, S. 350 will encourage developers and other parties to participate in state cleanup programs and bring brownfields back into productive use by granting greater "finality" to these programs.

The ABA also supports those provisions in S. 350 that would grant Superfund liability exemptions to certain types of innocent parties, including bona fide prospective purchasers who do not cause or worsen the contamination at a brownfields site and innocent owners of real estate that is contiguous to the property where the hazardous waste was released. The ABA favors comprehensive reform of Superfund, including the elimination of joint and several liability in favor of a "fair share" allocation system in which liability is allocated based upon each party's relative contribution to the harm. Until Congress enacts comprehensive reform legislation, however, the ABA believes that truly innocent parties, including those covered by S. 350, should be released from potential Superfund liability. These reforms are consistent with the principle that "polluters should pay," but only for the harm that they cause and not for the harm caused by others. Innocent parties who have neither caused nor worsened environmental hazards should not be subject to liability under Superfund, and S. 350 furthers this important principle.

The ABA has been a consistent advocate of legislation that would expedite the cleanup of brownfields and Superfund sites, reduce litigation, and promote fairness to all parties, and the liability reforms contained in S. 350 make significant strides towards achieving these goals. For these reasons, we urge you to support these reforms during the full committee markup scheduled for March 8.

Thank you for considering the views of the ABA on these important matters. If you would like more information regarding the ABA's positions on these issues, please contact our legislative counsel for environmental law matters, Larson Frisby, at 202/662-1098.

Sincerely,

ROBERT D. EVANS.

AMERICAN INSTITUTE OF ARCHITECTS,  
San Francisco, CA, March 2, 2001.  
Hon. BOB SMITH,  
Chairman, U.S. Senate Committee on Environment and Public Works, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN SMITH: On behalf of the 67,000 members of the American Institute of Architects (AIA), I am writing to commend you on the introduction of the Brownfields Revitalization and Environmental Restoration Amendments Act of 2001. This measure, S. 350, demonstrates your commitment and leadership in keeping the brownfields redevelopment issue at the forefront of the national agenda. The AIA endorses this important measure since it offers practical solutions to the key issues, including liability reform and financing options. It is important for Congress to pass meaningful brownfields redevelopment legislation this year. Superfund reform issues should not be allowed to delay passage of S. 350.

As you know, there are brownfields problems in nearly every community in the United States. If enacted, your bill would offer thousands of communities the flexibility to access grants or loan capitalization funds. Thus, S. 350 recognizes that one size does not fit all and offers user-friendly solutions that communities desperately need. Passage of S. 350 will stimulate and rejuvenate the economic development components of cities. Thus, it would better integrate some state and local environmental and economic development programs.

Liability reform is clearly at the heart of a successful brownfields proposal. Your measure provides protection for innocent landowners and for those whose property may have been contaminated through no fault of their own. Architects and other members of the private sector are keenly aware that these provisions are needed if progress is to occur at the estimated 500,000 brownfields sites nationwide.

For your review and for inclusion in the Committee record, I have enclosed a copy of a chapter entitled "The New Market Frontier: Unlocking Community Capitalism Through Brownfields Redevelopment" from the American Bar Association's book, *Brownfields: A Comprehensive Guide to Redeveloping Contaminated Property*, which shows architects in three case studies providing practical solutions to brownfields problems. In addition, I have enclosed a copy of a recent AIA publication "Communities by Design," which demonstrates the value of good design.

Finally, the AIA welcomes the opportunity of working with you and your staff so that S. 350 advances and is signed into law during the 107th Congress. If you need further assistance contact Dan Wilson, senior director, Federal Affairs at (202) 626-7384.

Sincerely,

GORDON H. CHONG,  
Chairman, Government Affairs  
Advisory Committee.

AMERICAN SOCIETY OF CIVIL ENGINEERS,  
Washington, DC, April 4, 2001.

Hon. ROBERT SMITH,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR SMITH: The American Society of Civil Engineers (ASCE), which represents

126,000 civil engineers in private practice, academia and government service, respectfully requests your support for passage of S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001.

We urge you to contact the Senate leadership to request that the bill be brought to the floor as soon as possible.

ASCE advocates legislation that would eliminate statutory and regulatory barriers to the redevelopment of "brownfields," lands that effectively have been removed from productive capacity due to serious contamination. These sites, properly restored, aid in the revival of blighted areas, promote sustainable development, and invest in the nation's industrial strength.

As you are aware, the current brownfields program was established by the Environmental Protection Agency (EPA) in 1993 under the Superfund program. That program, which has expanded to include more than 300 brownfields assessment grants (most for \$200,000 over 2 years) totaling more than \$57 million, now needs to be placed on a sound statutory footing in order to ensure future success.

ASCE considers the program vital because we support limits on urban sprawl to achieve a balance between economic development, rights of individual property owners, public interests, social needs and the environment. Community growth planning based on the principles of sustainable development should give consideration to the public needs, to private initiatives and to local, state and regional planning objectives.

Moreover, revitalized brownfields would reduce the demand for the undeveloped land. Full provision of public infrastructure and facilities redevelopment must be included in all growth initiatives and should be made at the lowest appropriate level of government.

We believe that a targeted brownfields restoration program should take into account site-specific environmental exposure factors and risk based on a reasonable assessment of the future use of the property.

To ensure a uniform and protective cleanup effort nationally, we would hope that S. 350 also would require minimum criteria for adequate state brownfields programs. ASCE believes the states should be required to demonstrate that their programs satisfy minimum restoration criteria before a bar to federal enforcement would apply.

We support systems to ensure appropriate public participation in state cleanups or provide assurance through state review or approval that site cleanups are adequate.

Sincerely yours,

ROBERT W. BEIN,  
President.

THE TRUST FOR PUBLIC LAND,  
Washington, DC, February 15, 2001.

Hon. BOB SMITH,  
Chairman, Environment and Public Works Committee, U.S. Senate, Washington, DC.

Hon. HARRY REID,  
Ranking Member, Environment and Public Works Committee, U.S. Senate, Washington, DC.

Hon. LINCOLN CHAFEE,  
Chairman, Subcommittee on Superfund, Waste Control and Risk Assessment, U.S. Senate, Washington, DC.

Hon. BARBARA BOXER,  
Ranking Member, Subcommittee on Superfund, Waste Control and Risk Assessment, U.S. Senate, Washington, DC.

DEAR CHAIRMAN SMITH, CHAIRMAN CHAFEE, SENATOR REID, AND SENATOR BOXER: On behalf of the Trust for Public Land, I am writing to thank you for introducing the Brownfields Revitalization and Environmental Restoration Act of 2001. We appreciate your outstanding efforts to promote



local environmental quality, as typified by your energetic advocacy of this brownfields legislation.

TPL was honored to be part of the coalition that helped to push this legislation to the brink of enactment at the end of the 106th Congress, and we again look forward to working with you to make this legislation a reality within the near future. We are particularly grateful that you have re-introduced identical legislation this time around.

Given our experience in community open-space issues, we are heartened by the emphasis the legislation places on brownfields-to-parks conversion where appropriate, and its flexibility to tailor loan and grant funding based on community needs and eventual uses. In all, this legislation provides the framework and funding that an effective national approach to brownfields requires, and offers the promise of a much-needed federal partnership role in brownfields reclamation.

Brownfields afford some of the most promising revitalization opportunities from our cities to more rural locales. This legislation will serve to help meet the pronounced needs in underserved communities to reclaim abandoned sites and create open spaces where they are most needed. By transforming these idled sites into urgently needed parks and green spaces, or by focusing investment into their appropriate redevelopment, reclamation of brownfield properties brings new life to local economies and to the spirit of neighborhoods.

The Trust for Public Land gratefully recognizes the vision and careful craftsmanship you have shown in your work to advance this vital legislation, and we look forward to working with you toward its enactment.

Sincerely,

ALAN FRONT,  
Senior Vice President.

BUILDING OWNERS AND MANAGERS  
ASSOCIATION INTERNATIONAL,  
Washington, DC, March 29, 2001.

Hon. BOB SMITH,  
U.S. Senate, Dirksen Senate Office Building,  
Washington, DC.

DEAR SENATOR SMITH: On behalf of commercial real estate professionals nationwide, I am writing to ask for your support, before the full Senate, of S. 350—the Brownfields Revitalization and Environmental Restoration Act of 2001. The Building Owners and Managers Association (BOMA) International and its 18,000 members believe that this bill provides Congress its best opportunity to improve our nation's remediation efforts in 2001.

Thanks to the efforts of a dedicated collection of senators, the Senate now has a bipartisan piece of legislation that would generate improved liability protections, enhanced state involvement and increased federal cleanup funding. Adoption of S. 350 would have an immediate and dramatic impact on reducing the 400,000 brownfields sites across America.

As the Environment and Public Works Committee has forwarded this legislation out of committee, we look for your support in securing its approval by the full Senate. We ask for your assistance in bringing this bill to the floor and achieving its passage early in 2001. If you have any questions or concerns, please contact Rick Sheridan at (202) 326-6338.

Sincerely,

RICHARD D. BAIER,  
President, BOMA International.

NATIONAL ASSOCIATION OF REALTORS,  
Washington, DC, February 14, 2001.

Hon. ROBERT SMITH,  
Dirksen Senate Office Building,  
Washington, DC.

DEAR SENATOR SMITH: On behalf of the more than 760,000 members of the NATIONAL ASSOCIATION OF REALTORS, I wish to convey our strong support for the "Brownfields Revitalization and Environmental Restoration Act." NAR commends you for your efforts in crafting a practical and effective bill which has garnered bipartisan support from the leadership of the Senate Environment and Public Works Committee.

NAR supports this bill because it:

Provides liability relief for innocent property owners who have not caused or contributed to hazardous waste contamination;

Increases funding for the cleanup and redevelopment of the hundreds of thousands of our nation's contaminated "brownfields" sites;

Recognizes the finality of successful state hazardous waste cleanup efforts.

Brownfields sites offer excellent opportunities for the economic, environmental and social enrichment of our communities. Unfortunately, liability concerns and a lack of adequate resources often deter redevelopment of such sites. As a result, properties that could be enhancing community growth are left dilapidated, contributing to nothing but economic ruin. Once revitalized, however, brownfields sites benefit their surrounding communities by increasing the tax base, creating jobs and providing new housing.

The new Administration has clearly indicated its support for brownfields revitalization efforts. The "Brownfields Revitalization and Environmental Restoration Act" is a positive, broadly-supported policy initiative. NAR looks forward to working together with you to enact brownfields legislation in the 107th Congress.

Sincerely,

RICHARD MENDENHALL,  
2001 President.

INSTITUTE OF SCRAP  
RECYCLING INDUSTRIES, INC.,  
Washington, DC, February 14, 2001.

Hon. ROBERT C. SMITH,  
Chairman, Committee on Environment and  
Works, U.S. Senate, Washington, DC.

Hon. LINCOLN D. CHAFEE,  
Chairman, Subcommittee on Superfund Waste  
Control and Risk Assessment, U.S. Senate,  
Washington, DC.

Hon. HARRY REID,  
Ranking Member, Committee on Environment  
and Public Works, U.S. Senate, Wash-  
ington, DC.

Hon. BARBARA BOXER,  
Ranking Member, Subcommittee on Superfund,  
Waste Control and Risk Assessment, U.S.  
Senate, Washington, DC.

DEAR SENATORS SMITH, REID, CHAFEE AND BOXER: The Institute of Scrap Recycling Industries, Inc. (ISRI), strongly supports the passage of the Brownfields Revitalization and Environmental Restoration Act of 2001. Passage of this bipartisan bill will reduce the many legal and regulatory barriers that stand in the way of brownfields redevelopment.

This important brownfields legislation will provide liability relief for innocent property owners who purchase a property without knowing that it is contaminated, but who carry out a good faith effort to investigate the site. It also recognizes the finality of successful state approved voluntary cleanup efforts and provides funds to cleanup and redevelop brownfields sites.

ISRI stands ready to help build support for passage of this bipartisan brownfields bill. In the previous Congress, ISRI's membership worked to build grassroots support and sought cosponsors for S. 2700 of the 106th Congress, the predecessor bill to the Brownfields Revitalization and Environmental Restoration Act of 2001.

ISRI looks forward to continuing to work with you to see that the brownfields bill you have sponsored becomes law. We believe that the Brownfields Revitalization and Environmental Restoration Act of 2001 is a model for sensible bipartisan environmental policy.

Sincerely,

ROBIN K. WIENER,  
President.

Mr. SMITH of New Hampshire. Before I close, I take a moment, as we usually do, to recognize some of the staff who have worked tirelessly on this legislation. It has not been easy. Sometimes we go home for the weekend or go back to our States and staffs are here working through these issues.

I commend my own Department of Environmental Services, Phil O'Brien and Mike Wimsatt, for their tireless work and input into this process; from Senator CHAFEE's office—I am sure he will want to thank his own staff—Ted Michaels; from Senator REID's staff, Lisa Haage, Barbara Rogers, and Eric Washburn—we appreciate all your help; Sara Barth from Senator BOXER's office; Louis Renjel from Senator INHOFF's office; Catherine Walters of Senator VOINOVICH's staff; and Gabrielle Tenzer from Senator CLINTON's staff; and from the EPA, Randy Deitz and Sven Kaiser. Last but not least, my good committee staff: David Conover, Chelsea Maxwell, Marty Hall, and Jim Qualters. I thank them for a lot of effort, a lot of hard work in working together.

Of course, there are many more who deserve thanks.

Mr. President, I ask unanimous consent Senator PHIL GRAMM of Texas be added as a cosponsor of the bill, which will get us up to 69.

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

The Senator from Nevada.

Mr. REID. Mr. President, I join with my friend from New Hampshire in expressing appreciation to the people who have worked to get this bill to the point it is. He has certainly been gracious in extending appreciation to my staff. Lisa Haage, Barbara Rogers, and Eric Washburn have done excellent work. I also thank, as he has, the hard-working staff of the committee: David Conover, Chelsea Maxwell, Marty Hall, and Ted Michaels of Senator CHAFEE's office, who has done such an outstanding job working with Sandra Barth of Senator BOXER's office. Without this good staff, we would not be at the point we are.

I also want to take a minute to express my appreciation to the Senator from New Hampshire. I worked with the Senator from New Hampshire on the very volatile, difficult Select Committee On MIA/POWs. For one intense year we worked on that. That is where I first got to know the Senator from

New Hampshire. I recognize how strongly he feels about issues.

Then I had the good fortune of being able to work with him on the Ethics Committee. He was the lead Republican, I was the lead Democrat on the committee for I don't know how long—it was a long time—until he got his chairmanship of this committee.

I have found him to be a person who understands the institution and understands the importance of people being moral and living up to the ethical standards that are important for this institution. I may not always agree with him on issues, but I agree with him as a person. He is one of the finest people with whom I have ever dealt. So I have the utmost respect for him, how he has handled this committee.

For 17 days I was chairman of this committee. The treatment I received while chairman, and while ranking member, has been outstanding. Senator BOB SMITH is a good person and somebody of whom the citizens of the State of New Hampshire should be proud.

I have spoken on this bill for 3 days now, expressing my desire to have it considered. It is here now. I already said I appreciate Senator LOTT bringing it before the Senate.

I have been talking about Senator SMITH. I also want to talk about the ranking member of the subcommittee who has been responsible for bringing us to this point, and that is Senator BARBARA BOXER. Senator BOXER and I came to the House together in 1982. We have worked together for all these years. I have tremendous admiration for BARBARA BOXER. She is someone who believes strongly in the issues. I have to say, she has done great work for this country on exposing military fraud and military incompetence. But the best work she has done, in my opinion, has been in dealing with the environment. So as a member of this committee that I have worked on since I have been in the Senate, she has been an outstanding member. She has run the subcommittee very well.

An outstanding example is how she has been able to reach out to LINCOLN CHAFEE, who is a very able member of this committee. I had the good fortune of serving in my time in the Senate with his father. I can say John Chafee would be very proud of LINCOLN for the work he has done on this committee. This was John Chafee's committee. He was the chairman, he was the ranking member of it. I cannot say more than that John Chafee would be very proud of his son for the work he has done on this committee.

As Senator SMITH has indicated, this is an important piece of legislation. It has now 69 cosponsors. It was reported out of committee by a 15-3 vote. The staff has worked very hard to make sure the problems people had with the legislation were resolved prior to it coming to the floor—and most of those have been. That is the reason we are working now on a specific time agreement. We are going to vote on this matter around 2 o'clock this afternoon.

Members of the Environment and Public Works staff have worked hard. Members of this committee worked hard to get the legislation to this point. I have been extremely impressed with the new members of this committee. Senator CORZINE and Senator CLINTON have worked extremely hard, as has Senator CARPER, to get us where we are. They are going to come later today, as the unanimous consent agreement indicates, and speak on their own behalf.

As I have said for 3 days, there are 500,000 sites from Kentucky to Nevada, waiting to be cleaned up. About 600,000 people will be put to work on these projects.

This will create local revenues of almost \$2.5 billion.

This is an important bill. It provides critically needed money to assess the cleanup of abandoned and underutilized brownfield sites. It will create jobs. It will increase tax revenues and create parks and open space. It will encourage cleanup and provide legal protection for parties. It provides funding for enhancement of cleanup programs.

The managers' amendment before us today does several additional things that were not in the reported bill. It further clarifies the coordination between the States and the EPA. This was an issue raised by Senator VOINOVICH. I told him before the full committee that we would work to resolve his problems. We did that.

The managers' amendment provides clarification for cities and others in purchasing insurance for brownfield sites. That is also an important addition to this legislation.

It also provides for an additional \$50 million per year for abandoned sites which are contaminated by petroleum. There was some concern that this may not have been covered in the original legislation. That has been resolved.

Corner gas stations: A lot of times we find people simply stay away from them. These corner gas stations are located at very essential sites in downtown areas. We are trying to revitalize them. This addition in the managers' amendment will do a great deal to resolve that issue.

I am pleased we were able to work out the provisions so these numerous sites can also be addressed.

There was a provision requested by Senators INHOFE and CRAPO. They felt very strongly about this. I am pleased we were able to agree on that. It will be an important and critical part of this legislation.

This amendment also provides a provision for areas with a high incidence of cancer and disease. It will give special consideration in making grant decisions regarding children. This was pushed very strongly by Senator CLINTON. I am grateful for her input. These provisions grew out of the amendment discussed in the markup of the original bill sponsored by Senator CLINTON.

I also want to add Senators CORZINE and BOXER. But it is supported by a broad bipartisan group of Members.

This amendment also increases citizen participation by adding citizens' rights in requesting sites to be considered under State programs. This is intended to ensure the beginning of the process so that States can benefit from input from citizens who may be aware of additional sites needing attention and who can help identify additional reuse and redevelopment opportunities.

All of these changes have been carefully considered for providing additional improvements to the bill. Moreover, they collectively represent the same delicate balance as the underlying bill. It also complements the needs of real estate communities, environmental areas, mayors, and other local government officials, land and conservation groups, and the communities that are most directly affected by these sites.

This bill is balanced. It is unique. It is bipartisan. It sets an example for the Senate in the months to come.

This brownfields legislation is not just an urban problem. It also is very important to rural communities throughout America. For example, brownfields money was granted to Mineral County to do a cleanup. It is a very rural site. It was damaged by the largest ammunition dump during the war. It is run now as an ammunition dump by the Army. But there are lots of problems there. We have a 240-acre brownfield site set for cleanup. After it is finished, we are confident that a golf course can be created for this very rural community which will add recreational activities.

An existing loan program in Las Vegas has already been used to fund the cleanup of an old armory site, which will create jobs. It will now be a home to a senior center, a small business incubator, a cultural center, and retail stores.

I want to see many more examples of reclaiming these abandoned, contaminated lands in Nevada and across the country. This bill provides funds to accomplish it.

The Presiding Officer is a valuable member of the committee.

I have already spoken on a number of occasions about Senator VOINOVICH's contribution to this legislation. It has been significant.

I reserve the remainder of my time for Senator TORRICELLI. I yield to my friend from Rhode Island who has done such a magnificent job working on this legislation.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, today I rise in strong support of S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001. This bill has won the support of the Bush administration, dozens of organizations, and 68 co-sponsors in the Senate. Today, the Senate has the opportunity to pass this bipartisan, pro-environment and pro-economic development bill.

Brownfields are the legacy of our nation's industrial heritage. A changing

industrialized economy, the migration of land use from urban to suburban and rural areas, and our nation's strict liability contamination laws have all contributed to the presence of abandoned industrial sites. With more than 450,000 brownfield sites nationwide, we must begin to reclaim those lands, clean up our communities, and discontinue the practice of placing new industrial facilities on open, green spaces.

As a former mayor, I understand the environmental, economic, and social benefits that can be realized in our communities from revitalizing brownfields. While the environmental and social benefits can seem obvious, only a mayor understands the continuing fiscal expense to our nation's municipalities of the hundreds of thousands of pieces of prime real estate that have dropped from the tax rolls.

Enactment of this legislation will provide a building block for the revitalization of our communities. Communities whose fortunes sank along with the decline of mills and factories will once again attract new residents and well-paying jobs. We will bring vibrant industry back to the brownfield sites that currently host crime, mischief and contamination. There will be parks at sites that now contain more rubble than grass. City tax rolls will burgeon; neighborhoods can be invigorated; new homes can be built, and community character will be restored.

S. 350 enjoys broad bipartisan support. Not only is it supported by the Bush administration, the bill's predecessor was supported by the Clinton administration last session. The bill is strongly supported by the nation's mayors, state elected officials, the real estate industry, open space advocates, business groups, and environmental organizations. Rarely do we see these organizations come together on the same side of an issue. This high level of support is testimony to the bipartisan nature of the legislation. It demonstrates that we can forge sound legislation, and balance the needs of the environment and the economy if we come to the table with open minds and good intentions.

I would like to thank the distinguished chairman of the Environment and Public Works Committee for his leadership on this issue, Senator SMITH. His tireless efforts over that time have certainly paved the way for this legislation. I also would like to extend my appreciation to Senator REID of Nevada and Senator BOXER for their commitment to this issue and the bipartisan process which has proven so successful. In addition, let me thank the staff that has worked so hard on this bill: David Conover, Chelsea Maxwell, and Marty Hall of Senator SMITH's staff, Lisa Haage of Senator REID's staff, Sara Barth of Senator BOXER's staff, and Ted Michaels of my staff.

The issue of brownfields has been discussed for nearly a decade. While I was

mayor of Warwick, my fax machine constantly fed me alerts from the U.S. Conference of Mayors seeking my support for brownfields reform. With this legislation today, we have the opportunity to protect the environment, strengthen local economies, and revitalize our communities. I urge each of my colleagues to vote in favor of S. 350 and give each mayor across the country the benefit of the full potential of their real estate.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, if I could get the attention of the Senator from Rhode Island for a moment, I thank the Senator so much for his leadership on this issue. It has meant so much to us to have it and that of Senator SMITH. Senator REID and I are most grateful. I think we have a team that is very good for the environment. When we are together, it is a real winner because we can reach out to colleagues on both sides of the aisle from the entire spectrum. So I just want to say thank you.

I say to the Senator, as much as I miss your father, whom I adored, I must say that it is wonderful to have you here and following in his "green" footsteps.

Mr. CHAFEE. I thank the Senator very much.

Mrs. BOXER. Mr. President, I am here to say that this bill, S. 350, the Brownfields Revitalization and Environmental Restoration Act, is a tremendously important issue for this country and for my constituents.

I truly believe if we look around the country, it is an extremely important issue to everyone. Why? Because we have so many acres of land around the country that have been contaminated with low-level hazardous waste. They do not fit the definition of a Superfund site, but they are expensive to clean up, and local communities really do need our help.

I want to show you an example of a successful brownfields restoration. This photograph is of a site in Emeryville, CA, that hosted a steel manufacturing plant for over 100 years. In the early 1990s, it was shut down, the buildings were demolished, and the area was left empty and desolate. You can see from the photograph what a horrible eyesore it was to the community. And, by the way, this site is along a major freeway, so everyone saw it. It gave the impression of a community that was simply going downhill.

The next picture I will show you is what happened when the State got together with the IKEA company and worked together to clean up the site.

In 1997, the State came to this agreement with the original owners of the site and with IKEA to restore and redevelop the area. Now the site holds 280,000 square feet of commercial retail space. The project has created 300 new, permanent jobs for the community. Now the site generates roughly \$70 million in annual sales.

There are not too many things in this Chamber that we can do that has such clear-cut benefit. Clean up the environment and you make an area much nicer to look at. And then you can develop it and bring jobs to the site.

So if anyone questions the need for this brownfields legislation, I would welcome them to, again, look at these before-and-after pictures. Here it is after; here it is before. It is a pretty clear picture.

I am so proud of the bipartisan cooperation that occurred in getting the bill through the Environment and Public Works Committee. The broad support, from a variety of diverse interests, as well as the cosponsorship of over 60 Senators, is a good indication that the time has come to pass this brownfields legislation.

I understand that even our colleagues who have problems with the bill are now supporting it. I think this is a tribute to them for being open minded about it, and a tribute to our chairman, Chairman SMITH, and our ranking member, HARRY REID, for working with our colleagues.

I want to talk a little bit about the brownfields in my home State of California, the largest State in the Union, with 34 million people. The economy of my State would be considered the sixth largest economy in the world. So it seems to me that whenever there are problems in the country, of course, we have more of those problems in my State. And when good things are happening, we have more of the good things.

This is one of the problems. So let's talk about it. There are estimated to be hundreds, if not thousands, of brownfield sites in California. We have heard nationwide estimates of 400,000 to 600,000 brownfield sites. We have thousands of sites in California because some industries have left the State with a dangerous legacy of contamination.

This bill will serve as a catalyst for cleanup because it provides funding for grants and revolving loan funds to assist our States, our local communities, and our tribal governments to do the assessments first. In other words, what is the problem? What is going on? What is it going to cost to clean it up? And how is the best way to clean it up?

This bill fills a gap. As I said before, Superfund covers our Nation's most hazardous sites. We really did not have a way to approach the less hazardous sites.

I want to talk about how happy I am that this bill includes my proposal to protect children. Under S. 350, funding will be prioritized for brownfields that disproportionately impact the health of children, pregnant women, or other vulnerable populations, such as the elderly. This is very important.

Why do I say that? Because children are not small adults. I have said this often. I am a small adult. But children are not small adults. They are more sensitive than adults to the health

threats posed by hazardous waste, even the kinds we call low level. Why? Because their bodies are changing, and they are developing. Healthy adults can tolerate higher levels of pollutants than children.

In recognition of this, the bill ensures that children, and others who are particularly vulnerable, will be given special priority for funding under this bill. So we are going to look at these sites. If it is a site where children play, where children go, where the elderly go, where people who are vulnerable go, those sites will be priority sites.

The bill also gives priority to cleanups in low-income and minority communities because, unfortunately, we have seen a lot of the environmental injustice in this country where brownfield sites are disproportionately located in low-income and minority communities, certainly in places such as Oakland, Los Angeles, and Sacramento.

So we have a situation where the brownfields are most prevalent in communities that are least able to deal with them. And the more brownfield sites that are in a community, the lower the chance that the community can improve its economic plight. It is a horrible cycle of poverty.

Let's take this site shown in the photograph. This site was in a very low-income community, and no one had the resources. And a company such as IKEA, who eventually came to this site, did not want to go to this site because there was no one to go to the store. You would have a situation where the site could sit vacant for years and years and years. It contributes to the cycle. You can never get out of the cycle.

So by saying this kind of a situation in a low-income community would be a priority, we will give an economic stimulus to those communities. I am very pleased about that.

The last issue that I believe very strongly about is the issue of sites that were contaminated because there was illegal manufacturing of a controlled substance there. This may sound very odd. So let me explain what I mean.

In California, we have a terrible problem from the production of methamphetamine. It turns out that this terribly dangerous drug is not only illegal, not only does it destroy people—destroy people—but the byproduct of methamphetamine production is a toxic stew of lye, hydriodic acid, and red phosphorus. These elements threaten the groundwater and agricultural lands of the Central Valley and elsewhere in California where these secret methamphetamine labs are sited.

I show you a picture of one abandoned lab where you can see these containers with all the chemicals that were left on the site.

This is another picture of an abandoned meth site. We can see what it looks like, what a disaster it is when these criminals leave and then suddenly the owners of the land who had

no idea this was happening are left with this horrible contamination. We were able to include relief for these farmers. I will talk about that in a minute.

I will take a moment to talk more about these methamphetamine labs. In California alone, there were 277 secret drug labs that were raided in 1990. In 1998, there were over 1,000 of these clandestine drug labs. The State is doing its best to address the problem as well as the larger brownfields problem. They are trying to do it, but it is very hard to do it alone. We have to have everyone helping. This bill will provide invaluable assistance for the cleanup of meth sites and other brownfields, which is another reason I am such a strong supporter of the legislation.

This bill includes liability relief for innocent parties. These innocent parties are people who are interested in cleaning up the brownfield site, but they are afraid to get involved because they may become liable for somebody else's mess. Our bill makes it clear that innocent parties will not be held liable under Superfund for the work they do on a brownfield site. This provision alone should help reduce the fear of developers and real estate interests, and it should lead to more cleanups. This provision is certainly a strong reason that a variety of business and real estate interests are strong supporters of the bill. They want to come in; they want to clean up the sites; but they don't want to now become held liable for past problems and then be hauled into court on a Superfund case.

However, I do believe very strongly that the polluter must pay. Our bill does not protect people who are responsible for cleanup under Superfund or any other statute. If you make a mess, if you despoil the environment, you still will be held responsible for cleaning it up. We maintain "the polluter pays" principle that underpins many of our hazardous waste statutes.

The committee considered and rejected efforts to waive the application of other statutes, such as RCRA and TSCA, to these brownfield sites. It was too complicated to try to amend other statutes, and I appreciate the fact that our foursome stuck together during these amendments because it would have opened up a can of worms. What we did was we kept this narrow. We kept it on the issue of brownfields. We kept out extraneous issues. Again, I thank my colleagues on both sides of the aisle for their cooperation on that.

Our bill encourages States to take the lead on brownfield sites. It does set some limitations on EPA's enforcement authority under Superfund for sites covered by this bill. We believe this is important in gaining strong support. I am comfortable with this feature because there are a number of safeguards that ensure that a secure Federal safety net remains. These safeguards are an essential part of the compromise that is the heart of the bill. They ensure that EPA can apply

its full Superfund enforcement authority under a variety of circumstances.

Most important to me—and it was a tough debate that we had—was the guarantee that EPA could intervene if a site threatens to cause immediate and substantial endangerment to the public's health or welfare or to the environment. I believe this language guarantees that if a State's oversight of a cleanup fails to protect our citizens or our environment, the Federal Government can intervene. We are clear that we want the State to be responsible, but if there is a problem which will result in an immediate threat to people's health, the EPA can enter. It was a careful balance that went into crafting that provision as well as the rest of the bill.

Together I believe we have produced a sensible and balanced bill that will help encourage the recycling of brownfield sites that now sit unused around the Nation.

In closing, one more time I will show our success story that happened in Emeryville. First, let's show the before picture again. This is what we are talking about, sites that look like this, sites that are harmful. People don't want to go on them. People are afraid of them. There is no economic development in the middle of our urban areas. Then when we work together, we can bring business interests to the site and we start to see people use the site again. The site will bring in revenues.

I thank my colleagues for all their hard work, and I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Missouri is recognized.

Mr. BOND. Mr. President, for too many years comprehensive Superfund reform has been blocked by partisan rhetoric and fear-mongering. Even though the general public, government agencies, and federal bureaucrats know that the Superfund program is broken, proposed changes were called stealth attacks, roll-backs, and letting polluters off the hook. Those characterizations were not accurate, but they were effective in protecting one of the most troubled and inefficient programs in the Federal Government from meaningful reform.

For more than 7 years we have been unable to reach agreement on Superfund reauthorization so the Environment and Public Works Committee decided to take a smaller, targeted approach. So today we are here considering S. 350, the Brownfield Revitalization and Environmental Restoration Act.

There is general agreement that we need to address the issue of Brownfields. Across the country, brownfields are blights on the landscape, but because of liability concerns, too often clean-up and redevelopment opportunities are lost. The loss of clean-up and redevelopment opportunities means the loss of jobs and tax revenues for communities and means these sites are not cleaned up.

However, even though I will support this bill today, more needs to be done.

Working with my friends and colleagues, specifically Senators INHOFE and CRAPO, we were able to reach an agreement with the managers of the bill to include in the manager's amendment a provision which will include petroleum only sites in the brownfields program. It is estimated that petroleum only sites make up almost half the brownfield sites in the country. How can we pass a brownfields bill that excludes half the brownfield sites in the country? Fortunately, agreement was reached on this issue.

I want to go on record that I still have concerns regarding liability issues. In my opinion the legislation does not protect developers from potential liability and administrative orders under the Toxic Substance Control Act. I joined with Senators INHOFE and CRAPO in offering an amendment during the committee's consideration, but unfortunately it was defeated. Opponents argued that EPA has not yet used TSCA or RCRA to deal with hazardous materials covered under Superfund so therefore it shouldn't be an issue. However, many believe that if the "front door" of Superfund is closed, EPA will use TSCA or RCRA as a "back door" to pursue legal action against a developer.

In addition, it is my opinion that the bill still gives too much authority to the EPA over State programs. If we are going to give the responsibility to the State, EPA must step back and let the States run the programs and EPA must first work with the State before overstepping and taking enforcement actions.

S. 350 is a step in the right direction. However, we must continue our efforts to address the liability issues that still remain and we must continue efforts to make the overall Superfund program more reasonable and workable.

As we all know, the great environmental progress in this country has been made with bi-partisan support, when honest concern for the environment and the people outweighed political opportunism. I hope that the progress made on brownfields will translate into positive movement on the remaining issues.

Mr. LIEBERMAN. Mr. President, I am grateful for the opportunity today to speak about an important piece of environmental legislation, the Brownfields Revitalization and Environmental Restoration Act. This bill enjoys the bipartisan support of 15 of the 18 members of the Environment and Public Works Committee, and with the additions made in the manager's amendment, I hope it will receive widespread support on the floor.

This bill aims to return abandoned, contaminated lots that plague nearly every city and town in this country to their past vitality. Once upon a time, these 450,000 "brownfields" were home to our neighborhood gas station, a flourishing textile mill, or a manufac-

turing plant. They were central to the economic well being of their communities. Unfortunately, now they lay idle and unproductive, spoiling the quality of life in thousands of communities across the country. Brownfields lower a community's tax base, encourage urban sprawl and loss of open space, and worst of all, threaten to pollute local streams and drinking water, endangering human health and environmental quality.

While everyone wishes to see brownfields reintegrated into the community, they often remain untouched urban eyesores. Developers fear the potential liability risks involved in developing a site laden with unknown chemicals. Communities lack the funds to initiate their own clean up plans.

This bill could change all of that. First, it provides much-needed funding for brownfields' restoration programs. Second, it offers important legal protections that will give developers, private and public, the confidence to cleanup these toxic sites. All across the country, we see examples of communities successfully restoring brownfields sites into vibrant and prosperous enterprises, including in my home state of Connecticut.

With the help of small federal grants and loans, more than two dozen cities and towns throughout Connecticut have been able to jump-start their plans for environmental remediation and economic development of brownfields sites.

Just last month, I joined in the Grand Opening of a new Harley Davidson dealership on a former brownfields site in Stamford, one of EPAs Brownfields Showcase Communities. Prior to cleanup, the area was a chemical cesspool of abandoned lots contaminated with PCBs, lead, arsenic and several other metals. During cleanup, close to 3,000 tons of contaminated soil were removed from the site, reducing the risk of groundwater contamination and exposure to neighborhood residents. Now this enterprise brings new life, a cleaner environment, and new jobs to the industrial South End of Stamford.

The promise of this approach may seem obvious, but the language in this bill was not easily agreed. It is the product of over eight years of negotiations, debate and finally compromise. So it is with pride that I join more than two thirds of my colleagues, Democrat and Republican, and dozens of organizations representing a wide range of interests, including those of mayors, developers, realtors, insurance companies and environmental groups, in supporting this legislation. I believe we should all feel a sense of accomplishment and pride—this was battle hard won.

This is a good day for America's communities, especially in the inner cities which regrettably are home to many of these urban wastelands. But it doesn't have to stay that way. This legislation is a shot in the economic arm for towns

like Stamford seeking to revitalize their neighborhoods for future generations to enjoy. I strongly urge my colleagues to support it.

Mrs. CARNAHAN. Mr. President, today I am pleased to support S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001. This bill will help communities throughout the country identify and clean up brownfields, sites where low level contamination has kept the land from being developed.

This bill would help communities in several different ways. By providing liability protection and economic incentives to clean up contaminated and abandoned industrial sites, this legislation will make our communities healthier and reduce environmental threats. By returning these sites to productive use, we encourage redevelopment and help curb sprawl. This legislation means both new jobs and a cleaner environment for Missouri. It shows that a clean environment and a strong economy are not in competition, they go hand in hand.

In Missouri, we have 11 brownfield projects financed in part with federal funds, and another 29 projects that are State-financed.

One example of a successful brownfield project is Martin Luther King Business Park in St. Louis, Missouri. The site, which is across the street from two schools, was contaminated from a century of metal plating and junkyards. Asbestos and high levels of lead were found close to the surface. As a result of federally-funded assessments and the State's Voluntary Cleanup and Brownfield Redevelopment Programs, a developer stepped forward to purchase and cleanup the property. Due to these cleanup efforts, a much-needed warehouse/light manufacturing facility in the heart of St. Louis opened in 2000, bringing more than 60 jobs to the area. Construction of an even larger facility is scheduled to begin this year after cleanup is complete. This development will help to rejuvenate the entire surrounding area. This progress was made possible by the federal brownfield grant which allowed the City to perform initial environmental assessments. Without those assessments, developers are reluctant to even consider such properties.

We have made considerable progress toward making our urban centers into places where people want to work and live. Yet we still have more than 12,000 abandoned and tax-default properties in St. Louis alone. Obviously our work is not done.

Brownfields are not just an urban problem. A century of lead mining has left towns like Bonne Terre, Missouri with contamination from mining waste. In Bonne Terre, developers are reluctant to purchase land near the mine waste properties being addressed by Superfund because of possible contamination. Using federal pilot funds, Bonne Terre is working on cleaning up these sites and developing them into a

122-acre commercial zone and industrial park. The clean up and development will bring more jobs to this rural community as well as address environmental concerns.

I anticipate a strong vote in favor of the Brownfields Revitalization and Environmental Restoration Act of 2001. I hope that this vote will provide momentum for this legislation as it proceeds to the House of Representatives and that it will eventually be signed into law by the President.

Mr. BAUCUS. Mr. President, I rise today in support of S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001. I compliment the efforts of Senators SMITH, REID, CHAFEE, and BOXER. They have done a great job in moving this legislation forward.

I was very disappointed that this bill was not enacted last year, it represents a lot of hard work and compromise. I think this bill is a win-win for the environment, for local communities and for local economies. More hazardous waste sites will be cleaned up, and we'll have more parks and open space, more economic redevelopment, and more jobs. This bill will make cleaning up polluted sites easier by reducing the many legal and regulatory barriers to brownfields redevelopment while providing much needed cleanup funds.

The brownfields bill is important for rural areas, not just big cities. In Montana, we have hundreds of sites that have been polluted by mining, timber processing, railroad work, and other industrial activities that were part of our economic development.

I worked hard on a very similar bill last year, together with many of my colleagues. Last year, it was the first bipartisan brownfields bill ever introduced in the Senate. I was thrilled to cosponsor the bill again this year, under the leadership of Senator SMITH and Senator REID. This bill has been endorsed by a wide range of groups, including the National Association of Realtors, the Conference of Mayors, and the Trust for Public Lands. It represents a hard-won, delicately balanced compromise.

Superfund critics have long argued that the possibility that EPA could second-guess state-approved cleanups has discouraged brownfields remediation. At the same time, I and others have argued that we need to preserve the federal government's ability to use Superfund authorities to deal with dangerous situations at sites cleaned up under state programs in the rare case in which the cleanup is inadequate and there is a threat to human health or the environment.

The tension between these two views has been one of the major obstacles to moving brownfields legislation in the past. This bill forges a new compromise on this issue, and it is a good compromise. Both sides came to the table and made some important concessions. The bill is not perfect, it is not everything I wanted. It is not everything

some of my colleagues across the aisle wanted, either. But, as I have often said, let us not let the perfect be the enemy of the good. And this is a good bill that will do good things for the environment, for communities, for businesses and for the Nation. These sites need to be cleaned up, for the health and well-being of our citizens and our environment, and doing nothing is no longer an option.

Hopefully, two other bills will come to the floor that would expand the abilities of the Economic Development Administration and the Department of Housing and Urban Development to help local communities physically develop and restore brownfields sites to productive use. Taken together, S. 350 and these two bills would make up a complete brownfields redevelopment package. They will provide critical economic and technical assistance to communities during all stages of brownfields redevelopment—from an initial site assessment to putting the finishing touches on a new apartment building or city park.

I am happy to hear that the administration has expressed its support for S. 350. The brownfields bill is an outstanding example of a bipartisan effort to help communities across the nation. I hope we can all work together to make sure it is signed into law this year.

Mr. LEVIN. Mr. President, I am pleased that the Senate is taking up and will pass S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001. I am a strong supporter and advocate of this legislation. I commend Senators SMITH of New Hampshire, REID, CHAFEE and BOXER for their tremendous effort to craft strong bi-partisan legislation to help our nation's communities. Brownfields are abandoned, idled, or under-used commercial or industrial properties where development or expansion is hindered by real or perceived environmental contamination. Businesses located on brownfields were once the economic foundations of communities. Today, brownfields lie abandoned—the legacy of our industrial past. These properties taint our urban landscape. Contamination, or the perception of contamination, impedes brownfields redevelopment, stifles community development and threatens the health of our citizens and the environment. Redeveloped, brownfields can be engines for economic development. They represent new opportunities in our cities, older suburbs and rural areas for housing, jobs and recreation.

As Co-Chair of the Senate Smart Growth Task Force, I believe brownfields redevelopment is one of the most important ways to revitalize cities and implement growth management. The redevelopment of brownfields, is a fiscally-sound way to bring investment back to neglected neighborhoods, cleanup the environment, use infrastructure that is already paid for and relieve development

pressure on our urban fringe and farmlands.

The State of Michigan is a leader in brownfields redevelopment, offering technical assistance and grant and loan programs to help communities redevelop brownfields. This legislation will compliment state and local efforts to successfully redevelop brownfields. The bill provides much needed funding to state and local jurisdictions for the assessment, characterization, and remediation of brownfield sites. Importantly, the bill removes the threat of lawsuits for contiguous landowners, prospective purchasers, and innocent landowners. Communities must often overcome serious financial and environmental barriers to redevelop brownfields. Greenfields availability, liability concerns, the time and cost of cleanup, and a reluctance to invest in older urban areas deters private investment. This bill will help communities address these barriers to redevelopment. Finally, the bill provides greater certainty to developers and parties conducting the cleanup, ensuring that decisions under state programs will not be second-guessed. Public investment and greater governmental certainty combined with private investment can provide incentives for redeveloping brownfield properties and level the economic playing field between greenfields and brownfields.

I believe the Brownfields Revitalization and Environmental Restoration Act of 2001 will do much to encourage commercial, residential and recreational development in our nation's communities where existing infrastructure, access to public transit, and close proximity to cultural facilities currently exist. America's emerging markets and future potential for economic growth lies in our cities and older suburbs. This potential is reflected in locally unmet consumer demand, under-utilized labor resources and developable land that is rich in infrastructure. In Detroit, the Department of Housing and Urban Development estimates that there is a \$1.4 billion retail gap, the purchasing power of residents minus retail sales. In Flint, HUD estimates the retail gap to be \$186 million and in East Lansing, \$160 million. The redevelopment of brownfields will help communities realize the development potential of our urban communities. It is a critical tool for metropolitan areas to grow smarter allowing us to recycle our Nation's land to promote continued economic growth while curtailing urban sprawl and cleaning up our environment.

Mr. SMITH of New Hampshire. Mr. President, on March 12, 2001, the Committee on Environment and Public Works filed Senate Report 107-2, to accompany S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001. When the report was filed, the cost estimate from the Congressional Budget Office was not available. Therefore, I ask unanimous consent that the cost estimate be printed



in the RECORD to comply with Section 403 of the Congressional Budget and Impoundment Act.

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, March 20, 2001.

Hon. BOB SMITH,  
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001. If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Kathleen Gramp (for Federal costs), who can be reached at 226-2860; Victoria Heid Hall (for the State and local impact), who can be reached at 225-3220; and Lauren Marks (for the private-sector impact), who can be reached at 226-2940.

Sincerely,

DAN L. CRIPPEN.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*S. 350 Brownfields Revitalization and Environmental Restoration Act of 2001, as reported by the Senate Committee on Environment and Public Works on March 12, 2001*

#### SUMMARY

S. 350 would expand and modify certain programs governed by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA, commonly known as the Superfund Act). The bill would provide a statutory framework for Environmental Protection Agency (EPA) policies and programs related to brownfield sites and the liability of certain entities under CERCLA. (Brownfields are properties where the presence, or potential presence, of a hazardous substance complicates the expansion or redevelopment of the property.) The bill would authorize the appropriation of \$750 million over the next 5 years for grants to States and other governmental entities for various brownfield initiatives. Another \$250 million would be authorized over the same period for grants to States and Indian tribes for implementing voluntary cleanup programs. Finally, the bill would exempt some property owners from liability under CERCLA under certain terms and conditions.

Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 350 would cost \$680 million over the 2002-2006 period. CBO estimates that provisions affecting the liability of certain property owners would reduce net offsetting receipts (a form of direct spending) by \$2 million a year beginning in 2002, or a total of \$20 million over the next 10 years. In addition, the Joint Committee on Taxation (JCT) estimates that enacting this bill would reduce revenues by a total of \$24 million over the 2002-2006 period and by \$110 million over the 2002-2011 period. Because S. 350 would affect direct spending and receipts, pay-as-you-go procedures would apply.

S. 350 would impose no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

#### ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 350 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and the environment).

(By fiscal year, in millions of dollars)

	2001	2002	2003	2004	2005	2006
<b>SPENDING SUBJECT TO APPROPRIATION</b>						
Brownfields Spending Under Current Law:						
Budget Authority <sup>1</sup>	92	0	0	0	0	0
Estimated Outlays	89	87	41	14	5	0
Proposed Changes:						
Authorization Level	0	200	200	200	200	200
Estimated Outlays	0	10	110	170	190	200
Brownfields Spending Under S. 350:						
Authorization Level <sup>1</sup>	92	200	200	200	200	200
Estimated Outlays	89	97	151	184	195	200
<b>CHANGES IN DIRECT SPENDING</b>						
Estimated Budget Authority	0	2	2	2	2	2
Estimated Outlays	0	2	2	2	2	2
<b>CHANGES IN REVENUES</b>						
Estimated Revenues <sup>2</sup>	0	0	1	4	8	11

<sup>1</sup> The 2001 level is the amount appropriated for that year for EPA grants for brownfields initiatives, including grants to States for voluntary programs.

<sup>2</sup> Source: Joint Committee on Taxation.

#### BASIS OF ESTIMATE

For purposes of this estimate, CBO assumes that S. 350 will be enacted by the end of fiscal year 2001, and that all funds authorized by the bill will be appropriated. Estimated outlays are based on the historical spending patterns for similar activities in the Superfund program.

#### Spending subject to appropriation

S. 350 would authorize the appropriation of \$1 billion over the next 5 years for two grant programs: for brownfield revitalization and for enhancing State programs related to brownfields and other voluntary initiatives. In recent years, the Congress has allocated some of the money appropriated for EPA's Superfund program for such grants; this legislation would provide an explicit statutory authorization for these activities and would authorize specific amounts for fiscal years 2002 through 2006. Provisions limiting the liability of certain property owners could increase the use of appropriated funds to clean up Superfund sites, but CBO estimates that any change in discretionary spending would not be significant in the next 5 years.

**Grant Programs.** Title I would authorize the appropriation of \$150 million annually for grants to States and other governmental entities to characterize, assess, or cleanup brownfield sites. Remediation grants could be used to capitalize revolving funds or to pay for cleaning up sites owned by public or nonprofit entities. Grants used for remediation would be subject to a matching requirement and could be used to leverage funding from other sources. In addition, title III would authorize \$50 million a year for grants to States and Indian tribes to develop or enhance programs pertaining to brownfields or voluntary response programs. These funds also could be used to capitalize revolving funds for brownfield remediation activities.

**Cleanup Costs.** Under CERCLA, property owners may be responsible for cleanup activities, even if they did not contribute to the contamination of a Superfund site. Title II would amend CERCLA to limit the liability of certain prospective purchasers of contaminated property after the date of enactment. By reducing the pool of potentially responsible parties, the "prospective purchaser" provisions in section 202 could reduce the number of Superfund sites that can be cleaned up in a timely fashion by private entities. This could, in turn, increase the number of sites needing full or partial Federal funding for cleanup activities.

For this estimate, CBO assumes that the bill's prospective purchaser provisions would not affect discretionary spending for several years because only properties purchased after the date of enactment would be exempt from liability. The cost eventually could be significant, however, because cleanup costs average \$20 million per site.

#### Direct spending

CBO estimates that provisions limiting the liability of certain property owners would reduce net offsetting receipts by about \$2 million a year. EPA currently negotiates liability settlements with 20 to 25 prospective purchasers of contaminated property. As part of these agreements, purchasers make both monetary and in-kind payments in consideration of the government's covenant not to sue. While the cash payments vary significantly among properties, the agency typically collects an average of \$100,000 per settlement. EPA would forgo such payments under S. 350, because prospective purchasers would no longer need these agreements to be relieved of liability for cleaning up a site.

The other limitations on liability in title II also could affect EPA's ability to recover costs that the agency incurs at cleanup projects that are the responsibility of private parties. Liability for cleanup is retroactive, strict, and joint and several, so changing the liability of one party generally has the effect of shifting liability among the other private parties. On the other hand, there may be some circumstances in which this legislation would exempt the only party likely to pay cleanup costs. We estimate that the loss of offsetting receipts from these changes is likely to be insignificant, however, because most of the provisions are similar to current EPA practice.

#### Revenues

This bill would affect revenues by authorizing States and local governments to use Federal grants for brownfields remediation to capitalize revolving funds. JCT expects that the ability to leverage these revolving funds would result in an increase in the issuance of tax-exempt bonds by State and local governments. JCT estimates that the Federal Government would forgo tax revenues of \$110 million over the 2002-2011 period as a result of these provisions.

#### PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding 4 years are counted.

(By fiscal year, in millions of dollars)

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Changes in outlays	0	2	2	2	2	2	2	2	2	2	2
Changes in receipts	0	0	1	4	8	11	15	17	18	18	18



## ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 350 would impose no mandates on State, local, or tribal governments. The bill would authorize \$200 million annually from 2002 through 2006 for grants to State and local governments for inventorying, characterizing, assessing and remediating brownfield sites and for establishing or enhancing response programs. Implementing S. 350 would benefit State, local, and tribal governments if the Congress appropriates funds for the grants and loans authorized in the bill. Any costs incurred to participate in those grants and loan programs would be voluntary.

S. 350 would make several changes to current law concerning liabilities under CERCLA of certain property owners, which may include State, local, or tribal governments. These changes in liability, while not preemptions of State law, could make it more difficult for any States that currently rely on CERCLA to recover costs and damages under their own cleanup programs from parties whose liability now would be eliminated or limited by the bill. On the other hand, these changes could benefit State, local, and tribal governments as landowners if their liability would be reduced or eliminated. Enacting S. 350 could also benefit State and local governments with contaminated sites in their jurisdictions by clarifying the liability for certain property owners under Federal law and thereby encouraging remediation and redevelopment of those sites.

## ESTIMATED IMPACT ON THE PRIVATE SECTOR

This bill contains no new private-sector mandates as defined in UMRA.

*Estimate Prepared by:* Federal Costs: Kathleen Gramp (226-2860); Impact on State, Local, and Tribal Governments: Victoria Heid Hall (225-3220); Impact on the Private Sector: Lauren Marks (226-2940); Revenues: Thomas Holtmann (226-7575).

*Estimate Approved by:* Peter H. Fontaine Deputy Assistant Director for Budget Analysis.

Mr. SMITH of New Hampshire. Mr. President, I also ask to have printed in the RECORD a letter dated April 12, 2001 to Mr. Dan Crippen of the Congressional Budget Office signed by myself, Senator REID, Senator CHAFEE, and Senator BOXER. The letter illustrates areas in CBO's cost estimate that the authors of S. 350 believe to be inaccurate or misleading. It is our intent, and our belief, that S. 350 will bring increased private resources to brownfield sites, which will in turn limit future expenditure of public resources.

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

## COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, U.S. SENATE,

Washington, DC, April 12, 2001.

Mr. DAN L. CRIPPEN,  
Director, Congressional Budget Office, Ford House Office Building, Washington, DC.

DEAR MR. CRIPPEN: We are writing with regard to the Congressional Budget Office's cost estimate for S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001. It is important that the cost estimate prepared by your office accurately reflect the provisions of the bill. As the lead authors of the legislation, we are concerned that the cost estimate for S. 350 is inaccurate in several respects and is unintentionally misleading with regard to the intent and application of the legislation.

The cost estimate indicates that section 202 of S. 350 would "reduce the number of

Superfund sites that can be cleaned up in a timely fashion by private entities." We disagree with this assumption because the effect of section 202 will be to encourage private entities to perform cleanups. Although the bill may limit future potential liability of parties not currently liable under the Superfund statute, it does not affect the liability of parties who are already liable under the statute at sites already underway. For even those new prospective purchasers receiving protection under section 202, the bill provides for a "windfall lien," which would further reduce any need for Federal funding at these sites. Moreover, the "prospective purchaser" exemption is designed to, and should result in, a significant increase in cleanups by private parties, particularly at non-National Priorities List sites. The net effect of these factors would be an increase in the availability of private cleanup funds. The overall number of sites at which Federal response authority applies under the Superfund statute, and which will be cleaned up by private entities, will increase as a result of enactment of the "prospective purchaser" provisions.

In addition, the cost estimate asserts that the eventual cost of the bill will be significant because cleanup costs average \$20 million per site. In fact, although cleanup costs at National Priorities List sites may average approximately \$20 million per site, the cleanup costs at a brownfield site averages approximately \$500,000 per site. Indeed, since this section applies to both NPL and non-NPL sites, and there are many more brownfield sites addressed annually than there are NPL sites, the average cost of the sites covered by this provision would be dramatically less than that indicated. Therefore, as currently drafted, the estimate would lead one to believe that S. 350 could shift responsibility to the Federal Government for as much as \$20 million in cleanup costs per site. This simply is not the case.

While we do not dispute the numbers provided by the cost estimate, it is equally important that the narrative section of the cost estimate accurately track the provisions of the legislation as closely as possible. We respectfully request that the Congressional Budget Office reissue the cost estimate for S. 350 to address the types of concerns we have raised. Please do not hesitate to contact us to discuss these issues further.

Sincerely,

BOB SMITH,  
LINCOLN CHAFEE,  
HARRY REID,  
BARBARA BOXER,  
U.S. Senators.

AMENDMENT NO. 352

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent to call up the managers' amendment to S. 350 which is at the desk.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH], for himself, Mr. REID, Mr. CHAFEE, and Mrs. BOXER, proposes an amendment numbered 352.

Mr. SMITH of New Hampshire. 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:

Beginning on page 57, strike line 24 and all that follows through page 58, line 3, and insert the following:

"(ii)(I) is contaminated by a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(II)(aa) is contaminated by petroleum or a petroleum product excluded from the definition of 'hazardous substance' under section 101; and

"(bb) is a site determined by the Administrator or the State, as appropriate, to be—

"(AA) of relatively low risk, as compared with other petroleum-only sites in the State; and

"(BB) a site for which there is no viable responsible party and which will be assessed, investigated, or cleaned up by a person that is not potentially liable for cleaning up the site; and

"(cc) is not subject to any order issued under section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)); or

"(III) is mine-scarred land."

On page 65, between lines 11 and 12, insert the following:

"(4) INSURANCE.—A recipient of a grant or loan awarded under subsection (b) or (c) that performs a characterization, assessment, or remediation of a brownfield site may use a portion of the grant or loan to purchase insurance for the characterization, assessment, or remediation of that site.

On page 67, line 16, before the period, insert the following: "including threats in areas in which there is a greater-than-normal incidence of diseases or conditions (including cancer, asthma, or birth defects) that may be associated with exposure to hazardous substances, pollutants, or contaminants".

On page 68, between lines 16 and 17, insert the following:

"(J) The extent to which a grant would address or facilitate the identification and reduction of threats to the health or welfare of children, pregnant women, minority or low-income communities, or other sensitive populations.

On page 70, between lines 2 and 3, insert the following:

"(4) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this section, the Inspector General of the Environmental Protection Agency shall submit to Congress a report that provides a description of the management of the program (including a description of the allocation of funds under this section).

On page 71, strike lines 15 through 17 and insert the following:

"(k) EFFECT ON FEDERAL LAWS.—Nothing in this section affects any liability or response authority under any Federal law, including—

"(1) this Act (including the last sentence of section 101(14));

"(2) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

"(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

"(4) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and

"(5) the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

"(l) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$200,000,000 for each of fiscal years 2002 through 2006.

"(2) USE OF CERTAIN FUNDS.—Of the amount made available under paragraph (1), \$50,000,000, or, if the amount made available is less than \$200,000,000, 25 percent of the amount made available, shall be used for site characterization, assessment, and remediation of facilities described in section 101(39)(D)(ii)(II)."

On page 93, line 4, before "develop", insert "purchase insurance or".

On page 94, line 11, strike "and".

On page 94, line 14, strike the period at the end and insert "; and".

On page 94, between lines 14 and 15, insert the following:

“(iii) a mechanism by which—

“(I) a person that is or may be affected by a release or threatened release of a hazardous substance, pollutant, or contaminant at a brownfield site located in the community in which the person works or resides may request the conduct of a site assessment; and

“(II) an appropriate State official shall consider and appropriately respond to a request under subclause (I).

On page 97, line 7, after “Administrator”, insert “, after consultation with the State.”.

On page 97, line 18, after the period, insert the following: “Consultation with the State shall not limit the ability of the Administrator to make this determination.”.

The PRESIDING OFFICER. The Senator from Idaho has 15 minutes.

Mr. CRAPO. Mr. President, I appreciate the opportunity to speak today on S. 350, the Senate's Superfund brownfields legislation.

As most of those working on this issue know, I have been working on comprehensive Superfund reform essentially ever since I was elected to Congress, about 8½ years ago. This was a very difficult issue.

In my opinion, we would have been best served if we had comprehensive Superfund reform of the entire Superfund statute, but given the political dynamics we face in the country and the Congress today, it was evident that we would not be able to achieve a comprehensive bill at this point in time, and the decision was made to move ahead with brownfields legislation this year. That was a decision I fought against last year but agreed to support this year, to see if we couldn't move ahead and achieve some of the objectives that have already been so well explained with regard to this legislation.

Brownfields legislation is badly needed in this country, as we try to reform and clean up some of the areas that have been discussed by other Senators. One of the concerns many of us had, however, was that if we do a brownfields bill, we need to do one that truly works and not simply create another approach to the issue that runs into the same problems we have dealt with under the Superfund statute for so many years. In other words, we need to craft it so the effort to reclaim these areas and make them green again is not a failure and we don't simply pass legislation that creates another set of difficult, burdensome approaches to the issue.

To effectively encourage more brownfields redevelopment programs, we have to provide the necessary resources, give the States the management and oversight responsibility within their borders, and ensure that developers are confident that their involvement will be truly welcomed and they will not simply pick up the liabilities already facing those who own the brownfields and work on the properties.

All this has to be done in conjunction with the assurance that public health and the environment are being ade-

quately protected. In that context, as the Senate Environment and Public Works Committee handled this issue, a number of us had concerns that we hadn't yet achieved those objectives as well as we could. I commend the managers of this bill for working so well with us to address those issues in the interim since the bill was sent out of committee and is now being considered in the Senate. We have a managers' amendment that addresses a number of those concerns and that makes it possible for those of us who had problems with the way the bill was originally drafted to work with and support the bill at this point.

The Senate has held many hearings on this legislation. A number of us have worked on this measure for many years. I will discuss some of the elements of progress that have been made since the bill was sent out of committee and as we now move forward with the managers' amendment. I am very pleased that we were successful in making these improvements.

The first issue relates to State finality. For those who are not concerned with the issue, what we are talking about is a policy decision that says that State governments should be the ones that handle the management of the brownfields legislation. Instead of having a national, federally led and, many of us believe, dictate-driven decisionmaking process, we wanted to put together a system in which each individual State had the ability to interpret and implement the brownfields legislation with decisions going on in their own States.

Many of us felt that State management and control would result in much better decisionmaking, as we would see it at the State and local level, than we would have if the decisionmaking were driven from the Federal level. It is a case of the State and local people having a much better understanding of the needs in their communities than those who are distant decisionmakers, not having the ability and understanding to truly address the issues as best they could.

We needed to achieve that by still making sure the environmental objectives were in place. I believe the managers' amendment gives us an important stride forward in this effort.

As the Senator from California, who just spoke, indicated, one of the protections built into this bill was the provision that if, as the State moves forward, an imminent and substantial endangerment is found to the environment or public health, then the Federal Government, through the EPA, can step in and take some remedial actions. Short of that imminent and substantial endangerment, it is the State's responsibility for action.

One of the concerns that was debated in committee was whether we had adequately clarified it enough to make it clear that the EPA or the Federal administrators could not simply use any excuse they wanted in order to claim

an imminent and substantial endangerment, and had to truly work with the States and step in at the Federal level only in those extreme cases in which it was clear that the State either did not have the resources or was not willing to implement the law.

I believe that is where we have reached the compromise. The language included in the bill says imminent and substantial endangerment must be found by the Federal Government before it can step in and supersede a State's actions, which is the intent of all of us who have worked on this legislation. That gives the States truly an opportunity to have finality to their decisions about how to implement this law.

Second, I am pleased that our efforts working with the managers of the bill were successful in nearly doubling the number of eligible brownfield sites under the program by expanding the bill's coverage. This improvement alone will help make this program a reality for many more communities around the country.

In appreciation for the managers' efforts to improve the original bill, I intend to support the amendment today, and the bill with the amendment in place. I know there is still a lot of debate about whether we have made enough improvement in the legislation or whether we have made the bill good enough. The other body is going to be working on its proposals, and there will still be an effort to work with the administration, as the President, the House, and the Senate all work together to craft a brownfields bill that will ultimately be signed into law.

I look forward to working with all of them to make sure that even further improvements and changes to the legislation can be made as we move through the legislative process.

This effort today is a very strong effort, and I think a very good effort, to move forward on meaningful brownfields legislation. With the managers' amendment, as I said, enough improvements have been made that those of us who had concerns at the committee level, I think most, if not all of us, will be able to support the bill today. We will continue to work with the House and the President and with the managers of the bill in the Senate to see that we can make even additional improvements to the legislation as it moves forward in the legislative process. I think it is an important first step we are taking today, but it should be recognized as such—as an important but first step.

With that, I conclude my remarks and yield back my remaining time.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

Mr. VOINOVICH. Mr. President, I rise today in support of S. 350, the Brownfields Revitalization and Restoration Act.

The PRESIDING OFFICER. It is my understanding that the Senator from Ohio is using the time of Senator BOND; is that true?

Mr. VOINOVICH. Yes, it is.

The PRESIDING OFFICER. The Senator may proceed.

Mr. VOINOVICH. Mr. President, this legislation will provide incentives to clean up abandoned industrial sites, or brownfields, across the country and put them back into productive use and preserve our green spaces.

I want to congratulate the chairman of the committee, Senator SMITH, the ranking member of the committee, Senator REID, the subcommittee chairman, Senator CHAFEE, and all the other members of the committee who have worked to put this piece of legislation together.

Revitalizing our urban areas has been an issue I have been passionate about for many years. As former mayor of Cleveland, I experienced first-hand the difficulties that cities face in redeveloping these sites.

I have been working on brownfields issues at the national level since I became Governor of Ohio in 1990 and through my involvement with the National Governors' Association and the Republican Governors' Association. For more than a decade, I have worked closely with congressional leaders, such as MIKE OXLEY of Ohio and the late Senator John Chafee, to develop legislation that would do many of the same things this bill does.

When the Environment and Public Works Committee considered this legislation in March, I voted to report the bill out of committee after getting a commitment from the Presiding Officer today, Senator REID, that he would be willing to work with me on some concerns I had regarding specific bill language.

During the committee markup of S. 350, I offered an amendment seeking to strengthen the State finality provisions in the legislation. Based on the commitment I received from Senator REID, I ultimately withdrew my amendment.

In my view, we need to create more certainty in the brownfields cleanup process. Parties that clean up non-Superfund sites under State cleanup laws need certainty about the rules that apply to them, particularly that their actions terminate the risk of future liability under the Federal Superfund Program.

Last Congress, I introduced legislation supported by the National Governors' Association and the National Council of State Legislatures which would create more certainty by allowing States to release parties that cleaned up sites under State laws and programs from Federal liability.

I believe it is important that we build upon the success of State programs by providing even more incentives to clean up brownfield sites in order to provide better protection for the health and safety of our citizens and substantially improve the environment.

What we do not need are delays caused by the U.S. EPA's second-guessing of State decisions. A good example of second-guessing occurred in my own State. One company, TRW, completed a cleanup at its site in Minerva, OH, under Ohio's enforcement program in 1986. Despite these cleanup efforts, the U.S. EPA placed the site on the NPL list in 1989. However, after listing the site, the EPA took no aggressive steps for additional cleanup, and it has remained untouched for years.

To enhance and encourage further cleanup efforts, my State has implemented a private-sector-based program to clean up brownfield sites. When I was Governor, the Ohio EPA, Republicans and Democrats in the General Assembly and I worked hard to implement a program that we believe works for Ohio. Our program is already successful in improving Ohio's environment and our economy, recycling acres and acres of wasteland, particularly in our urban areas.

In almost 20 years under the Federal Superfund Program, the U.S. EPA has only cleaned up 18 sites in Ohio. In contrast, 78 sites have been cleaned up under Ohio's voluntary program in the last 6 years, and many more cleanups are underway.

States clearly have been the innovators in developing voluntary cleanup programs, and Ohio's program has been very successful in getting cleanups done more quickly and cost effectively. For example, the first cleanup conducted under our program—the Kessler Products facility near Canton, OH—was estimated to cost \$2 million and to take 3 to 5 years to complete if it had been cleaned up under Superfund. However, under Ohio's voluntary program, the cost was \$600,000 and took 6 months to complete. These cleanups are good for the environment and they are good for the economy.

States are leading the way in cleaning up sites more efficiently and cost effectively. According to State solid waste management officials, States average more than 1,400 cleanups per year, and they are addressing approximately 4,700 sites all over the United States of America at any given time.

I am pleased the bill we are considering today does not require the U.S. Environmental Protection Agency to pre-approve State laws and programs. State brownfield programs address sites that are not on the national priorities list and where the Federal Government has played little or no role.

Ohio and other States have very successful programs that clean up sites more efficiently and cost effectively. I worked closely with Senator SMITH and

Senator REID and other Members to protect these State's programs. The managers' amendment is a result of that hard work.

While I would still like to see more protection and certainty for State programs, I do not believe we should delay the improvements to the current programs that are in this bill. What our States are doing is helping to recycle our urban wastelands, prevent urban sprawl, and preserve our farmland and green spaces. So often people forget about the fact we have these acres of wastelands in many urban, and even rural, areas around the nation. Unless these sites are cleaned up, they will force a greater loss of green space in our respective States.

These programs are cleaning up industrial eyesores in our cities and making them more desirable places to live and work. That is another aspect of this legislation to which the Senator from California, Senator BOXER, eloquently spoke.

Because these programs are putting abandoned sites back into productive use, they are a key element in providing economic rebirth to many urban areas and good paying jobs to local residents. That is another side we do not think about. We have all sorts of assistance programs, training programs, and so forth, helping people become self-sufficient and productive citizens. In far too many cases in the United States, because we have not recycled urban industrial sites, businesses and jobs are developed in the outlying areas where many urban residents simply cannot get to, and are, therefore, unable to take advantage of those jobs.

Mr. President, this is a wonderful bill in so many respects. It makes sense for our environment and it makes sense for our economy. Therefore, I am pleased the Senate is considering this bill today and I urge the House and Senate to come to a prompt agreement on a final version of this legislation so we can provide a cleaner environment for cities across America.

I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. CLINTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. VOINOVICH). Without objection, it is so ordered.

Mrs. CLINTON. Mr. President, I am pleased to support this important legislation to provide States and local communities with the tools and the resources they need to clean up and reuse polluted industrial properties, turning them from eyesores into opportunities and leveraging literally billions of dollars in economic benefits.

The legislation we are voting on today, S. 350, the Brownfields Revitalization and Environmental Restoration

Act of 2001, represents the ultimate form of recycling. It is the recycling of one of our most precious and scarce natural resources; namely, our land. Our environmental resources, as our financial resources, are not limitless. The cleanup and reuse of brownfield sites allows businesses and developers to use existing infrastructure so we can reduce sprawl and preserve our precious green space and farmland and, at the same time, it provides an opportunity to energize local economies and create new jobs.

I am pleased to be an original cosponsor of S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001, an act which, as the President knows so well, enjoys broad bipartisan support of a majority of the Senate, as well as of the administration, a diversity of State and local government organizations, business interests, and environmental advocacy groups.

This bill, S. 350, is an important step in building on the proven success of existing brownfields efforts. The bill authorizes the establishment of a flexible program to provide grants and loans to State, tribal, and local governments and nonprofit organizations to assess, safely clean up, and reuse brownfields. It includes important provisions that promote assistance for small, low-income communities, as well as supporting efforts to create or preserve open space and furthering participation by the public in cleanup decisions.

The bill provides appropriate liability relief for innocent parties who want to clean up and reuse brownfield sites, while maintaining the necessary Federal safety net to address serious cleanup issues.

Last week, I was delighted to learn that the EPA was making grants for additional brownfields funding for Utica, NY. I remember the first time I visited downtown Utica and saw all of the old mill and factory buildings, which already were tied in with existing utilities, providing an excellent opportunity for remediation that could be then followed by immediate redevelopment, only to be told because they were built on old industrial sites, because the manufacturing processes that occurred in the 19th and 20th centuries involved dangerous chemicals and other contaminants, these brownfield sites in the middle of downtown Utica were too expensive for private developers and the local community to clean up. I am delighted that Utica and other such places around New York, including Albany and Chautauque Counties and a village of Haverstram in Rockland County also received brownfields funding.

We have seen the benefits of brownfields cleanup and revitalization throughout New York, from Buffalo to Glen Cove, and all the places in between. I stood on the shore at Glen Cove, one of the most beautiful communities on the north shore of Long Island, and could see the effects of the cleanup of brownfields that are going

to turn what had been a contaminated waste area into a place that can be part of waterfront redevelopment.

To date, over 20 communities across New York have received assistance through EPA's existing brownfields program. It is my hope and belief that there will be many more when we finish this legislation, which will more than double the resources currently available for brownfields cleanup across our country.

This bill strikes a delicate balance. There are compromises and tradeoffs. I appreciate the hard work of the committee in a bipartisan fashion to move this legislation forward. I take this opportunity to thank the leadership of the Environment and Public Works Committee on which I am honored to serve, particularly our chairman, Senator SMITH, and our ranking member, Senator REID, and the two Senators who pushed this legislation forward because of their respective chairing and ranking positions on a subcommittee; namely, Senators CHAFEE and BOXER. I also thank the staffs, including my staff, the committee staff, and the individual staffs of the Senators who worked so quickly and diligently to move this legislation to the floor today.

The managers' amendment includes a number of significant provisions. Again, I applaud and thank everyone who was part of this process. I am grateful; two of the managers' amendments I personally sponsored will be part of this legislation. One provision will help focus the delivery of brownfields assistance to communities that experience a higher than normal incidence of diseases such as cancer, asthma, or birth defects.

Two weeks ago, I was very fortunate and honored to go with my friend, the Senator from Nevada, HARRY REID, to Fallon, NV, where we held a hearing on a cancer cluster. It is a lovely community, 50, 60 miles from Reno. It is a small community, maybe 30,000 people at most, in a sparsely populated county. They have had 12 cases of leukemia among children in the last 2 years. Clearly, it is a cancer cluster. We don't know what is causing it. Many believe, and much of the testimony we heard certainly suggests, this rate of cancer in this kind of a cluster could be linked with exposure to hazardous substances.

The important provision we have added to the bill will offer assistance to communities already burdened with severe health programs, to help them clean up the polluted sites that may contribute to these problems. We will have to do a lot more, and I will be working with Senator REID under his leadership to think about what else we can do to address environmental health issues.

We certainly have more than our share in New York. I am hoping that in the future we will have a hearing in New York, perhaps on Long Island, to talk about the cancer clusters. We have asthma clusters; we have diabetes clus-

ters. We need to figure out what we are doing or what we could stop doing or how we can clean up whatever might be associated.

Under S. 350, States that receive brownfields funding must survey and inventory sites in the State. I was concerned there might be sites that would be overlooked in communities that are small or sparsely populated such as Fallon, or low-income or minority such as those in New York City.

I am pleased that with this provision in the managers' amendment we will be able to include public participation so individuals can request a nearby brownfield site be assessed under a State program. States would maintain discretion and flexibility to set up this process however they best see fit, but concerned citizens would not be shut out of the process. They could participate and ask their particular brownfield site be given some attention and perhaps even expedited cleanup because of the impact on their local community.

In every corner of our country there are abandoned, blighted areas that used to be the engines of the industrial economy or served in our national defense. We were privileged to hear testimony from the admiral who runs the naval airbase that trains the top gun pilots outside of Fallon. They use a lot of jet fuel. They have to occasionally burn it. They sometimes have to drop it in their flight. They were very willing to come forward and talk about what the defense industry can do to help in this area.

Many of the places suffering from brownfields were in the forefront of creating the strong economy and the strong national defense system we enjoy today. I think we have to pay attention to the needs of these communities.

I thank all who have made it possible for us to consider this bill today. I urge my colleagues to join in passing this important piece of environmental and economic and health care legislation. I hope our colleagues in the House will work to move their own brownfields bill so we can finally get about the business of revitalizing these sites so they can realize their economic potential and preserve our country's beautiful, open spaces, and revitalize our downtown areas.

I yield the floor.

**THE PRESIDING OFFICER.** The Senator from Nevada.

**Mr. REID.** Mr. President, before the Senator from New York leaves the floor, I want to publicly express my appreciation for her traveling to Nevada as part of a committee to deal with a most serious problem. As the Senator indicated, we do not know what the problem is in Churchill County. Is it problems with the base? It could be from fuel. We understand there have been alleged large leakages of fuel. Is it from the dumping of the fuel, as she indicated? There is a theory by some academics out of England that maybe it is

a virus caused by the huge influx of people coming to the base from various parts of the world to this previously very stable community. Maybe it is from the agricultural activity. The first Bureau of Reclamation project in the history of this country took place there, the Newlands project. For years they have been dumping hundreds of tons of pesticides and herbicides on those crops. Could that be the cause? Could it be the arsenic in the water there, which is 100 parts per billion? We are trying to lower it to 10 parts per billion. We simply do not know the cause.

With the Senator from New York coming there—I do not mean to embarrass her, but with her national following, she focused attention on Fallon, NV, that would have never been accomplished had she not shown up there.

I indicated to the Senator earlier today I am going to send to her the series of positive editorials that were written about her coming to the State of Nevada, trying to help us with this most difficult problem.

Finally, I want to say, as I have already said earlier, outside her presence but on this floor, what a valuable member of this committee is the Senator from New York. For the not quite 100 days we have been functioning as this new Congress, she has been a member of this committee and she has been very valuable. She attends the meetings, stays through the meetings, and, as I indicated, she has been of valuable assistance making this legislation better. I am happy to have her as a member of the committee and of the Senate. The people from New York should feel very good about the person they brought to Washington as a Senator representing that State.

Mrs. CLINTON. I thank my friend from Nevada.

Mr. REID. I yield to the Senator from New Jersey the time that is left over from my having spoken. I believe there may be some other time in there. I think the only speakers we have still to come are Senator CORZINE and Senator CARPER—I think that is all who wish to speak. We are going to 2 o'clock, so I yield whatever time up to 10 or 12 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. I thank the Senator from Nevada for yielding the time. Before I begin my own remarks on brownfields, I want to join him in commenting that HILLARY RODHAM CLINTON had potentially one of the most difficult transformations ever, maybe, becoming a Member of the Senate. It is also fair to say after only 100 days she has probably had one of the most remarkably successful transformations ever made to the Senate.

Rarely has someone come to the Senate and devoted themselves so diligently to the details of their work, meeting their responsibilities to their

State with such bipartisan acclaim by her colleagues.

I think the people of New York should be very proud, under difficult circumstances and the changing of public responsibilities, of how well she accomplished the feat and now how proudly she represents the State of New York.

Since the fortunes of New Jersey are so closely tied to those of our modest neighbor across the river, we are grateful that New York is so well represented. I congratulate her on her introduction to the Senate.

As my friend and colleague from New York, I wish to address my colleagues on the question of the brownfields legislation. We have now completed an unprecedented decade of extraordinary national prosperity. But it is a cruel irony that many of those communities which, a generation ago, laid the foundation for America's industrial might and the prosperity of our generation have not participated in every aspect of this new prosperity.

Critical to the goal of ensuring that all communities do, indeed, benefit from this prosperity is creating sound economic development in these traditional economic centers. Although often more graphic in central cities because of their limited space, brownfields redevelopment is not just an issue of these old centers. It has also become a question of small towns. The problem is, whether it is these older industrial centers upon which our Nation built its future or it is small towns or rural areas, the Senate now in considering again changes to brownfields legislation must deal with the reality that brownfields redevelopment projects must overcome several difficult but critical barriers. These barriers historically have included: No. 1, a lack of process certainty; No. 2, liability concerns; No. 3, added expenses of environmental cleanup and the lack of redevelopment financing.

S. 350 is a bipartisan effort to address these very issues and to make our brownfields program of the last few years everything that it can, should, and must be.

Since 1993, when the Brownfields Pilot Program was implemented, hundreds of communities across the Nation have been successful in their efforts to assess, clean up, and redevelop vacant or underused contaminated sites. In my State of New Jersey, brownfields revitalization represents the potential rebirth of many distressed cities. Indeed, in many respects brownfields and HOPE VI grants have entirely changed the landscape of some of the most distressed urban areas in the State of New Jersey.

In Trenton, an old steel plant has been transformed to a minor league baseball field. Now a center of recreation, attention, and life of the city of Trenton, only years ago it was abandoned, contaminated property.

A railroad yard on the Camden waterfront in front of an enormously won-

derful view of the city of Philadelphia, what should have been some of the most productive land in the Nation, was abandoned. It has now become a major entertainment center for the bistate area.

The city of Elizabeth is taking a former landfill and constructing a shopping mall.

For all of these reasons, brownfields legislation is critical, irreplaceable, in the economic revitalization of the cities of New Jersey. It is not a theory. It is not a potential. It has been proven. It is real in every one of these communities. But it does need to be improved. I support the enhancements contained in S. 350 because, No. 1, they reduce the legal and regulatory barriers that prevent brownfields redevelopment and provide funds to States for cleanup programs. No. 2, they address the needs to address potential liabilities faced by prospective purchasers and adjoining landowners. Finally, they provide funds to assess and clean up abandoned and underutilized brownfields sites. This has not been the province of private funding sources.

This bill goes a long way to remove many of the uncertainties that have made the financing of a brownfield project such a formidable task. While this legislation is a major step in the right direction, there is more that must be done to enhance the public-private partnerships to complete the picture of brownfields revitalization. The strengthening of the public-private partnership utilizes tax incentives to help attract affordable private investment.

In August of 1997, this body approved a potentially significant brownfields tax incentive. This tax incentive, referred to as the "expensing provision," allowed new owners of these contaminated sites to write cleanup costs off their taxes in the year they were deducted. This allows for increased cashflow for redevelopment projects. Surprisingly, despite the potential advantage of this expensing provision, there have been relatively few takers.

A GAO study reported in December of 2000 that in New Jersey there had been only three development projects which had even applied for this tax benefit. Developers told me they are discouraged from using the provision because of the provision's indefinite future and the exclusion of brownfield sites containing petroleum. There is simply no incentive for real estate developers to complete projects and market them quickly if the tax benefit they have derived is going to be taxed as ordinary income at 39.6 percent rather than capital gains at 20 percent.

The financial impact of that reality is very significant.

I intend to propose legislation which I believe is a very positive enhancement.

My legislation will tax this "recapture" or reclaiming of this previously earned benefit as capital gain at a rate of 20 percent rather than as ordinary income.

Using tax incentives to overcome capital shortages, in the market place, to achieve greater public benefits, is a proven formula for success.

This is exactly what I intend to do. This can be done to reverse negative trends and start new, constructive initiatives.

In 1962, the Regional Plan Association of New Jersey-New York-Connecticut in its publication "Spread City" stated that the region was drifting into a costly spread-out pattern of suburban development versus dormant central cities.

This publication noted that this pattern would produce suburbs with "neither the benefits of the city nor the pleasures of the countryside."

Four decades later this vision of "Spread City" has, in fact, materialized.

Today, brownfields redevelopment should be viewed as a method of controlling urban sprawl and ultimately preserving greenfields.

A recent study of nine New Jersey cities posed conservative estimates that redevelopment of identified sites across the state could house nearly a quarter of 225,000 new residents expected by 2005.

It is, therefore, good economic policy. It is good social policy. It is good housing and job creation policy.

Finally, it is good environmental land use policy to enact brownfields legislation, and to enhance it and improve it with the necessary tax incentives to stimulate growth based on this exciting concept.

I strongly identify myself with this initiative hoping the Senate will consider my changes when indeed it is time to vote on brownfields.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that Senator WELLSTONE be added as a cosponsor to S. 350.

The PRESIDING OFFICER (Mr. TORRICELLI). Without objection, it is so ordered.

Mr. SMITH of New Hampshire. I point out, Mr. President, that with the addition of Senator WELLSTONE, that makes 70 cosponsors to this legislation. That runs the entire political spectrum, from HELMS to WELLSTONE. I think it is a great tribute to the type of legislation it is that we could forge this kind of bipartisanship.

As I mentioned earlier in my remarks, there are a number of stakeholders who have written to express their support for S. 350. I did enter those letters in the RECORD and obviously will not read them all, but I

would like to highlight just three or four.

One of those letters was from the U.S. Conference of Mayors. The quote from that letter is:

The mayors believe that this legislation can dramatically improve the nation's efforts to recycle abandoned or other underutilized brownfields sites, providing new incentives and statutory reforms to speed the assessment, cleanup and redevelopment of these properties.

I think that is a very dramatic statement. As the Presiding Officer knows, the mayors are a bipartisan group from both political parties all across the country and are across the political spectrum as well.

Another letter we received was from the Trust for Public Land. One paragraph of that letter states:

Brownfields afford some of the most promising revitalization opportunities from our cities to more rural locales. This legislation will serve to help meet the pronounced needs in under-served communities to reclaim abandoned sites and create open spaces. . . reclamation of brownfields properties brings new life to local economies and to the spirit of neighborhoods.

Also from the National Conference of State Legislatures:

I . . . commend you for your continued commitment to the issue of brownfields revitalization. Without the necessary reforms to CERCLA, [the Superfund law] clean up and redevelopment opportunities are lost, as well as new jobs, new tax revenues, and the opportunity to manage growth . . . NCSL has made this a top priority and we applaud the committee's leadership. . . .

Finally, from the Building Owners & Managers Association, International:

Thanks to the efforts of a dedicated collection of Senators, the Senate now has a bipartisan piece of legislation that would generate improved liability protections, enhanced State involvement and increased federal cleanup funding. Adoption of S. 350 would have an immediate and dramatic impact on reducing the 400,000 brownfields sites across America.

Mr. President, as I have stated many times indeed—and the distinguished Presiding Officer also mentioned some of this in his remarks—this bill is going to encourage redevelopment and revitalization all across our country.

I would like to highlight one particular redevelopment option that would benefit from this bill. It is called ECO industrial development. It is similar to that of the Londonderry, NH, industrial park.

By reducing the waste and pollution from industry, industrial land users become better neighbors in residential areas. Developers and communities can target the kind of development they want rather than being at odds with each other.

I think that is the beauty of this legislation.

Eco-industrial development helps break down the notion that enhanced environmental management can only be done at a greater cost to businesses. It is not true. The two go hand in hand. You can have an enhanced environment, and you can enhance industry.

That is why this concept is so appropriate.

I am hopeful this legislation will, in fact, encourage responsible redevelopment and revitalization similar to the Londonderry eco-Industrial park.

Let me talk about eco-industrial development for just a second. It creates efficiencies in the use of materials and energy through planned, voluntary networks among businesses and their industrial-manufacturing processes. This increased efficiency not only drives down pollution and waste generated by these industrial processes, but it increases the profitability and competitiveness of the businesses at the same time. With these reinforcing benefits, eco-industrial development is a market-based, incentive-driven means for preventing pollution rather than relying on the fragmented, end-of-the-pipe regulations we have done for so many years.

So our current measures of productivity are based almost entirely on measuring industrial output per unit of labor. But a handful of companies—Dow Chemical, Monsanto, 3M, Ford Motor, and others—have been focusing on ways to increase or maintain their current level of output while using fewer resources. This resource productivity can increase a company's return on its assets significantly. And overall, an industrial and manufacturing sector in the U.S. that uses materials and energy more efficiently will become more productive, more profitable, and will remain competitive in global markets.

I think the moral of the story is that when you take an abandoned site that has been polluted and you convert it into whatever—either a green space or a true park or playground, or a baseball field, as the Presiding Officer mentioned, in Trenton—whatever you do with it, if you turn it into something productive, you have, No. 1, created jobs in doing so, and, No. 2, you have taken all the pressure off additional green space—a lot of pressure off additional green space—that now will not be developed because this will be redeveloped, and also you help to beautify your community.

I think it is also important to point out it is not just the large cities such as Trenton, NJ, or Manchester, NH, or any other large city—it is not just large cities—there are many small towns all across America where some 400,000 to 500,000 of these sites lie. A lot of them are on the eastern seaboard in the early developed areas of our country, along the rivers and railroad tracks, and these are the areas that need help.

For so many years, under the current Superfund law, they have not been able to develop these sites because industry and contractors simply would not take the risk, knowing the possible liability. So that is why this legislation is so exciting. It is also why we have 70 cosponsors and why we probably will have a close to unanimous, if not unanimous, vote in the Senate. And we look



forward to seeing this bill move forward to the House, and to get it out of the House or out of conference, whatever the case may be, and get it to the President's desk.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CORZINE. 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. CORZINE. Mr. President, I rise in strong support of S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001. I am proud to be a cosponsor of this important legislation.

This bill proves that environmental protection and economic development can go hand in hand, that we can take depressed, blighted areas, such as those in New Jersey with which we have worked, and make them vibrant and productive, and that we can do so in a cooperative, bipartisan manner.

Hundreds of thousands of contaminated industrial sites lie underutilized or even abandoned across the country, largely because of the potential risk and expense of cleaning them up. New Jersey has more than 8,000 of these brownfields.

When developers now look at these sites, they see a hornet's nest of problems. But when I look at them, I see opportunities. Many of these brownfields are located in economically depressed urban areas. Cleaning them up can spur economic development, create jobs, and bring in additional tax revenue.

Of course, cleaning up brownfields does more than help the economy. It also protects the public health. In addition, by cleaning up sites in our urban areas, we redirect development away from our remaining open space and reduce many of the problems associated with sprawl.

Unfortunately, despite the broad benefits of cleaning up brownfields, the private sector often finds it unattractive or unrealistic to take on the task. Nor is it always easy for States and local governments. That's why this legislation is so important. By providing needed funding and placing reasonable limits on developers' liability, it should encourage the development of many brownfields and the revitalization of depressed areas around our Nation and across the State of New Jersey.

This legislation also represents an important compromise of Federal and State interests. It provides funding for grants to States to help them enhance and develop their own brownfields programs. It recognizes the important lead role that States play in dealing with brownfields, but it also retains the right of the Federal Government to intervene under certain circumstances to

address serious threats that may arise. In general, I see this as a sound balance.

We should be proud that we have been able to work this in a way that leads to a positive long-term result.

I do point out, however, that this bill merely provides an authorization for funding in the future. It doesn't provide the funding itself. Often we talk about authorizations and take victory laps, but the appropriations process is important. That will be up to those in the appropriations process later on, and we'll all have to work hard to make sure that we can find real dollars to be placed against this real need.

Along these lines, I was very disappointed that the Bush budget included only \$98 million for brownfields redevelopment. That's far short of the \$250 million authorized in this bill for fiscal year 2002. The Bush administration has said that it would support the bill, but their budget doesn't have the money to show this support. Congress will have to do better.

Finally, I acknowledge the leadership of my predecessor, Senator Frank Lautenberg, who took the lead in the last Congress to develop this legislation. Senator Lautenberg for years has been a strong advocate of addressing brownfields. I am pleased that his efforts—and the efforts of staffer Lisa Haage, who now works for the Environment Committee—soon should bear fruit.

I also want to thank Senators SMITH, REID, CHAFEE, and BOXER for their leadership and hard work in crafting and advancing this bipartisan legislation this year. This bill proves that bipartisanship can and will lead to positive results, particularly with regard to environmental legislation. I am hopeful that that spirit of cooperation will operate here in the Chamber.

With that, I conclude my remarks and again urge my colleagues to support this legislation.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. CARPER. 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. CARPER. Mr. President, I want to take a few minutes this afternoon to express my support for S. 350, the Brownfields Revitalization and Restoration Act. It is a bill which I hope we will vote to pass today and, hopefully, it will be enacted in the House as well. The bill before us this afternoon represents years of discussion, countless hearings and a genuine compromise. Some people in this Chamber have been part of those discussions and have worked hard to achieve this compromise.

We have heard from others today who talked about the balance this bill represents and some of the compromises it

contains. I want to focus in my remarks on what this bill means to our States, including the State I am privileged to represent, Delaware, where this legislation can make and will make a real and significant impact.

This morning, I came to work by train, as I do most mornings. I caught the train in Wilmington and headed down to Washington. I looked out, as I often do, the left side of the train as we pulled out of the Amtrak station in Wilmington, and I looked over to an area that during World War II was a prime area for building ships, along the magnificent Christina River. Between roughly 1941 and 1945, some 10,000 men and women worked along the banks of the Christina River in Wilmington. They built all kinds of ships, destroyer escorts, troop landing ships, Liberty ships, and other vessels that really helped to win World War II.

When the war was over in 1945, not surprisingly, all of those people were no longer needed. Eventually, within a few years after the end of the war, that vibrant shipbuilding community along the Christina folded up and all of those jobs, for the most part, went away. What had been a vibrant area with manufacturing vitality began to go to seed, and over the years it eventually turned into an abandoned wasteland.

To be honest, as Delaware's Congressman during the late 1980s, as I rode that same Amtrak train to work, I looked out that window and said to myself, boy, this looks awful. And it did. Today it doesn't. Today, we have a river walk, we have a beautiful park, we have buildings that have been restored or are being restored, we have museums, restaurants, and places to shop. We have a stadium where one of the greatest minor league baseball teams in America plays, the Wilmington Blue Rocks.

A couple years ago, as Delaware's Governor, I signed legislation that enabled us to go in and turn that industrial wasteland into the riverfront jewel that it is becoming today for the State of Delaware. We returned to productive use some land that had been forgotten and that in a way, served as a buffer to keep people away from the river.

I want to thank several people, certainly our subcommittee chairman, the ranking Democrat, and Senator CHAFEE, who headed the subcommittee to develop this bill and nurtured it over the years. I thank Senator SMITH, chairman of the committee, for his good work, and Senator REID of Nevada, who has spent a fair amount of time in these vineyards in the last couple of years.

As a freshman Senator who joined this important debate a little late, they were kind enough to work with me and teach me a thing or two about these issues and listen to my concerns and to reflect some of them in the final bill. I don't see my friend from Ohio on the floor, but I want to say a word about Senator VOINOVICH, who chaired



the National Governors' Association during the time when I was its vice-chairman, and who has worked on this bill with me. We had the opportunity to work a little together on this legislation and he was instrumental in making a good bill even better. I am pleased to say to colleagues today and fellow Governors across the country that included in this bill is a provision that will go some distance toward ensuring that State certification of brownfields cleanup will actually result in the revitalization of thousands of underutilized sites in States across the country.

I thank Senator VOINOVICH for his work on this, as well as the other members of our committee who have worked very hard and patiently over the last several months and years, and who didn't pass up the opportunity this year to make this bill the best it could be. I believe what we have today is a brownfields bill that moves EPA's existing program a significant step forward.

This bill protects our environment and encourages businesses to reuse these sites. In my opinion, it just makes good sense. I urge my colleagues to vote in support of this bill.

Before I yield, I want to say, in reflecting on my first roughly 3 months here as a Senator, I have had the opportunity to work in a bipartisan manner in the Chamber on a couple of major initiatives, such as bankruptcy reform, along with the Presiding Officer, who was instrumental in it; but the bill passed with 85 votes, with broad bipartisan support. There was also campaign finance reform, which enjoyed a lot of Democratic and Republican support as well. We had the budget resolution, which ended up enjoying a fair amount of Democratic support as well as Republican support, and today we have the brownfields legislation, which I believe will pass this Chamber with broad bipartisan support. I am encouraged at this degree of bipartisan support we have seen on these issues. Maybe we will somehow set the stage today for debate which is to begin maybe tomorrow or next week, and that is to bring up the education issues, to try to redefine the Federal role regarding the education of our children.

Thank you, Mr. President. I surrender my time and I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH of New Hampshire. Mr. President, I want to take a couple of minutes to explain to my colleagues the managers' amendment, which will be part of the entire vote. We did expand the bill. At the end of the markup in committee, there were a number of concerns raised by Senators on both sides, which we attempted to address and finally were able to address. I wanted to highlight three or four of them on both sides of the aisle.

Senator INHOFE raised a concern, and Senator BOND as well, about innocent

parties cleaning up relatively low-risk brownfield sites contaminated by petroleum or a petroleum product. We were able to allow for the application for brownfields revitalization funding for those purposes as requested by Senators INHOFE and BOND.

Also, in authorizing \$200 million annually for the brownfields revitalization program, we added another \$50 million, or 25 percent of the total for the cleanup of petroleum sites. This was included in the managers' amendment. We have unanimous committee support for it today. Those are two contributions to the overall legislation by Senators INHOFE and BOND.

In addition, Senator CHAFEE asked for a clarification that a grant or loan recipient may use a portion of that grant or loan to purchase insurance for the characterization assessment or remediation of the prospective brownfields site. We were able to take care of that.

Senator CLINTON asked for conditions to the rank and criteria used to award moneys under this bill to address sites with a disproportionate impact on the health of children, minorities, and other sensitive subpopulations in communities with a higher than average incidence of cancer and other diseases and conditions. We were able to include that. Another concern of Senator CLINTON was an element to a State response program whereby a citizen can request a State official to conduct a site assessment and the State official considers and responds appropriately to that request. Those issues of concern were added to the managers' amendment.

In addition, Senator VOINOVICH asked for a requirement that the Administrator consult with States in determining when new information regarding a facility presents a threat to human health or the environment, while preserving EPA's authority to take appropriate action.

Mr. President, I also received a moment ago a statement from the administration. I will quote from part of it:

The administration supports Senate passage of S. 350 which would authorize appropriations to assess and clean up certain abandoned industrial sites known as brownfields and provide protection from liability for certain landowners. By removing barriers to brownfield cleanup and redevelopment, S. 350 would allow communities to reduce environmental and health risks, capitalize on existing infrastructure, attract new businesses and jobs, and improve their tax base.

We are pleased to have that statement of support.

Before I yield to Senator REID for final remarks before the vote, I thank Senator REID again and all of the members of the committee, Senator CHAFEE, Senator BOXER, and all those who worked with me to bring this to closure. It has been a pleasure. I have enjoyed it. It was a long ride, but we finally got to the end. We are glad we did. The country will be the beneficiary of our actions.

It is nice to know that a piece of legislation, once it passes, will have immediate results for almost any community in America. There are so many sites. There are probably very few communities that do not have a brownfield site, which is an abandoned industrial site.

I will be pleased when the bill is signed and when the dollars start to flow, not just from the few dollars we have in the Federal process but from the investments that will be made by the private sector because these folks will now be able to go onsite and clean them up.

I am excited about the bill. I am glad we are at the end. I am happy to hand it over to the House now and wait for them, and hopefully, if there is a conference, it will be an easy one.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I want to take a minute to express my appreciation to the Senator from Delaware for being a member of the committee. Senator CARPER and I came to Washington together, along with the Presiding Officer, in 1982. When he was elected to the Senate, I was very happy. He was a great Member of the House of Representatives and a tremendous Governor.

I was happy to visit the State of Delaware on a number of occasions and work with the Governor of Delaware. The people of Delaware are very fortunate to have someone of the caliber of TOM CARPER representing them in the Senate. He is a great addition to JOE BIDEN. They are good Senators. I do not know how you can do better than the two Senators from the State of Delaware.

Senator CARPER's work on the committee and on this bill has been exemplary. He reached out on a bipartisan basis to Senators CRAPO and VOINOVICH. He and Senator VOINOVICH were fellow Governors. As a result of his advocacy, he worked very hard with Senator VOINOVICH to satisfy the problems he had with this bill. I express my appreciation to the Senator from Delaware.

I was very happy to hear from Senator SMITH that we do now have a statement from the administration on this legislation. This is, in effect, icing on the cake. This legislation has been long in coming. The prior administration tried very hard to get it before the Congress. For various procedural reasons, we were unable to do so for 2 years. On a bipartisan basis, the committee was able to report this important legislation for consideration by the Senate.

This legislation is representative of how we should operate in the Senate. It is a bill we recognize was controversial. It is a bill about which we recognize there were disparate views in the committee, and we also realize the Senate was divided 50/50, just as the Environment and Public Works Committee was divided 50/50. Republicans reached

Democrats, Democrats reached Republicans, and we came up with this legislation.

This is very good legislation; 500,000 sites in America will benefit from this legislation. Billions of dollars will go to local communities. Hundreds of thousands of jobs, in fact 600,000 jobs, will be required to clean up these sites. This is important because, as we indicated earlier this morning, there are corner service stations in urban areas upon which nothing can be built. People will not touch them because they are an old service station and there may be Superfund liability. This legislation takes care of that.

Corner service stations all over America will be cleaned up and something built which will contribute to the local community.

There are dry cleaning establishments all over America. We do not have big dry cleaners. They are all small. All over America we have old dry cleaning establishments. New businesses will not touch them because of possible Superfund liability. This legislation takes care of all that.

This is what the American people want in sending us an equally divided Senate. This is what the people deserve. This legislation will go a long way toward making people feel good about Government.

It has been a pleasure working with the Senator from New Hampshire, as I have already stated. This is a joint effort. I commend and applaud the chairman of the subcommittee, Senator CHAFEE, and the ranking member of the subcommittee, Senator BOXER, for their outstanding work.

Mr. President, have the yeas and nays been ordered on this matter?

The PRESIDING OFFICER. They have not.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, amendment No. 352 is agreed to.

The amendment (No. 352) was agreed to.

The PRESIDING OFFICER. The committee amendment in the nature of a substitute, as amended, is agreed to.

REGARDING CONSULTATION WITH THE STATES ON NEW INFORMATION

Mr. VOINOVICH. Mr. President, I would like to take this opportunity to clarify some issues related to the Brownfields Revitalization and Environmental Restoration Act. Is it the Chairman's understanding that the exception under which the President may bring an enforcement action following new information becoming available is to occur after the Administrator has consulted with the State?

Mr. SMITH of New Hampshire. My colleague from Ohio is correct. The managers' amendment clarifies the

role of the State when new information has become available. Specifically, the Administrator must consult with the State before an enforcement action can be taken. Additionally, the State's records must be consulted to determine whether the new information was known by the State as defined in the legislation.

Mr. VOINOVICH. Is it also correct that this provision does not limit the Administrator of the EPA from making a determination, based on new information, that the conditions at the facility present a threat that requires further remediation?

Mrs. BOXER. Yes, The managers' amendment states that consultation with the State shall not limit the ability of the Administrator in making a determination, as the result of new information, that contamination or conditions at a facility present a threat requiring further remediation to protect public health or welfare or the environment. Consultation with the State is important and is addressed in this section and other portions of the bill. It is not intended, however, to be an open-ended process. Consultation should not delay or prohibit the Administrator's ability to determine that a site presents a threat that requires further remediation.

Mr. REID. I am very pleased that we were able to resolve the concerns raised by my colleague Mr. VOINOVICH at the Committee markup, and wish to thank him for working with us to reach this resolution.

Mr. VOINOVICH. I thank my colleagues for clarifying the role of the States in making these determinations.

#### REGARDING PETROLEUM SITES

Mr. INHOFE. Mr. President, I would like to ask the chairman and ranking member if they agree with my interpretation of the Inhofe amendment adopted as part of the managers' package.

This amendment ensures that certain sites that have been contaminated by petroleum or petroleum products, "petroleum contaminated", will be eligible for funding under title I of this bill, by expressly adding these sites to the definition of "brownfield sites," and specifically authorizing funding for the characterization, assessment and remediation of these sites. These petroleum-contaminated sites must meet several conditions to be eligible for funding under this new provision.

First, the site must be relatively low risk, as compared with other petroleum-only sites in the State. This provision does not presuppose that each State has conducted a ranking of its petroleum sites, or require that it do so. Rather, we are aware that most States already have experience in making determinations as to which petroleum contaminated sites pose the greatest risk, under section 9003(h)(3) of the Solid Waste Disposal Act (SWDA). States are directed to prioritize sites for corrective action

based on "which pose the greatest threat to human health and the environment." The Committee contemplates that States will be able to use similar approaches to those used under section 9003(h)(3) to identify sites that are appropriately covered by this provision, those that are relatively low risk.

Section 9003(h)(3) of the Solid Waste Disposal Act directs states, who are authorized under section 9003(h)(7), to prioritize underground storage tank, "UST", sites. Under 9003(h)(3), a priority for remediation is given to UST sites which pose the greatest threat to human health and the environment, as determined by those States. The new section 128(a)(D)(ii)(II) of S. 350 addresses sites that meet all of the following conditions: there are no viable responsible parties, otherwise known as abandoned sites; the petroleum site is not subject to an order under section 9003(h) of SWDA; and the petroleum contamination is relatively low risk. Relatively low risk should be determined by comparing the relative risk of a given site to UST and other petroleum contaminated sites in that State. The determination as to whether a particular site meets the "relatively low risk" criterion will be made by the entity that is awarding the grant or loan to the person doing the work.

Funds authorized under the new section 128(l)(2) shall be used for site remediation, characterization, or assessment. If a site uses funds authorized by section 128(l)(2) to assess a site, and it is later determined (after the assessment) that the site is eligible for other applicable Federal and State funding, funds from those other applicable Federal or State programs shall be used first. This will preserve funds authorized under this bill for sites that do not have access to another source of funding.

Neither this nor any other provision of S. 350, in any way, alters the exclusion of petroleum or petroleum products from the definition of "hazardous substance" under section 101 of CERCLA.

Mr. CRAPO. I commend the Senator from Oklahoma for this amendment and am also interested in knowing if this interpretation is consistent with the intent of the chairman and the ranking member of the Environment and Public Works Committee.

Mr. SMITH. The Senator from Oklahoma's interpretation of the amendment is consistent with my interpretation of the provisions and I am pleased we were able to include it in the manager's amendment.

Mr. REID. I agree with the chairman. I hope that this section will provide an additional tool for addressing abandoned petroleum sites. The bill includes mechanisms to allow us to evaluate how this and other provisions of the bill are working, and whether the funding levels are sufficient.

Mr. BOND. I'd like to thank the chairman and ranking member for

their cooperation on this amendment and commend the Senator from Oklahoma for his leadership on this important initiative, which will provide a vital tool for brownfields cleanups.

REGARDING "CONTRACT CARRIAGE" AND "SPUR TRACK" ISSUES

Mr. INHOFE. Mr. President, as we have discussed here today, I hope there will be additional opportunities for the committee to consider needed legislative changes to sections of Superfund that are not related to brownfields.

There are two such changes which clarify liability for common carriers and rail spur track owners I would like to bring to your attention which this committee has favorably considered in past Superfund bills.

The first provision would conform the existing law to the industry's current practice of using contract carriage agreements by clarifying that a railroad would not be liable for the transportation of hazardous substances under the terms of a contract with a shipper who later mishandles the commodity. This is a technical amendment which is necessary to reflect the fact that most rail shipments today move under the terms of transportation contracts, not tariffs, as was the case when CERCLA was first enacted in 1980.

The second issue addresses contamination on or around spur tracks, which run to and through shipper facilities. The current law states that railroads can be potentially liable as landowners for such contamination even when it is caused by a shipper. This change would hold the railroad liable only if the railroad caused or contributed to the release of the hazardous substance.

Both these issues recognize that a railroad, as a common carrier, should not be liable when it cannot control its customer's handling of hazardous substances, and the customer's actions result in the release of a hazardous substance that creates CERCLA liability.

These noncontroversial changes are simple and needed reforms to the Superfund law, and I would hope you could support including these provisions in later Superfund legislation or even, if the opportunity presents itself as part of this brownfields bill.

Mr. SMITH of New Hampshire. I would say to my good friend that I agree with these provisions and have, in fact, supported them in the past. I will continue to support them, but as we have discussed it will be difficult to include them in the brownfields bill. I would certainly support the inclusion of these provisions in any Superfund legislation that the committee acts on later this year.

Mr. INHOFE. I thank the chairman for his support on these two provisions.

REGARDING ENVIRONMENTAL INSURANCE

Mr. REID. Mr. President, I appreciate the work of the subcommittee chairman and ranking minority member and the Environment and Public Works Committee chairman in helping craft this brownfields bill. I would like to clarify one matter in the managers'

amendment regarding the use of funding under this bill to purchase certain environmental insurance at brownfield sites.

S. 350 clarifies that a person who receives federal funds for characterization, assessment and cleanup of a brownfield site, and is performing that work, will be able to use a portion of that money to purchase insurance for the characterization, assessment or remediation of that site. While I believe this can be a valuable tool, I would like to ensure that the limited brownfield funding is maximized to facilitate cleanup and reuse of as many sites as possible.

I would like to confirm with the chairman of the Subcommittee on Superfund, Waste Control, and Risk Assessment that the language is limited to the purchase of environmental insurance by persons performing the actions, that the purchase of environmental insurance is intended to be a relatively minor percentage of the overall costs at a site, and that its primary purpose is to insure against costs of assessment, characterization and cleanup being higher than anticipated.

Mr. CHAFEE. Mr. President, the Senator from Nevada is correct. This provision is intended only to clarify that a person performing the characterization, assessment, or cleanup can use federal assistance to purchase environmental insurance such as cost-cap insurance, which is one of the most frequently used policies at brownfield sites. Such a policy would cover the costs of cleanup if the actual costs exceeded estimated costs. It is my understanding that this clarifies EPA's current practice. This protection can give a developer the necessary comfort to invest in a site. In addition, the purchase of such environmental insurance with federal assistance is not intended to be a significant portion of the overall assessment, characterization, or cleanup costs at a site. The Senator from Nevada also is correct regarding the purpose of these policies: no portion of the funding under this bill would be available for other types of insurance.

Mr. REID. Mr. President, I appreciate the chairman's clarification of this matter.

REGARDING A MECHANISM FOR CITIZENS TO REQUEST STATE OFFICIALS TO ASSESS A POTENTIAL BROWNFIELDS SITE

Mrs. CLINTON. Mr. President, I thank Chairmen SMITH and CHAFEE and Senators REID and BOXER for agreeing to further enhance opportunities for public participation in state brownfields programs under S. 350. Specifically, the bill as amended would provide an opportunity for individuals to request that a nearby brownfields site be assessed under a state program, and for such requests to be considered and responded to in an appropriate manner by the State. Although states complying with the other state program elements in the bill must survey and inventory sites in the state, there

may be rare instances when sites are inadvertently overlooked. I am particularly concerned about this happening in communities that may be small or sparsely populated, low-income, minority, or otherwise socially or politically disenfranchised.

This new provision will help to ensure that in those rare circumstances that a site is overlooked in a State's survey process, someone who lives or works in the community can bring a potential brownfields site to the attention of the State and request that the site be assessed under the state's brownfields program. The intent is to provide states with the flexibility to set up this element of their state brownfields program as they best see fit, and the provision does not create an appeals process. Is that your understanding of the provision?

Mr. SMITH of New Hampshire. Yes, that is my understanding of the provision.

Mr. REID. That is my understanding as well.

Mr. VOINOVICH. I agree that it is important for States to be responsive to the concerns of their citizens. As a former Governor of Ohio, I have the unique first-hand experience of dealing with such issues and the role of the state. In fact, Ohio law already requires the state to respond to environmental complaints.

The Ohio Environmental Protection Agency, OEPA, responds under the verified complaint procedure required under State law. Under this statute, the Director of OEPA must take action by expeditiously investigating claims and following up within a specified period of time. If enforcement action is warranted, then the Director must contact the State Attorney General to initiate proper proceedings.

Mr. SMITH of New Hampshire. It is important for a State to be responsive to concerns brought up by its citizens. For example, under the New Hampshire program, if a citizen contacts the Department of Environmental Services, DES, regarding a site, the first and foremost consideration is to carefully assess the potential risk to human health and the environment. Both written and telephone communications are assigned to DES's Special Investigations Section in the Waste Management Division. There are four individuals who are involved in this work and provide round-the-clock coverage.

DES first checks the data base to verify that the inquiry is indeed a new matter and decides, based upon the information offered, the level of risk and hence the immediacy of response required. Departmental protocol governs this practice. An essential element of this approach is based upon the intuitive, knowledgeable sense of the staff person receiving the call. An attempt is made to identify matters that require immediate response from others of a less immediate nature. In the event of a grave emergency, DES or the

on-scene commander, may request assistance from EPA's emergency responders.

In the case where a site warrants an emergency response, the citizen inquirer would be given information as soon as the site was in control and the responders or other Division staff could be made available to provide details. If the case is determined to be a new site, the citizen would be responded to when an initial site drive by or on the ground investigation had been made. In this case an inquirer would be told what to expect for a response time, if a response were necessary.

An inquiry related to a known site which was not an emergency situation would be addressed by the assigned Project Manager, who could comment on planned or on-going work at the site and the nature or degree of risk. DES also would seek to determine whether the inquirer had new information that might be relevant. Most often, DES would make an initial response to an individual within 2-3 days.

As you can see, Senator CLINTON, the State of New Hampshire has a very responsive brownfields program that takes seriously all requests and inquiries made by its citizens.

Mrs. CLINTON. Thank you, Senator SMITH and Senator VOINOVICH. I think everyone would agree with you that it is important for states to be responsive to citizens' concerns, and that many states are doing just that.

#### REGARDING INFORMATION

Mr. INHOFE. Mr. President, the "information" referred to in new section 129(b)(1)(B)(iv) of S. 350 pertains to information that indicates that a site presents a threat requiring further remediation to protect public health or welfare or the environment. The committee expects that the Administrator shall use her discretion in determining whether this information is both credible and relevant to the site.

"Information" consists of information not known by the State on the earlier of the date on which cleanup was either approved or completed. The "information" need not be specific to this site; however, it must be relevant to the site in question. After careful consideration of the quality, objectivity and weight of the "information" regarding the site, the Administrator shall decide whether this information is adequate to determine there is a threat to public health or welfare or the environment.

This "information" triggers this section only if the Administrator determines that it indicates that such contamination or conditions at the facility present a threat requiring further remediation to protect public health or welfare or the environment. Do the chairman and ranking member agree with this interpretation of "information?"

Mr. REID. Yes, that is correct. This provision is intended to ensure that the public health and the environment are protected from such threats.

Mr. SMITH of New Hampshire. I share my colleagues' interpretation of this provision.

#### REGARDING CATTLE DIPPING VATS

Mr. GRAHAM. Mr. President, I would like to confirm with the chairman and ranking Democratic member of the Environment and Public Works Committee that certain sites in my State would be eligible for the benefits of this important brownfields legislation. In several States, including my State of Florida, there are a number of sites that were contaminated in the early to mid-1900's by chemicals used for tick-prevention measures required by the United States Department of Agriculture. So-called cattle dipping vats were used to eliminate ticks that threatened our Nation's cattle. It is my understanding that these sites would be eligible for the benefits of this important brownfields legislation. Is that your understanding?

Mr. REID. I agree with the Senator from Florida that sites contaminated by the historic practice of dipping cattle to eliminate ticks are eligible for benefits under this bill, so long as any particular site meets the definitions and conditions in the bill.

Under the bill funding is available for assessment and cleanup of "brownfield sites," which are "real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant." It is my understanding that the sites the Senator describes would meet this portion of the definition of eligible brownfield sites under the bill.

The bill goes on to exclude certain categories of sites, such as those that are listed or proposed for listing on the Superfund National Priorities List, and those that are subject to orders or cleanup requirements under other Federal environmental laws. So long as the sites the Senator refers to are not within any of the exclusions they would be eligible.

Mr. SMITH of New Hampshire. I can appreciate the concerns raised by the Senator from Florida. I agree with Senator REID that sites contaminated as a result of former cattle dipping practices and which meet the definitions and conditions for sites to obtain funding and liability relief under this bill will be eligible for the benefits of this bill.

Mr. GRAHAM. I thank the chairman and ranking Democratic member for that clarification. I believe that since the federal government required these dipping vats to be constructed, the individuals who complied with that federal requirement should be excluded from all liability under Superfund. However, I also believe that the brownfields legislation we are considering today is a critical step forward in our ability to clean-up sites around the country. I look forward to working with both of you and our colleagues on the Environment and Public Works Committee to take additional steps forward in the months to come.

#### ALASKA NATIVE CORPORATIONS ELIGIBILITY

Mr. STEVENS. Mr. President, I congratulate the Chairman and Ranking Member of the Environment and Public Works Committee for developing a bill that has secured enormous bipartisan support in this Congress. This is an important program for many states.

I have considered cosponsoring the measure. However I withhold sponsorship at this time because there is a problem relative to which native entities in Alaska are eligible for such funding.

Alaska native corporations have no government powers but manage, as private landowners, twelve percent of our state.

The federal government has recognized 229 tribes in Alaska most of which do not have governmental power over land.

The bill is ambiguous as to whether Alaska native corporations, are eligible entities as "Indian Tribes."

I have not raised this with the committee, but do request assurance that the conference will address this matter.

Mr. SMITH of New Hampshire. I would like to work with the Senator on that issue.

#### EDA AND HUD DEVELOPMENTAL FUNDING

Mr. LEVIN. Mr. President, I would like to engage my colleagues, Senators JEFFORDS, REID, and SMITH from New Hampshire in a colloquy on the Brownfields Revitalization and Environmental Restoration Act of 2001, S. 350. I am a co-sponsor and strong supporter of this brownfields revitalization bill. I commend Senators SMITH, REID, CHAFEE and BOXER for their hard work on crafting bipartisan brownfields legislation which will help communities return these former commercial and industrial properties back to productive use. The financial incentives and statutory reforms provided in S. 350 will dramatically improve our communities' efforts to redevelop brownfields.

As cochairmen of the Senate Smart Growth Task Force, Senator JEFFORDS and I will introduce bills to complement S. 350 by providing communities with economic resources to redevelop brownfield sites. Our first proposal would expand efforts of the Department of Commerce's Economic Development Administration, or EDA, to assist distressed communities. The bill will provide EDA with a dedicated source of funding for brownfields redevelopment and increased funding flexibility to help States, local communities and nonprofit organizations restore these sites to productive use. Our second proposal would permit the Department of Housing and Urban Development to make brownfields economic development initiative grants independent of economic development loan guarantees, and set-aside a portion of the funding for smaller communities. I hope that Senators SMITH and REID will work with us to get our proposed legislation enacted.

These proposals would be very complementary to S. 350. Economic development funding through EDA and HUD along with the financial resources and liability clarifications contained in S. 350 would provide communities with the help they need to return brownfields to productive uses. Together, our proposals and S. 350, would provide communities with the financial assistance needed to leverage private investment in brownfields and accelerate reuse.

A number of national economic development organizations support this proposal, including the US Conference of Mayors, National League of Cities, National Association of Counties, National Association of Development Organizations, National Association of Regional Councils, National Association of Towns and Townships, Enterprise Foundation, National Congress for Community Economic Development, Smart Growth America, Council for Urban Economic Development, National Association of Installation Developers, and the National Business Incubator Association.

Mr. JEFFORDS. Mr. President I join my colleague, Mr. LEVIN, in commending Senators SMITH of New Hampshire, CHAFEE, REID, and BOXER for their efforts to promote brownfield revitalization. I am a co-sponsor and strong supporter of S. 350, and believe this legislation is long overdue.

Senator LEVIN and I have been working on complementary legislation. The proposal would provide the Economic Development Administration (EDA) with a formal channel of funding to help communities turn brownfields environmental liabilities into economic assets. This legislation would provide targeted assistance to projects that redevelop brownfields. EDA funding for brownfields will help communities get the financial assistance needed to leverage private investment in brownfields. With over 450,000 brownfields sites nationwide, it is imperative that the federal government assist local cleanup efforts that in turn will stimulate economic revitalization.

The second legislative proposal addresses requirements on the Department's (HUD) Brownfields Economic Development Initiative (BEDI) grant program that are hampering small city brownfields revitalization efforts. BEDI's required link to Section 108 serves as a deterrent to many small towns in Vermont and throughout the nation, who do not have the resources to commit to brownfields. Our bill would permit HUD to make grants available independent of economic development loan guarantees.

I am very hopeful that the Chairman and Ranking Member of Committee on Environment and Public Works will work with us to advance this important legislative initiatives.

Mr. REID. Mr. President, I would like to thank my colleague from Michigan, Mr. LEVIN, and my colleague from

Vermont, Mr. JEFFORDS, for their strong support of S. 350 and commend them for their efforts to provide communities with economic development resources to redevelop brownfields. I commit to my colleagues, Mr. LEVIN and Mr. JEFFORDS, that I will work with Senator SMITH to have a hearing on their Economic Development Administration brownfield proposal. I look forward to working with them to explore options to further address the reuse of brownfields and look forward to working with them to protect our communities.

Mr. SMITH of New Hampshire. I thank Mr. JEFFORDS and Mr. LEVIN for their support and co-sponsorship of S. 350. I appreciate their efforts to craft legislation complementary to S. 350. As such, I will look closely at their proposals and work with them to further advance the issue of brownfield redevelopment.

#### INDIAN TRIBES

Mr. BINGAMAN. Will the Senator from Nevada yield for a question?

Mr. REID. I yield.

Mr. BINGAMAN. I thank the Senator. Mr. President, I believe that this is a good piece of legislation that will promote the cleanup and reuse of business and industrial sites that now stand essentially abandoned. I would just like to clarify one point. I note that throughout much of the Bill any reference to 'States' is accompanied by a reference to 'Indian Tribes'. However, this is not the case in section 129(b)(1)(B)(ii), as added by section 301 of the Bill, regarding federal enforcement actions in the event of contamination migrating across a State line. Could the Senator confirm that it is the intention of the legislation that references in that section to 'States' should extend to 'Indian Tribes'?

Mr. REID. Yes Senator, that is the intention.

Mr. BINGAMAN. I thank the Senator.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for the third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arkansas (Mr. HUTCHINSON) is necessarily absent.

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 87 Leg.]

YEAS—99

Akaka	Bayh	Bond
Allard	Bennett	Boxer
Allen	Biden	Breaux
Baucus	Bingaman	Brownback

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

#### NOT VOTING—1

Hutchinson

The bill (S. 350), as amended, was passed, as follows:

#### S. 350

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

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Brownfields Revitalization and Environmental Restoration Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—BROWNFIELDS REVITALIZATION FUNDING

Sec. 101. Brownfields revitalization funding.

#### TITLE II—BROWNFIELDS LIABILITY CLARIFICATIONS

Sec. 201. Contiguous properties.

Sec. 202. Prospective purchasers and windfall liens.

Sec. 203. Innocent landowners.

#### TITLE III—STATE RESPONSE PROGRAMS

Sec. 301. State response programs.

Sec. 302. Additions to National Priorities List.

#### TITLE I—BROWNFIELDS REVITALIZATION FUNDING

#### SEC. 101. BROWNFIELDS REVITALIZATION FUNDING.

(a) DEFINITION OF BROWNFIELD SITE.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following:

“(39) BROWNFIELD SITE.—

“(A) IN GENERAL.—The term ‘brownfield site’ means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

“(B) EXCLUSIONS.—The term ‘brownfield site’ does not include—

“(i) a facility that is the subject of a planned or ongoing removal action under this title;

“(ii) a facility that is listed on the National Priorities List or is proposed for listing;

“(iii) a facility that is the subject of a unilateral administrative order, a court order, an administrative order on consent or judicial consent decree that has been issued to or entered into by the parties under this Act;

“(iv) a facility that is the subject of a unilateral administrative order, a court order,

an administrative order on consent or judicial consent decree that has been issued to or entered into by the parties, or a facility to which a permit has been issued by the United States or an authorized State under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1321), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

“(v) a facility that—

“(I) is subject to corrective action under section 3004(u) or 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u), 6928(h)); and

“(II) to which a corrective action permit or order has been issued or modified to require the implementation of corrective measures;

“(vi) a land disposal unit with respect to which—

“(I) a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted; and

“(II) closure requirements have been specified in a closure plan or permit;

“(vii) a facility that is subject to the jurisdiction, custody, or control of a department, agency, or instrumentality of the United States, except for land held in trust by the United States for an Indian tribe;

“(viii) a portion of a facility—

“(I) at which there has been a release of polychlorinated biphenyls; and

“(II) that is subject to remediation under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); or

“(ix) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

“(C) SITE-BY-SITE DETERMINATIONS.—Notwithstanding subparagraph (B) and on a site-by-site basis, the President may authorize financial assistance under section 128 to an eligible entity at a site included in clause (i), (iv), (v), (vi), (viii), or (ix) of subparagraph (B) if the President finds that financial assistance will protect human health and the environment, and either promote economic development or enable the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property, or other property used for non-profit purposes.

“(D) ADDITIONAL AREAS.—For the purposes of section 128, the term ‘brownfield site’ includes a site that—

“(i) meets the definition of ‘brownfield site’ under subparagraphs (A) through (C); and

“(ii)(I) is contaminated by a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

“(II)(aa) is contaminated by petroleum or a petroleum product excluded from the definition of ‘hazardous substance’ under section 101; and

“(bb) is a site determined by the Administrator or the State, as appropriate, to be—

“(AA) of relatively low risk, as compared with other petroleum-only sites in the State; and

“(BB) a site for which there is no viable responsible party and which will be assessed, investigated, or cleaned up by a person that is not potentially liable for cleaning up the site; and

“(cc) is not subject to any order issued under section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)); or

“(III) is mine-scarred land.”

(b) BROWNFIELDS REVITALIZATION FUNDING.—Title I of the Comprehensive Environmental Response, Compensation, and Liabil-

ity Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

**“SEC. 128. BROWNFIELDS REVITALIZATION FUNDING.**

“(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term ‘eligible entity’ means—

“(1) a general purpose unit of local government;

“(2) a land clearance authority or other quasi-governmental entity that operates under the supervision and control of or as an agent of a general purpose unit of local government;

“(3) a government entity created by a State legislature;

“(4) a regional council or group of general purpose units of local government;

“(5) a redevelopment agency that is chartered or otherwise sanctioned by a State;

“(6) a State; or

“(7) an Indian Tribe.

“(b) BROWNFIELD SITE CHARACTERIZATION AND ASSESSMENT GRANT PROGRAM.—

“(1) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to—

“(A) provide grants to inventory, characterize, assess, and conduct planning related to brownfield sites under paragraph (2); and

“(B) perform targeted site assessments at brownfield sites.

“(2) ASSISTANCE FOR SITE CHARACTERIZATION AND ASSESSMENT.—

“(A) IN GENERAL.—On approval of an application made by an eligible entity, the Administrator may make a grant to the eligible entity to be used for programs to inventory, characterize, assess, and conduct planning related to 1 or more brownfield sites.

“(B) SITE CHARACTERIZATION AND ASSESSMENT.—A site characterization and assessment carried out with the use of a grant under subparagraph (A) shall be performed in accordance with section 101(35)(B).

“(c) GRANTS AND LOANS FOR BROWNFIELD REMEDIATION.—

“(1) GRANTS PROVIDED BY THE PRESIDENT.—Subject to subsections (d) and (e), the President shall establish a program to provide grants to—

“(A) eligible entities, to be used for capitalization of revolving loan funds; and

“(B) eligible entities or nonprofit organizations, where warranted, as determined by the President based on considerations under paragraph (3), to be used directly for remediation of 1 or more brownfield sites owned by the entity or organization that receives the grant and in amounts not to exceed \$200,000 for each site to be remediated.

“(2) LOANS AND GRANTS PROVIDED BY ELIGIBLE ENTITIES.—An eligible entity that receives a grant under paragraph (1)(A) shall use the grant funds to provide assistance for the remediation of brownfield sites in the form of—

“(A) 1 or more loans to an eligible entity, a site owner, a site developer, or another person; or

“(B) 1 or more grants to an eligible entity or other nonprofit organization, where warranted, as determined by the eligible entity that is providing the assistance, based on considerations under paragraph (3), to remediate sites owned by the eligible entity or nonprofit organization that receives the grant.

“(3) CONSIDERATIONS.—In determining whether a grant under paragraph (1)(B) or (2)(B) is warranted, the President or the eligible entity, as the case may be, shall take into consideration—

“(A) the extent to which a grant will facilitate the creation of, preservation of, or addition to a park, a greenway, undeveloped property, recreational property, or other property used for nonprofit purposes;

“(B) the extent to which a grant will meet the needs of a community that has an inability to draw on other sources of funding for environmental remediation and subsequent redevelopment of the area in which a brownfield site is located because of the small population or low income of the community;

“(C) the extent to which a grant will facilitate the use or reuse of existing infrastructure;

“(D) the benefit of promoting the long-term availability of funds from a revolving loan fund for brownfield remediation; and

“(E) such other similar factors as the Administrator considers appropriate to consider for the purposes of this section.

“(4) TRANSITION.—Revolving loan funds that have been established before the date of enactment of this section may be used in accordance with this subsection.

“(d) GENERAL PROVISIONS.—

“(1) MAXIMUM GRANT AMOUNT.—

“(A) BROWNFIELD SITE CHARACTERIZATION AND ASSESSMENT.—

“(i) IN GENERAL.—A grant under subsection (b)—

“(I) may be awarded to an eligible entity on a community-wide or site-by-site basis; and

“(II) shall not exceed, for any individual brownfield site covered by the grant, \$200,000.

“(ii) WAIVER.—The Administrator may waive the \$200,000 limitation under clause (i)(II) to permit the brownfield site to receive a grant of not to exceed \$350,000, based on the anticipated level of contamination, size, or status of ownership of the site.

“(B) BROWNFIELD REMEDIATION.—

“(i) GRANT AMOUNT.—A grant under subsection (c)(1)(A) may be awarded to an eligible entity on a community-wide or site-by-site basis, not to exceed \$1,000,000 per eligible entity.

“(ii) ADDITIONAL GRANT AMOUNT.—The Administrator may make an additional grant to an eligible entity described in clause (i) for any year after the year for which the initial grant is made, taking into consideration—

“(I) the number of sites and number of communities that are addressed by the revolving loan fund;

“(II) the demand for funding by eligible entities that have not previously received a grant under this section;

“(III) the demonstrated ability of the eligible entity to use the revolving loan fund to enhance remediation and provide funds on a continuing basis; and

“(IV) such other similar factors as the Administrator considers appropriate to carry out this section.

“(2) PROHIBITION.—

“(A) IN GENERAL.—No part of a grant or loan under this section may be used for the payment of—

“(i) a penalty or fine;

“(ii) a Federal cost-share requirement;

“(iii) an administrative cost;

“(iv) a response cost at a brownfield site for which the recipient of the grant or loan is potentially liable under section 107; or

“(v) a cost of compliance with any Federal law (including a Federal law specified in section 101(39)(B)), excluding the cost of compliance with laws applicable to the cleanup.

“(B) EXCLUSIONS.—For the purposes of subparagraph (A)(iii), the term ‘administrative cost’ does not include the cost of—

“(i) investigation and identification of the extent of contamination;

“(ii) design and performance of a response action; or

“(iii) monitoring of a natural resource.

“(3) ASSISTANCE FOR DEVELOPMENT OF LOCAL GOVERNMENT SITE REMEDIATION PROGRAMS.—A local government that receives a



grant under this section may use not to exceed 10 percent of the grant funds to develop and implement a brownfields program that may include—

“(A) monitoring the health of populations exposed to 1 or more hazardous substances from a brownfield site; and

“(B) monitoring and enforcement of any institutional control used to prevent human exposure to any hazardous substance from a brownfield site.

“(4) INSURANCE.—A recipient of a grant or loan awarded under subsection (b) or (c) that performs a characterization, assessment, or remediation of a brownfield site may use a portion of the grant or loan to purchase insurance for the characterization, assessment, or remediation of that site.

“(e) GRANT APPLICATIONS.—

“(1) SUBMISSION.—

“(A) IN GENERAL.—

“(i) APPLICATION.—An eligible entity may submit to the Administrator, through a regional office of the Environmental Protection Agency and in such form as the Administrator may require, an application for a grant under this section for 1 or more brownfield sites (including information on the criteria used by the Administrator to rank applications under paragraph (3), to the extent that the information is available).

“(ii) NCP REQUIREMENTS.—The Administrator may include in any requirement for submission of an application under clause (i) a requirement of the National Contingency Plan only to the extent that the requirement is relevant and appropriate to the program under this section.

“(B) COORDINATION.—The Administrator shall coordinate with other Federal agencies to assist in making eligible entities aware of other available Federal resources.

“(C) GUIDANCE.—The Administrator shall publish guidance to assist eligible entities in applying for grants under this section.

“(2) APPROVAL.—The Administrator shall—

“(A) at least annually, complete a review of applications for grants that are received from eligible entities under this section; and

“(B) award grants under this section to eligible entities that the Administrator determines have the highest rankings under the ranking criteria established under paragraph (3).

“(3) RANKING CRITERIA.—The Administrator shall establish a system for ranking grant applications received under this subsection that includes the following criteria:

“(A) The extent to which a grant will stimulate the availability of other funds for environmental assessment or remediation, and subsequent reuse, of an area in which 1 or more brownfield sites are located.

“(B) The potential of the proposed project or the development plan for an area in which 1 or more brownfield sites are located to stimulate economic development of the area on completion of the cleanup.

“(C) The extent to which a grant would address or facilitate the identification and reduction of threats to human health and the environment, including threats in areas in which there is a greater-than-normal incidence of diseases or conditions (including cancer, asthma, or birth defects) that may be associated with exposure to hazardous substances, pollutants, or contaminants.

“(D) The extent to which a grant would facilitate the use or reuse of existing infrastructure.

“(E) The extent to which a grant would facilitate the creation of, preservation of, or addition to a park, a greenway, undeveloped property, recreational property, or other property used for nonprofit purposes.

“(F) The extent to which a grant would meet the needs of a community that has an inability to draw on other sources of funding

for environmental remediation and subsequent redevelopment of the area in which a brownfield site is located because of the small population or low income of the community.

“(G) The extent to which the applicant is eligible for funding from other sources.

“(H) The extent to which a grant will further the fair distribution of funding between urban and nonurban areas.

“(I) The extent to which the grant provides for involvement of the local community in the process of making decisions relating to cleanup and future use of a brownfield site.

“(J) The extent to which a grant would address or facilitate the identification and reduction of threats to the health or welfare of children, pregnant women, minority or low-income communities, or other sensitive populations.

“(f) IMPLEMENTATION OF BROWNFIELDS PROGRAMS.—

“(1) ESTABLISHMENT OF PROGRAM.—The Administrator may provide, or fund eligible entities or nonprofit organizations to provide, training, research, and technical assistance to individuals and organizations, as appropriate, to facilitate the inventory of brownfield sites, site assessments, remediation of brownfield sites, community involvement, or site preparation.

“(2) FUNDING RESTRICTIONS.—The total Federal funds to be expended by the Administrator under this subsection shall not exceed 15 percent of the total amount appropriated to carry out this section in any fiscal year.

“(g) AUDITS.—

“(1) IN GENERAL.—The Inspector General of the Environmental Protection Agency shall conduct such reviews or audits of grants and loans under this section as the Inspector General considers necessary to carry out this section.

“(2) PROCEDURE.—An audit under this paragraph shall be conducted in accordance with the auditing procedures of the General Accounting Office, including chapter 75 of title 31, United States Code.

“(3) VIOLATIONS.—If the Administrator determines that a person that receives a grant or loan under this section has violated or is in violation of a condition of the grant, loan, or applicable Federal law, the Administrator may—

“(A) terminate the grant or loan;

“(B) require the person to repay any funds received; and

“(C) seek any other legal remedies available to the Administrator.

“(4) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this section, the Inspector General of the Environmental Protection Agency shall submit to Congress a report that provides a description of the management of the program (including a description of the allocation of funds under this section).

“(h) LEVERAGING.—An eligible entity that receives a grant under this section may use the grant funds for a portion of a project at a brownfield site for which funding is received from other sources if the grant funds are used only for the purposes described in subsection (b) or (c).

“(i) AGREEMENTS.—Each grant or loan made under this section shall—

“(1) include a requirement of the National Contingency Plan only to the extent that the requirement is relevant and appropriate to the program under this section, as determined by the Administrator; and

“(2) be subject to an agreement that—

“(A) requires the recipient to—

“(i) comply with all applicable Federal and State laws; and

“(ii) ensure that the cleanup protects human health and the environment;

“(B) requires that the recipient use the grant or loan exclusively for purposes specified in subsection (b) or (c), as applicable;

“(C) in the case of an application by an eligible entity under subsection (c)(1), requires the eligible entity to pay a matching share (which may be in the form of a contribution of labor, material, or services) of at least 20 percent, from non-Federal sources of funding, unless the Administrator determines that the matching share would place an undue hardship on the eligible entity; and

“(D) contains such other terms and conditions as the Administrator determines to be necessary to carry out this section.

“(j) FACILITY OTHER THAN BROWNFIELD SITE.—The fact that a facility may not be a brownfield site within the meaning of section 101(39)(A) has no effect on the eligibility of the facility for assistance under any other provision of Federal law.

“(k) EFFECT ON FEDERAL LAWS.—Nothing in this section affects any liability or response authority under any Federal law, including—

“(1) this Act (including the last sentence of section 101(14));

“(2) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

“(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

“(4) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and

“(5) the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

“(l) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$200,000,000 for each of fiscal years 2002 through 2006.

“(2) USE OF CERTAIN FUNDS.—Of the amount made available under paragraph (1), \$50,000,000, or, if the amount made available is less than \$200,000,000, 25 percent of the amount made available, shall be used for site characterization, assessment, and remediation of facilities described in section 101(39)(D)(ii)(II).”

## TITLE II—BROWNFIELDS LIABILITY CLARIFICATIONS

### SEC. 201. CONTIGUOUS PROPERTIES.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

“(o) CONTIGUOUS PROPERTIES.—

“(1) NOT CONSIDERED TO BE AN OWNER OR OPERATOR.—

“(A) IN GENERAL.—A person that owns real property that is contiguous to or otherwise similarly situated with respect to, and that is or may be contaminated by a release or threatened release of a hazardous substance from, real property that is not owned by that person shall not be considered to be an owner or operator of a vessel or facility under paragraph (1) or (2) of subsection (a) solely by reason of the contamination if—

“(i) the person did not cause, contribute, or consent to the release or threatened release;

“(ii) the person is not—

“(I) potentially liable, or affiliated with any other person that is potentially liable, for response costs at a facility through any direct or indirect familial relationship or any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship that is created by a contract for the sale of goods or services); or

“(II) the result of a reorganization of a business entity that was potentially liable;

“(iii) the person takes reasonable steps to—

“(I) stop any continuing release;

“(II) prevent any threatened future release; and

“(III) prevent or limit human, environmental, or natural resource exposure to any hazardous substance released on or from property owned by that person;

“(iv) the person provides full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural resource restoration at the vessel or facility from which there has been a release or threatened release (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action or natural resource restoration at the vessel or facility);

“(v) the person—

“(I) is in compliance with any land use restrictions established or relied on in connection with the response action at the facility; and

“(II) does not impede the effectiveness or integrity of any institutional control employed in connection with a response action;

“(vi) the person is in compliance with any request for information or administrative subpoena issued by the President under this Act;

“(vii) the person provides all legally required notices with respect to the discovery or release of any hazardous substances at the facility; and

“(viii) at the time at which the person acquired the property, the person—

“(I) conducted all appropriate inquiry within the meaning of section 101(35)(B) with respect to the property; and

“(II) did not know or have reason to know that the property was or could be contaminated by a release or threatened release of 1 or more hazardous substances from other real property not owned or operated by the person.

“(B) DEMONSTRATION.—To qualify as a person described in subparagraph (A), a person must establish by a preponderance of the evidence that the conditions in clauses (i) through (viii) of subparagraph (A) have been met.

“(C) BONA FIDE PROSPECTIVE PURCHASER.—Any person that does not qualify as a person described in this paragraph because the person had, or had reason to have, knowledge specified in subparagraph (A)(viii) at the time of acquisition of the real property may qualify as a bona fide prospective purchaser under section 101(40) if the person is otherwise described in that section.

“(D) GROUND WATER.—With respect to a hazardous substance from 1 or more sources that are not on the property of a person that is a contiguous property owner that enters ground water beneath the property of the person solely as a result of subsurface migration in an aquifer, subparagraph (A)(iii) shall not require the person to conduct ground water investigations or to install ground water remediation systems, except in accordance with the policy of the Environmental Protection Agency concerning owners of property containing contaminated aquifers, dated May 24, 1995.

“(2) EFFECT OF LAW.—With respect to a person described in this subsection, nothing in this subsection—

“(A) limits any defense to liability that may be available to the person under any other provision of law; or

“(B) imposes liability on the person that is not otherwise imposed by subsection (a).

“(3) ASSURANCES.—The Administrator may—

“(A) issue an assurance that no enforcement action under this Act will be initiated against a person described in paragraph (1); and

“(B) grant a person described in paragraph (1) protection against a cost recovery or contribution action under section 113(f).”.

## SEC. 202. PROSPECTIVE PURCHASERS AND WINDFALL LIENS.

(a) DEFINITION OF BONA FIDE PROSPECTIVE PURCHASER.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) (as amended by section 101(a)) is amended by adding at the end the following:

“(40) BONA FIDE PROSPECTIVE PURCHASER.—The term ‘bona fide prospective purchaser’ means a person (or a tenant of a person) that acquires ownership of a facility after the date of enactment of this paragraph and that establishes each of the following by a preponderance of the evidence:

“(A) DISPOSAL PRIOR TO ACQUISITION.—All disposal of hazardous substances at the facility occurred before the person acquired the facility.

“(B) INQUIRIES.—

“(i) IN GENERAL.—The person made all appropriate inquiries into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices in accordance with clauses (ii) and (iii).

“(ii) STANDARDS AND PRACTICES.—The standards and practices referred to in clauses (ii) and (iv) of paragraph (35)(B) shall be considered to satisfy the requirements of this subparagraph.

“(iii) RESIDENTIAL USE.—In the case of property in residential or other similar use at the time of purchase by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.

“(C) NOTICES.—The person provides all legally required notices with respect to the discovery or release of any hazardous substances at the facility.

“(D) CARE.—The person exercises appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to—

“(i) stop any continuing release;

“(ii) prevent any threatened future release; and

“(iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance.

“(E) COOPERATION, ASSISTANCE, AND ACCESS.—The person provides full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural resource restoration at a vessel or facility (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response actions or natural resource restoration at the vessel or facility).

“(F) INSTITUTIONAL CONTROL.—The person—

“(i) is in compliance with any land use restrictions established or relied on in connection with the response action at a vessel or facility; and

“(ii) does not impede the effectiveness or integrity of any institutional control employed at the vessel or facility in connection with a response action.

“(G) REQUESTS; SUBPOENAS.—The person complies with any request for information or administrative subpoena issued by the President under this Act.

“(H) NO AFFILIATION.—The person is not—

“(i) potentially liable, or affiliated with any other person that is potentially liable, for response costs at a facility through—

“(I) any direct or indirect familial relationship; or

“(II) any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship that is created by the instruments by which title to the facility is conveyed or financed or by a contract for the sale of goods or services); or

“(ii) the result of a reorganization of a business entity that was potentially liable.”.

(b) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 201) is amended by adding at the end the following:

“(p) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—

“(1) LIMITATION ON LIABILITY.—Notwithstanding subsection (a)(1), a bona fide prospective purchaser whose potential liability for a release or threatened release is based solely on the purchaser’s being considered to be an owner or operator of a facility shall not be liable as long as the bona fide prospective purchaser does not impede the performance of a response action or natural resource restoration.

“(2) LIEN.—If there are unrecovered response costs incurred by the United States at a facility for which an owner of the facility is not liable by reason of paragraph (1), and if each of the conditions described in paragraph (3) is met, the United States shall have a lien on the facility, or may by agreement with the owner, obtain from the owner a lien on any other property or other assurance of payment satisfactory to the Administrator, for the unrecovered response costs.

“(3) CONDITIONS.—The conditions referred to in paragraph (2) are the following:

“(A) RESPONSE ACTION.—A response action for which there are unrecovered costs of the United States is carried out at the facility.

“(B) FAIR MARKET VALUE.—The response action increases the fair market value of the facility above the fair market value of the facility that existed before the response action was initiated.

“(4) AMOUNT; DURATION.—A lien under paragraph (2)—

“(A) shall be in an amount not to exceed the increase in fair market value of the property attributable to the response action at the time of a sale or other disposition of the property;

“(B) shall arise at the time at which costs are first incurred by the United States with respect to a response action at the facility;

“(C) shall be subject to the requirements of subsection (1)(3); and

“(D) shall continue until the earlier of—

“(i) satisfaction of the lien by sale or other means; or

“(ii) notwithstanding any statute of limitations under section 113, recovery of all response costs incurred at the facility.”.

## SEC. 203. INNOCENT LANDOWNERS.

Section 101(35) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(35)) is amended—

(1) in subparagraph (A)—

(A) in the first sentence, in the matter preceding clause (i), by striking “deeds or” and inserting “deeds, easements, leases, or”; and

(B) in the second sentence—

(i) by striking “he” and inserting “the defendant”; and

(ii) by striking the period at the end and inserting “, provides full cooperation, assistance, and facility access to the persons that are authorized to conduct response actions at the facility (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility), is in compliance with any land use restrictions established or relied on in connection with the response action at a facility, and does not impede the effectiveness or integrity of any institutional control employed at the facility in connection with a response action.”; and

(2) by striking subparagraph (B) and inserting the following:

“(B) REASON TO KNOW.—

“(i) ALL APPROPRIATE INQUIRIES.—To establish that the defendant had no reason to know of the matter described in subparagraph (A)(i), the defendant must demonstrate to a court that—

“(I) on or before the date on which the defendant acquired the facility, the defendant carried out all appropriate inquiries, as provided in clauses (ii) and (iv), into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices; and

“(II) the defendant took reasonable steps to—

“(aa) stop any continuing release;

“(bb) prevent any threatened future release; and

“(cc) prevent or limit any human, environmental, or natural resource exposure to any previously released hazardous substance.

“(ii) STANDARDS AND PRACTICES.—Not later than 2 years after the date of enactment of the Brownfields Revitalization and Environmental Restoration Act of 2001, the Administrator shall by regulation establish standards and practices for the purpose of satisfying the requirement to carry out all appropriate inquiries under clause (i).

“(iii) CRITERIA.—In promulgating regulations that establish the standards and practices referred to in clause (ii), the Administrator shall include each of the following:

“(I) The results of an inquiry by an environmental professional.

“(II) Interviews with past and present owners, operators, and occupants of the facility for the purpose of gathering information regarding the potential for contamination at the facility.

“(III) Reviews of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records, to determine previous uses and occupancies of the real property since the property was first developed.

“(IV) Searches for recorded environmental cleanup liens against the facility that are filed under Federal, State, or local law.

“(V) Reviews of Federal, State, and local government records, waste disposal records, underground storage tank records, and hazardous waste handling, generation, treatment, disposal, and spill records, concerning contamination at or near the facility.

“(VI) Visual inspections of the facility and of adjoining properties.

“(VII) Specialized knowledge or experience on the part of the defendant.

“(VIII) The relationship of the purchase price to the value of the property, if the property was not contaminated.

“(IX) Commonly known or reasonably ascertainable information about the property.

“(X) The degree of obviousness of the presence or likely presence of contamination at the property, and the ability to detect the contamination by appropriate investigation.

“(iv) INTERIM STANDARDS AND PRACTICES.—

“(I) PROPERTY PURCHASED BEFORE MAY 31, 1997.—With respect to property purchased before May 31, 1997, in making a determination with respect to a defendant described of clause (i), a court shall take into account—

“(aa) any specialized knowledge or experience on the part of the defendant;

“(bb) the relationship of the purchase price to the value of the property, if the property was not contaminated;

“(cc) commonly known or reasonably ascertainable information about the property;

“(dd) the obviousness of the presence or likely presence of contamination at the property; and

“(ee) the ability of the defendant to detect the contamination by appropriate inspection.

“(II) PROPERTY PURCHASED ON OR AFTER MAY 31, 1997.—With respect to property purchased on or after May 31, 1997, and until the Administrator promulgates the regulations described in clause (ii), the procedures of the American Society for Testing and Materials, including the document known as ‘Standard E1527-97’, entitled ‘Standard Practice for Environmental Site Assessment: Phase 1 Environmental Site Assessment Process’, shall satisfy the requirements in clause (i).

“(v) SITE INSPECTION AND TITLE SEARCH.—In the case of property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.”.

### TITLE III—STATE RESPONSE PROGRAMS

#### SEC. 301. STATE RESPONSE PROGRAMS.

(a) DEFINITIONS.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) (as amended by section 202) is amended by adding at the end the following:

“(41) ELIGIBLE RESPONSE SITE.—

“(A) IN GENERAL.—The term ‘eligible response site’ means a site that meets the definition of a brownfield site in subparagraphs (A) and (B) of paragraph (39), as modified by subparagraphs (B) and (C) of this paragraph.

“(B) INCLUSIONS.—The term ‘eligible response site’ includes—

“(i) notwithstanding paragraph (39)(B)(ix), a portion of a facility, for which portion assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986; or

“(ii) a site for which, notwithstanding the exclusions provided in subparagraph (C) or paragraph (39)(B), the President determines, on a site-by-site basis and after consultation with the State, that limitations on enforcement under section 129 at sites specified in clause (iv), (v), (vi) or (viii) of paragraph (39)(B) would be appropriate and will—

“(I) protect human health and the environment; and

“(II) promote economic development or facilitate the creation of, preservation of, or addition to a park, a greenway, undeveloped property, recreational property, or other property used for nonprofit purposes.

“(C) EXCLUSIONS.—The term ‘eligible response site’ does not include—

“(i) a facility for which the President—

“(I) conducts or has conducted a preliminary assessment or site inspection; and

“(II) after consultation with the State, determines or has determined that the site obtains a preliminary score sufficient for possible listing on the National Priorities List, or that the site otherwise qualifies for listing on the National Priorities List;

unless the President has made a determination that no further Federal action will be taken; or

“(ii) facilities that the President determines warrant particular consideration as identified by regulation, such as sites posing a threat to a sole-source drinking water aquifer or a sensitive ecosystem.”.

(b) STATE RESPONSE PROGRAMS.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 101(b)) is amended by adding at the end the following:

#### “SEC. 129. STATE RESPONSE PROGRAMS.

“(a) ASSISTANCE TO STATES.—

“(1) IN GENERAL.—

“(A) STATES.—The Administrator may award a grant to a State or Indian tribe that—

“(i) has a response program that includes each of the elements, or is taking reasonable steps to include each of the elements, listed in paragraph (2); or

“(ii) is a party to a memorandum of agreement with the Administrator for voluntary response programs.

“(B) USE OF GRANTS BY STATES.—

“(i) IN GENERAL.—A State or Indian tribe may use a grant under this subsection to establish or enhance the response program of the State or Indian tribe.

“(ii) ADDITIONAL USES.—In addition to the uses under clause (i), a State or Indian tribe may use a grant under this subsection to—

“(I) capitalize a revolving loan fund for brownfield remediation under section 128(c); or

“(II) purchase insurance or develop a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions under a State response program.

“(2) ELEMENTS.—The elements of a State or Indian tribe response program referred to in paragraph (1)(A)(i) are the following:

“(A) Timely survey and inventory of brownfield sites in the State.

“(B) Oversight and enforcement authorities or other mechanisms, and resources, that are adequate to ensure that—

“(i) a response action will—

“(I) protect human health and the environment; and

“(II) be conducted in accordance with applicable Federal and State law; and

“(ii) if the person conducting the response action fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities, the necessary response activities are completed.

“(C) Mechanisms and resources to provide meaningful opportunities for public participation, including—

“(i) public access to documents that the State, Indian tribe, or party conducting the cleanup is relying on or developing in making cleanup decisions or conducting site activities;

“(ii) prior notice and opportunity for comment on proposed cleanup plans and site activities; and

“(iii) a mechanism by which—

“(I) a person that is or may be affected by a release or threatened release of a hazardous substance, pollutant, or contaminant at a brownfield site located in the community in which the person works or resides may request the conduct of a site assessment; and

“(II) an appropriate State official shall consider and appropriately respond to a request under subclause (I).

“(D) Mechanisms for approval of a cleanup plan, and a requirement for verification by and certification or similar documentation from the State, an Indian tribe, or a licensed site professional to the person conducting a response action indicating that the response is complete.

“(3) FUNDING.—There is authorized to be appropriated to carry out this subsection \$50,000,000 for each of fiscal years 2002 through 2006.

“(b) ENFORCEMENT IN CASES OF A RELEASE SUBJECT TO STATE PROGRAM.—

“(1) ENFORCEMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B) and subject to subparagraph (C), in the case of an eligible response site at which—

“(i) there is a release or threatened release of a hazardous substance, pollutant, or contaminant; and

“(ii) a person is conducting or has completed a response action regarding the specific release that is addressed by the response action that is in compliance with the State program that specifically governs response actions for the protection of public health and the environment;

the President may not use authority under this Act to take an administrative or judicial enforcement action under section 106(a) or to take a judicial enforcement action to recover response costs under section 107(a) against the person regarding the specific release that is addressed by the response action.

“(B) EXCEPTIONS.—The President may bring an administrative or judicial enforcement action under this Act during or after completion of a response action described in subparagraph (A) with respect to a release or threatened release at an eligible response site described in that subparagraph if—

“(i) the State requests that the President provide assistance in the performance of a response action;

“(ii) the Administrator determines that contamination has migrated or will migrate across a State line, resulting in the need for further response action to protect human health or the environment, or the President determines that contamination has migrated or is likely to migrate onto property subject to the jurisdiction, custody, or control of a department, agency, or instrumentality of the United States and may impact the authorized purposes of the Federal property;

“(iii) after taking into consideration the response activities already taken, the Administrator determines that—

“(I) a release or threatened release may present an imminent and substantial endangerment to public health or welfare or the environment; and

“(II) additional response actions are likely to be necessary to address, prevent, limit, or mitigate the release or threatened release; or

“(iv) the Administrator, after consultation with the State, determines that information, that on the earlier of the date on which cleanup was approved or completed, was not known by the State, as recorded in documents prepared or relied on in selecting or conducting the cleanup, has been discovered regarding the contamination or conditions at a facility such that the contamination or conditions at the facility present a threat requiring further remediation to protect public health or welfare or the environment. Consultation with the State shall not limit the ability of the Administrator to make this determination.

“(C) PUBLIC RECORD.—The limitations on the authority of the President under subparagraph (A) apply only at sites in States that maintain, update not less than annually, and make available to the public a record of sites, by name and location, at which response actions have been completed in the previous year and are planned to be addressed under the State program that specifically governs response actions for the protection of public health and the environment in the upcoming year. The public record shall identify whether or not the site, on completion of the response action, will be suitable for unrestricted use and, if not, shall identify the institutional controls relied on in the remedy. Each State and tribe receiving financial assistance under subsection (a) shall maintain and make available to the public a record of sites as provided in this paragraph.

“(D) EPA NOTIFICATION.—

“(i) IN GENERAL.—In the case of an eligible response site at which there is a release or threatened release of a hazardous substance,

pollutant, or contaminant and for which the Administrator intends to carry out an action that may be barred under subparagraph (A), the Administrator shall—

“(I) notify the State of the action the Administrator intends to take; and

“(II)(aa) wait 48 hours for a reply from the State under clause (ii); or

“(bb) if the State fails to reply to the notification or if the Administrator makes a determination under clause (iii), take immediate action under that clause.

“(ii) STATE REPLY.—Not later than 48 hours after a State receives notice from the Administrator under clause (i), the State shall notify the Administrator if—

“(I) the release at the eligible response site is or has been subject to a cleanup conducted under a State program; and

“(II) the State is planning to abate the release or threatened release, any actions that are planned.

“(iii) IMMEDIATE FEDERAL ACTION.—The Administrator may take action immediately after giving notification under clause (i) without waiting for a State reply under clause (ii) if the Administrator determines that 1 or more exceptions under subparagraph (B) are met.

“(E) REPORT TO CONGRESS.—Not later than 90 days after the date of initiation of any enforcement action by the President under clause (ii), (iii), or (iv) of subparagraph (B), the President shall submit to Congress a report describing the basis for the enforcement action, including specific references to the facts demonstrating that enforcement action is permitted under subparagraph (B).

“(2) SAVINGS PROVISION.—

“(A) COSTS INCURRED PRIOR TO LIMITATIONS.—Nothing in paragraph (1) precludes the President from seeking to recover costs incurred prior to the date of enactment of this section or during a period in which the limitations of paragraph (1)(A) were not applicable.

“(B) EFFECT ON AGREEMENTS BETWEEN STATES AND EPA.—Nothing in paragraph (1)—

“(i) modifies or otherwise affects a memorandum of agreement, memorandum of understanding, or any similar agreement relating to this Act between a State agency or an Indian tribe and the Administrator that is in effect on or before the date of enactment of this section (which agreement shall remain in effect, subject to the terms of the agreement); or

“(ii) limits the discretionary authority of the President to enter into or modify an agreement with a State, an Indian tribe, or any other person relating to the implementation by the President of statutory authorities.

“(3) EFFECTIVE DATE.—This subsection applies only to response actions conducted after February 15, 2001.

“(c) EFFECT ON FEDERAL LAWS.—Nothing in this section affects any liability or response authority under any Federal law, including—

“(1) this Act, except as provided in subsection (b);

“(2) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

“(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

“(4) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and

“(5) the Safe Drinking Water Act (42 U.S.C. 300f et seq.).”

#### SEC. 302. ADDITIONS TO NATIONAL PRIORITIES LIST.

Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) is amended by adding at the end the following:

“(h) NPL DEFERRAL.—

“(1) DEFERRAL TO STATE VOLUNTARY CLEANUPS.—At the request of a State and subject

to paragraphs (2) and (3), the President generally shall defer final listing of an eligible response site on the National Priorities List if the President determines that—

“(A) the State, or another party under an agreement with or order from the State, is conducting a response action at the eligible response site—

“(i) in compliance with a State program that specifically governs response actions for the protection of public health and the environment; and

“(ii) that will provide long-term protection of human health and the environment; or

“(B) the State is actively pursuing an agreement to perform a response action described in subparagraph (A) at the site with a person that the State has reason to believe is capable of conducting a response action that meets the requirements of subparagraph (A).

“(2) PROGRESS TOWARD CLEANUP.—If, after the last day of the 1-year period beginning on the date on which the President proposes to list an eligible response site on the National Priorities List, the President determines that the State or other party is not making reasonable progress toward completing a response action at the eligible response site, the President may list the eligible response site on the National Priorities List.

“(3) CLEANUP AGREEMENTS.—With respect to an eligible response site under paragraph (1)(B), if, after the last day of the 1-year period beginning on the date on which the President proposes to list the eligible response site on the National Priorities List, an agreement described in paragraph (1)(B) has not been reached, the President may defer the listing of the eligible response site on the National Priorities List for an additional period of not to exceed 180 days if the President determines deferring the listing would be appropriate based on—

“(A) the complexity of the site;

“(B) substantial progress made in negotiations; and

“(C) other appropriate factors, as determined by the President.

“(4) EXCEPTIONS.—The President may decline to defer, or elect to discontinue a deferral of, a listing of an eligible response site on the National Priorities List if the President determines that—

“(A) deferral would not be appropriate because the State, as an owner or operator or a significant contributor of hazardous substances to the facility, is a potentially responsible party;

“(B) the criteria under the National Contingency Plan for issuance of a health advisory have been met; or

“(C) the conditions in paragraphs (1) through (3), as applicable, are no longer being met.”

Mr. SMITH of New Hampshire. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### MORNING BUSINESS

Mr. SMITH of New Hampshire. Madam President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak for up to 10 minutes each.

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

The Senator from Utah is recognized.

# S. 1, BETTER EDUCATION FOR STUDENTS AND TEACHERS ACT

Mr. HATCH. Mr. President, I rise today to speak on the subject of education, a subject about which we have been hearing a good deal in the past several months.

I commend President Bush for putting forth a credible plan for education improvement. The Bush Administration has worked with colleagues on both sides of the aisle to craft a policy compromise which will go along way to securing that all children have access to quality education. I also commend the distinguished Chairman of the Health, Education, Labor and Pensions, HELP, Committee for his tireless work on this issue. As former chairman of the then Labor Committee, I know my friend from Vermont has a job roughly akin to herding cats.

I also appreciate the Majority Leader's diligence and persistence in continuing to bring this measure up for Senate consideration and his efforts at brokering a compromise.

President Bush has made it a priority to ensure that State and local education agencies have the discretion to make key decisions on how education dollars are spent. I support the President's approach. I have often said that we should not be second guessing on a federal level the ability of State and local school boards, educators and parents to direct the education of students.

President Bush has made it a priority to link a reduction in the ridiculous amount of red-tape that State and local education agencies face with real accountability measures.

Paperwork reduction is a decidedly pro-teacher priority, 80 percent of our nation's educators say that paperwork is their number one headache. Teachers just want to teach, not fill out forms or go to meetings required by federal regulations.

The President has made yearly testing a priority and I commend him for that. In my State of Utah, we have already begun implementing an annual test. The Utah Performance Assessment System for Students, U-PASS, requires a statewide criterion referenced test for all students, grades 1st through 12th in reading, language arts, and math. I am proud that, once again, Utah educators are ahead of the curve when it comes to education innovation and reform.

I sincerely hope that my colleagues on the other side of the aisle will not stall, delay or prevent the reauthorization of the Elementary and Secondary Education Act, or as it is now called, BEST, the Better Education for Students and Teachers Act. We really need to pass this bill and set the country on a path toward meaningful education progress.

The need for reform is great. A recent report from the National Center for Education Statistics, NAEP, concluded that reading scores for 4th and

12th graders failed to improve over their 1992 levels. This study also concluded that 58 percent of disadvantaged children in 4th grade scored at the "below basic" level.

There also is an alarming disparity in skills between white students and African American students. According to the National Center for Education Statistics, achievement gaps between white and African-American 9-year-old students have not narrowed since 1975. The score gap in reading narrowed to its lowest, 18 points in 1988, and has since widened to 29 points in 1999. For 17-year-old students, the gap in reading was also its lowest in 1988, 20 points and has since widened to 31 points in 1999.

Clearly, the challenge is before us. And yes, we can do better.

Many local school districts are struggling. They are struggling with class sizes that are too large and school buildings that are too small or dysfunctional. They are struggling to provide books, materials, and equipment that are appropriate for the 21st century.

They are struggling with resources, so they can pay their teachers better, increase professional development for educators, and provide essential music, art and sports opportunities for students as well. They are struggling with transportation needs, especially in many rural Utah communities where children can be bused as many as 100 miles round-trip a day.

There is not a Senator in this body who doesn't want to help solve these problems. Certainly, I have been a long-time advocate of federal support for education, and I will continue to make that a top priority.

I honestly believe that colleagues on both sides of the aisle sincerely and with good intentions want children to attend clean, safe schools with state of the art technology and teachers who are appreciated and well paid in reasonably sized classrooms and up-to-date textbooks.

Sometimes, when the rhetoric gets too hot around these deeply felt issues, I think it would behoove us all to remember that no one gets elected to serve as an anti-education Senator.

So, if we are all pro-education then why the debate? Because, of course, while we all agree on the merits of reform and we all want education progress, we disagree on the means to achieve this goal. We cannot afford to tie this bill up in partisan gridlock over a debate on how much funding to provide. Where there is a will, there is a way, and we simply have to find that way or we will be letting the American public down.

While there are good intentions on all sides, some of my colleagues honestly feel that education policy is best met at the federal level and that the answer to every education challenge is a new federal program. Others of us have markedly differing views.

I sincerely believe that State and local officials in Utah's 40 school dis-

tricts and 763 public schools are the best ones to decide whether or not to target federal money on school construction, technology improvements, hiring new teachers, or anything else.

I trust the people of Utah to make these decisions. And, I believe Utahns are perfectly capable of debating these issues locally and choosing a course.

I have repeatedly said that Utah does more with less than any State in the nation. Utah is a worst case scenario when it comes to school finance, yet we consistently rank highly on student performance measures. We must be doing something right!

Actually, I think we are doing a lot that is right, and one of the things that Utah parents do right is spend a lot of time with their children. An integral part of Utah's way of life involves family-centered activities. This clearly has spill-over benefits for schools.

Utah can claim some well-deserved bragging rights. For example:

Utah is first in the nation in both advanced placement participation and performance on a per capita basis.

Utah's dropout rates are substantially lower than the nation's as a whole.

In the Statewide Testing Program, the performance of Utah students on the Stanford Achievement Test exceeds national performance in mathematics, reading, science reasoning, and the composite score.

Since 1984, Utah high school graduates have taken increasingly more rigorous programs of study with substantial increases in such areas as mathematics and foreign language.

Utah is second in the nation in the percentage of its adult population holding a high school diploma.

Utah has made a number of important commitments to advancing technology in education.

Utah provides incentives for school districts to acquire technology infrastructure.

Utah installs Internet connections at every school and pays most of the line charges.

Utah has launched a number of professional development efforts.

Utah provides in-service training opportunities and requires pre-service teachers to complete a technology course as part of their preparation program.

Utah parents are educated and informed and take an active role in educating their children. I firmly believe that this is one of the reasons why Utah students perform so well.

But, what we need in my State is not a federal superintendent looking over the shoulder of our State-elected or locally elected school boards. We need additional resources, plain and simple. But, resources with so many strings attached bog us down. Give us the flexibility to manage these resources and apply them to the areas of greatest need in our State. Measure our children's educational progress. We will meet the challenge.

I look forward to a challenging and informative debate. It is my sincere hope that we will be successful in crafting legislation which will genuinely put children first. Children are America's greatest asset, and our future depends on their educational excellence. We must ensure that no child is left behind. We must ensure that the achievement gap is closed between disadvantaged children and their peers. We must ensure that every child in this country is prepared for the challenges and opportunities that await them in the years to come. For it we fail, we have failed not only ourselves, but future generations.

I am confident we are up to the task.

#### LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY last month. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

Today, I would like to detail a heinous crime that occurred on November 6, 1998 in Seattle, Washington. A gay man was severely beaten with rocks and broken bottles in his neighborhood by a gang of youths shouting "faggot." The victim sustained a broken nose and swollen jaw. When he reported the incident to police two days later, the officer refused to take the report.

I believe that 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 of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

#### VA CONTINUES TO LEAD THE NATION IN END-OF-LIFE CARE

Mr. ROCKEFELLER. Mr. President, I am committed to focusing a spotlight on the good work of the Department of Veterans Affairs, VA, in the area of long-term care. VA has hidden its light under a barrel for too long.

The federally funded VA health care system, out of necessity, has developed some of the most innovative ways to care for older people. The necessity arises because approximately 34 percent of the total veteran population is 65 years or older, compared with approximately 13 percent of the general population. And by the year 2010, 42 percent of the veteran population will be 65 years or older.

As a result of this demand, VA has led the nation in developing adult day health care programs, standardized clinical treatment protocols and specialized units for Alzheimer's patients, home-based services, and respite care. Our older veterans are leading richer lives because of these innovations.

Today, I wish to highlight the Alzheimer's unit at the Salem VA hospital, which has received extraordinary praise from the son of a veteran who was treated there for Alzheimer's.

I know firsthand how difficult it is to care for a loved one afflicted by Alzheimer's. The special needs of Alzheimer's patients are all too frequently misunderstood and therefore go unmet. It seems, however, that the VA is up to the challenge. The family members of this particular veteran found the care at the VA hospital to be first-rate, humane and loving. By all accounts, the veteran suffering from Alzheimer's was well cared for up until the very end.

To quote from the article, "His daily needs were met by the staff less from obligation or duty than from true, honest caring. His aimless wandering was confined behind secured doors, without restraints, thank goodness. Dad's sleepless nights and constant babbling were 'normal' there. The staff was unshaken by any of his peculiar behavior."

The Salem VA Alzheimer's unit is not one of a kind, thankfully. Approximately 56 VA hospitals have specialized programs for the care of veterans with dementia. These programs include inpatient and outpatient dementia diagnostic programs, behavior management programs, adapted work therapy programs for patients with early to mid-stage dementia, Alzheimer's special care units within VA nursing homes (like Salem's) and transitional care units, and model inpatient palliative care programs for patients with late stage dementia. There are also various programs for family caregivers.

While VA has developed significant expertise in long-term care over the past 20-plus years, it has not done so with any mandate to share its learning with others, nor has it pushed its program development beyond that which met the current needs at the time. For VA's expertise to be of greatest use to others, it needs both to better capture what it has done and to develop new learning that would be most applicable to other health care entities.

Those who would benefit by capitalizing on VA's long-term care expertise are the health organizations, including academic medicine and research entities, with which VA is now connected, and the rest of the U.S. health care system. Ultimately, this expertise can benefit all Americans who will need some form of long-term care services.

As Ranking Member of the Committee on Veterans' Affairs, I am enormously proud of VA's efforts in end-of-life care. However, I have always been dismayed that my colleagues here in the Senate remain for the most part unaware of VA's good work in this area. Those of us in the health policy arena should sit up and take notice. We simply must stay ahead of the curve and explore the various ways to provide such care, so all Americans will have the best choices available to them at the time they need them.

I ask consent that a Roanoke Times article on VA Alzheimer's care by Wayne Slusher, son of a veteran cared for at the Salem VA hospital, be printed in the RECORD along with a press release on VA's newest end-of-life care program, a fellowship in palliative care.

The material follows:

[From the Roanoke (VA) Times, Apr. 1, 2001]  
SUCUMBING TO ALZHEIMER'S—IN THE HANDS OF THE VA, A DECLINING FATHER GOT GENUINE CARE

(By Wayne Slusher)

It started out seemingly innocent enough. Wrong turns on familiar roads, daily tasks forgotten and numerous other little things not so significant as to send up red flags, but still enough that it registered in the back of the mind that something was not quite right.

In the years following, it got worse. Faucets left on, asking for dinner an hour after leaving the table, inability to use the phone, failing to recognize home, and on and on. It had happened.

"If anything ever happens to me," my father would say time and time again, "you take me to the VA." It was a frequent topic, since Dad was a deacon in his church and spent a great deal of time visiting with the sick and the elderly members in the community.

You spend your whole life hearing it, but reject the idea that you'll actually have to act on it, much less take him to the Veterans Affairs Medical Center so far from his home. Even well-intentioned friends asked, "Why the VA?"

But then, it had happened, and we decided that going to the VA for help was what he had always wanted. There was something so intrinsically important about honoring his wish, especially when he was at a point of mental incapacity such that he could no longer contribute to decision-making even about himself.

So, in the middle of the night, we took him to the emergency room. As we sat in the waiting room, Dad thought he was in a train station on his way to visit old Army buddies, and he was deliriously happy. Instead, the visit was with a doctor who quickly determined that admission to the hospital was warranted.

We doubt Dad ever fully understood what transpired that evening. Leaving him there was one of the most difficult tasks any of us had ever had to do.

That would be the beginning of our relationship with the VA and, in particular, the staff providing services for those with various levels of dementia.

Right away, we learned that the building to which he was assigned was filled not only with people just like himself, but also employed a staff of extremely skilled health-care professionals who began the difficult job of taking care of my father.

His daily needs were not met by the staff less from obligation or duty than from true, honest caring. His aimless wandering was confined behind secured doors—without restraints, thank goodness. Dad's sleepless nights and constant babbling were "normal" there. The staff was unshaken by any of his peculiar behaviors. The specially designed area provided as much of a homelike atmosphere as possible, with bright colors, hanging plants and murals on walls. The unit was always clean, always tidy.

The initial few weeks were full of all sorts of cognitive tests, blood tests and scans. As the results of each test came in, they ruled out, one by one, any chemical imbalances or other underlying culprit that might bring on his state of confusion. If there was a remote



possibility, it was tested for. Indeed, the unthinkable had happened. Only now it had an official name: Alzheimer's.

In the months that followed, we watched the VA staff do everything it could for Dad: bathing, dressing, feeding, changing and hundreds of other daily tasks. Different medications were tried, and in different combinations and at different dosages, but his dementia had a mind of its own, for lack of a better term. What had worked yesterday didn't work today.

Each visit, Dad would be brought out to the visitation area—a bright, sunny room with lots of plants, park benches and a garden scene painted on the walls by the gifted wife of another patient. The staff was always as glad to see us as we were to see them, and it was during those months that we began to realize that Dad, for all those years, had been absolutely right about where he needed to be if it ever happened.

The doctors, physician assistants, nurses, social workers, occupational therapists, dietitians and others associated with dementia services became more like family. It was medicine administered in equal portions from the head and from the heart. As Dad's mental state skidded deeper into a quagmire, not one member of the staff ever complained. They looked out for us just as much as they looked after my father. When it appeared at one point that he might be stable enough to consider releasing him to a long-term-care facility, we were dismayed to think he might not receive the same level of care he'd been getting at the VA. These folks had come to know my father's needs, and we trusted them fully with his care.

But the stability was short-lived and all too soon interrupted by more difficulties. In particular, he's lost his ability to swallow. In those last days and hours, he was made as comfortable as possible. Even into the wee hours of that final morning, the staff kept almost as constant a vigil by his side as did the family.

The VA, we found, is full of immensely compassionate, caring professionals who could not have done more for my father. We think, too, perhaps they do not get recognition and praise from the community as often as they should.

With my father's personal nightmare over, the staff at the VA continues to care for others just as they cared for him. They deal daily with patients who have long forgotten how to say thank you. The staff never really knew my "real" father, a man who would have been so humbled and grateful for their help. We hope we said thank you enough on his behalf. We will never forget their kindness.

Department of Veterans Affairs,  
Office of Public Affairs Media Relations,  
News Release, April 20, 2001.

#### VA SPONSORS NEW PROGRAM FOR END-OF-LIFE CARE

WASHINGTON.—Dying is never easy—not for an individual, not for a family, not for the medical staff who administer the care. But the Department of Veterans Affairs (VA) is taking new steps to ease the process for everyone.

An initiative, called "VA Interprofessional Fellowship Program in Palliative Care," will develop health-care professionals with vision, knowledge and compassion to lead end-of-life care into the 21st century. Although aimed at improving care for veterans, the program will affect how this care—known as "palliative care" in medical circles—is provided throughout the country.

"As VA serves an increasingly higher percentage of older and chronically ill veterans, the need for end-of-life care similarly in-

creases," said Dr. Stephanie H. Pincus, VA chief officer for Academic Affiliations, a program that educates more than 90,000 physicians, medical students, and associated health professionals each year. "This interdisciplinary fellowship will jump-start palliative care as an important field in health care. It will change the way physicians, social workers, nurses and other caregivers approach patients at an extremely difficult time in their lives."

Historically, VA has taken a leadership role in the promotion and development of hospice care and, more recently, in a national pain management initiative. In 1998, VA's Office of Academic Affiliations addressed the need for clinicians trained in end-of-life care and was awarded a \$985,000 grant by the Robert Wood Johnson Foundation to support further education. On March 1, 2001, the palliative care fellowship program was announced and will involve up to six sites, with four one-year fellowships provided at each site.

"The training changes the focus of health-care providers who are treating the terminally ill," said Pincus. "In the past, doctors saw death as a failure, so they consequently focused on medical cures and preventing death at any cost. We are training medical care staff now to concentrate on symptom management rather than disease management."

Pincus further explained that the new fellowship program has a large educational component. Trained clinicians are expected to serve as leaders promoting development and research. Selected training sites will be required to develop and implement an "Education Dissemination Project" to spread information beyond the training site through conferences, curricula for training programs, patient education materials and clinical demonstration projects.

And, of course, as resident doctors go out into the community, they take their training with them. More than 130 VA facilities have affiliations with 107 medical schools and 1,200 other schools across the country. More than half the physicians practicing in the United States have received part of their professional education in the VA health care system.

"This is an important step for health-care providers. But what does this mean to the chronically ill veteran?" said Pincus. "It means that he will be more comfortable. It means he might not have to die in ICU but instead be able to remain in the secure surroundings of his home. It means he will be treated by a caring, trained partnership of doctors, nurses, chaplains and social workers. It means his family will be included in decision-making and care giving."

"There comes a time when all the modern medicine in the world can't cure the illness. That's when treating the pain, communicating with compassion and providing support and counseling become paramount. And that's what these fellowships are all about," said Pincus.

#### 50TH ANNIVERSARY MEMORIAL SERVICE OF THE 442ND REGIMENTAL COMBAT TEAM

Mr. INOUE. Mr. President, on March 25, 2001, I returned to my home State of Hawaii to attend the 50th Anniversary Memorial Service of the 442nd Regimental Combat Team at the National Memorial Cemetery of the Pacific. The memorial address was presented by Mr. H. David Burge, Director of the Spark M. Matsunaga Veterans Affairs Medical & Regional Office Center in Honolulu.

I was moved and impressed by his remarks, and I wish to share them with the American people. I ask that Mr. Burge's address be part of the RECORD. The remarks follow:

I am very honored to be the first speaker in the 21st century at the 442nd Veterans Club's 58th Anniversary Memorial Service here at the National Memorial Cemetery of the Pacific.

This morning is time to remember and pay special tribute to boyhood friends and classmates lost in battle, dear friends and loved ones no longer with us, and cherished members of the 442nd who continue to serve as good family and community elders and leaders. As we enter the new millennium, this is a time for members, families, and friends of the 442nd to reflect on the past, to celebrate the present, and to contemplate the future.

Our men of the 442nd are testament to the joys, heartache, and major accomplishments of the 20th century both here in Hawaii and the Nation. To reflect on the past, let's roll the clock back to the 1940s and see that period through snapshots familiar to many of you.

In 1940, the U.S. Government felt that war with Japan was imminent. As such, Japanese Americans were released and banned from employment at Pearl Harbor and other military bases in Hawaii without explanation or justification. Despite these early warning signs, Japanese Americans in Hawaii did not feel an acute sense of crisis. While Japanese American bashing was increasing on the mainland, most people in Hawaii where all groups were minorities had no animosity towards their Japanese neighbors.

My mother's 1941 McKinley High School Black and Gold Yearbook, published six months before the attack on Pearl Harbor, provides a glimpse into the daily activities, beliefs, and values of young Nisei in Hawaii prior to the outbreak of World War II. In this regard, let me share with you the introduction section of the yearbook:

In 1941, we find our sports-minded typical McKinley boy standing five feet, six inches in height weighing 124 pounds with naturally straight hair and brown eyes. The typical McKinley girl is a petite lassie, five ft., one inch in height, weighing a dainty 97 pounds, has black hair and is brown-eyed. Both are Americans of Japanese ancestry.

Their trim figures and fresh complexions are accounted for by their nine hours of sleep each night and their daily glass of milk. Typical boy usually buys his lunch outside the school. Not so typical girl. She knows the importance of a healthy meal and depends on the school cafeteria for it.

The typical boy looks forward to weekend social activities. He considers school dances tops and goes to as many of the class, student body, and club dances as he possibly can, but give jitter-bugging and waltzing only slight nod. He usually goes stag to dances because of the small size of his pocketbook. His favorite recreations are football, listening to the radio, and going to movies with his friends.'

In general, the description of the typical Nisei student at McKinley could have been a description of a typical student at any American high school at that time. This is not surprising since these high school students truly believed that they were Americans and acted accordingly.

The Nisei students were heavily influenced by the McKinley faculty almost entirely from the mainland with a heavy concentration from the midwest. Their principal, Dr. Miles Carey, indicated that his primary objective was in his words, "helping our young people to develop those attitudes, dispositions, and abilities which we call the democratic way of living together."

The results of a student survey included in the yearbook reflected how strongly these young students embraced these democratic beliefs. Moved by the growing crisis in Europe, the Nisei students believed that the honor of the United States should always be defended, even if it meant going to war. They believed that common people should have more say in the government. They also believed that all races were mentally equal. It was also noteworthy that the Nisei students firmly believed that the Hawaiian Islands would be more efficiently run when they attained voting age.

My final observation in reviewing the yearbook was the dedication page. It underscored the foundation for the Nisei student's core values. It read, "Respectfully dedicated to our parents and the excellent home influence given us."

Six months after publication of that yearbook, on the morning of December 7, 1941, the lives of these young Nisei were forever changed as they became part of one of America's most dramatic stories—a story of shameful treatment by our government, a story of heroic feats on the battlefield, a story of major accomplishments in business and government after the war, and finally a story of full vindication and pride for all Americans of Japanese ancestry.

Just prior to the enemy attack on Hawaii, Washington emphasized the danger of sabotage by the local Japanese population to local military commanders. Follow on actions to cluster aircraft in the middle of airfield to guard against such local sabotage resulted in easy targets for attacking enemy aircraft and needless destruction of most American aircraft on the ground at Hickam, Wheeler, Bellows and Ford Island.

After the attack, Hawaii Territorial Governor Poindexter told President Roosevelt that what he feared most was sabotage by the large Japanese community. Subsequently, 1,000 innocent Japanese Americans—Buddhist priests, language school teachers, civic and business leaders, fishermen, and judo instructors—were arrested and detained in tents on Sand Island. A number of these individuals and their families, without any proof and without any due process, were subsequently transported to prisoner of war camps on the mainland.

Secretary of Navy Frank Knox who visited Hawaii the week following the attack reported to the President and Congress that the devastation at Pearl Harbor was the most effective fifth column work that had come out of any war in history. His sensational and totally unfounded assessment that Japanese Americans in Hawaii had aided the enemy attack hit the headlines in newspapers across America, and significantly fueled anti-Japanese American sentiment. The follow on rumors of sabotage and espionage emanating from Hawaii, although untrue, were used by West Coast groups to demand and justify the wholesale internment of Japanese American families living in California, Oregon, and Washington into concentration camps in remote areas far from their homes.

Immediately after the attack, at a time that Hawaii was still very vulnerable to another raid and possible occupation by enemy forces, 317 Japanese American members of the Hawaii Territorial Guard were involuntarily discharged without any explanation. In addition, 2,000 Japanese American soldiers already on active duty were recalled to Schofield Army Barracks, stripped of their weapons, and separated from their non-Japanese buddies and under orders from Washington, they were shipped to the interior of the mainland for security reasons. Finally, Japanese Americans were declared ineligible for military service and classified as enemy

aliens. All of these unthinkable actions occurred at a time that every able-bodied man was needed to defend Hawaii.

The ultimate act of wartime hysteria in Hawaii occurred in February 1942 when President Roosevelt ordered the evacuation and internment of all Japanese Americans in Hawaii in concentration camps on the mainland. Fortunately, the military was unable to carry out the President's order since there were not enough ships to conduct such a massive evacuation and the evacuation of such a large number of workers would have crippled the islands. As such, the evacuation orders were delayed several times and finally abandoned in 1943.

Could any of us today who did not experience this war time hysteria truly understand and appreciate the impact of these outrageous actions on Japanese American families, especially young Nisei family members? Hawaii's Nisei truly believed they were Americans. They were equally offended by the vicious attack on their homeland and equally ready to serve their country. As just teenagers the rejection and hostility vented towards them and their families by their own government were beyond comprehension.

But perhaps unconsciously they responded in a very Japanese way by doing the only thing they could under such extreme circumstances that is stepping forward. Stepping forward with loyalty and courage in order to honor their families and to demonstrate to their fellow countrymen that they were worthy Americans. While there was more than sufficient justification for turning inward and refusing to support the government that had treated them so brutally and unfairly, Nisei young men demanded the right to fight.

As we know today, the Nisei achieved their objective but at a very high price. The 100th Infantry Battalion led the way and after nine long months of bitter fighting from Salerno to Anzio was joined in Rome by the 442nd Regimental Combat Team. Thereafter the two Japanese American units remained as one through the bloody fighting in northern Italy and France to the end of the war.

Bill Mauldin, the Stars and Stripes cartoonist who created the beloved infantry characters Willie and Joe, described the Nisei unit as follows:

"No combat unit in the army could exceed the Japanese Americans in loyalty, hard work, courage and sacrifice. Hardly a man of them hadn't been decorated at least twice, and their casualty lists were appalling. When they were in the line, they worked harder than anybody else. As far as the army was concerned, the Nisei could do no wrong. We were proud to be wearing the same uniform."

This morning we gather to remember and honor the typical McKinley boy and other young Nisei who fell on the battlefields in Europe. They were good and brave Americans. They brought honor to their families and great pride to all citizens of Hawaii. It is unfortunate that these young men did not live to see the full measure of their ultimate sacrifices.

The insignia of the 442nd is the Statue of Liberty hand holding the torch of freedom. This symbol is most appropriate because it exemplifies the unit's steadfast belief in not only freedom for all men but also through their actions and sacrifices on the battlefield final freedom for Japanese Americans in the form of real acceptance by their fellow countrymen.

When President Truman welcomed home the 100th and 442nd, he said to them, "You are on the way home. You fought not only the enemy, but you fought prejudice and you have won. Keep up that fight and we will continue to win, to make this great Republic

stand for just what the Constitution says it stands for: the welfare of all the people all the time."

Perhaps President Truman did not fully realize the extent to which the Nisei veterans would take to heart his challenge to keep up the fight to ensure the welfare of all the people all of the time. Although the war abroad was won, Nisei veterans continued to forge ahead on the home front after the war to ensure that their sacrifices in battle were not made in vain. As many can attest today much hard work was needed at the end of the war to accomplish President Truman's goal.

The enormity of the task at hand was reflected in comments made at that time by the U.S. Speaker of the House, Sam Rayburn. In voicing his opposition to statehood for Hawaii he said, "If we give them Statehood they'll send a delegation of Japs here."

This inflammatory statement was made by the powerful Speaker from Texas whose Texas Lost Battalion was rescued two years earlier in Europe by Nisei soldiers at a cost 800 Nisei casualties to rescue 200 Texans. Unfortunately, much work still remained to be accomplished at home, but the Nisei veterans, as previously demonstrated in battle, were undaunted in their quest and pressed on with unrelenting effort.

These veterans were firm in the conviction they expressed in that 1941 McKinley High School survey that the Nisei generation would, in fact, make positive improvements in Hawaii and our nation. More than a half-century later, we know that our Nisei veterans were more than up to the task and, as such, we have much to celebrate today.

Today a Sansei from Kauai, Eric Shinseki, serves as Chief of Staff of the United States Army. This general of all generals often relates stories of personal inspiration based on the experiences of his Nisei family members who served in World War II the same Nisei soldiers from Hawaii who were once designated enemy aliens and denied the opportunity to fight for their country.

Today 22 Nisei World War II veterans are Congressional Medal of Honor recipients. I was honored to attend the ceremonies last year in Washington and to witness the awards made by President Clinton. At the White House ceremony, the President attributed the lack of proper and timely recognition for these individuals to three factors: war-time hysteria, racial discrimination, and a complete breakdown in national leadership. The President went on the praise all Japanese Americans who served in World War II despite the error of our nation in questioning their loyalty and wrongfully interned their families.

Today we have the names of our new Nisei Medal of Honor recipients forever etched in stone in the Hall of Heroes at the Pentagon. In viewing the new inscriptions, I was moved to see these names added along side the names of other American heroes from every war in our nation's history. I was also proud to see great sounding American names on the wall—Hajiro, Hayashi, Inouye, Kuroda, Muranaga, Nakae, Nakamura, Nishimoto, Okubo, Okutsu, Ono, Otani, Sakato, and Tanouye.

Today, a Nisei is the first and only Asian American to serve as a Cabinet member. Norman Mineta, who served as Secretary of Commerce for President Clinton and continues to serve today as Secretary of Transportation for President Bush, was a youngster in California when his family was sent to an American concentration camp. He vividly recalls how the military police took away his favorite baseball bat because they viewed it as a weapon.

Today, a brand new National Japanese American Memorial proudly stands on Capitol Hill in Washington, DC. The Memorial,

the first and only memorial dedicated to any ethnic group in our Nation's capitol, is dedicated to Japanese American immigrants who valiantly fought for and attained their full rights as citizens.

When I attended the dedication ceremony for the new Memorial last fall, I was overwhelmed by the great honor finally bestowed upon Japanese Americans by our great nation. Think about it for a moment—America is a country of immigrants—many waves of immigrants. And today, there is only one memorial to honor any of these immigrants in the shadow of our nation's Capitol—that is the Japanese American Memorial.

And finally today, a brand new, state-of-art veteran's medical center, named after the late Senator Spark M. Matsunaga, now proudly serves all our veterans here in Hawaii.

So today, I say to our Nisei veterans you have brought great pride to your families as well as pride in their heritage for future generations of Japanese Americans. More importantly, you have ensured that your friends, who were lost in battle, did not die in vain.

So at this juncture, where are our Nisei veterans headed next? Are they declaring victory and passing the 442nd's Statue of Liberty torch on to others?

While such action would certainly be justified, it would not reflect the values ingrained into many Nisei by their progressive high school teachers who exposed them to the ideals of justice and equality and urged them to continually reach out to others.

It is said that McKinley Principal Miles Carey got people to do what he wanted because he treated them humanely and considerately. If there was any fault with Dr. Carey, and maybe it was not a fault, he was dreamer. But all of this was due to his efforts to treat people right. And in this regard, he did an outstanding job in getting his students to think like him. So it is not surprising that the final chapters of American's Nisei veterans are still being written.

Here in Hawaii, our Nisei veterans are currently developing and endowing at the University of Hawaii a Nisei Veterans Forum on Universal Values for a Democratic Society. The purpose of this effort is to show current and future generations of high school students the benefits of the values drawn from the various ethnic groups here in Hawaii—values similar to those of Nisei veterans that were used to help them persevere through challenging times during their lives. In this manner, Nisei veterans are passing on to future generations of students the same type of beliefs and values they were exposed to during their formative years.

On the national front, Nisei and Sansei from Hawaii and the mainland are actively engaged in the important work of the new Japanese American National Museum in Los Angeles. The Museum is the first and only national museum dedicated to an ethnic group in America. Through both fixed and traveling exhibits, the Museum shares the darkest and brightest moments for Japanese Americans with others both at home and abroad. It is noteworthy that the City of Los Angeles currently lists the Museum as one of seven must see attractions in its brochures provide to tourists.

The Museum has also received a large federal grant this year, through the sponsorship of Senator Inouye, that will use the experiences of Japanese American veterans from World War II, Korea, and Vietnam as the foundation for a new Center for the Preservation of Democracy. In this manner, the sacrifices of our Nisei veterans will be captured and used to construct a very real and moving American story. A story that needs to be told over and over again to current and

future generations of Americans so that no group of Americans is ever subjected to what Japanese Americans experienced.

Well, 60 years has now passed since that Black & Gold Yearbook of 1941. Today, the typical McKinley boy from that time is still five ft., six inches tall, but perhaps heavier than the then reported 124 pounds. By contrast, I know that the typical McKinley girl from that same period is still five ft., one inch tall, and still weighs 97 pounds.

Regarding the results of that 1941 high school survey, I say to our Nisei veterans you successfully carried through on your convictions. You stepped forward to defend your country and after the war worked hard to make Hawaii and our nation better places to live.

You are grayer and wiser than you were 60 years ago. You still believe in honor, duty, and country and have a proven record to show these are not just words. You are still humble and as such will not bathe yourselves in glory although most of us realize you deserve such honor. And perhaps more important, you truly care about your families and all families in America. For it is through your story that your children, grandchildren, and future generations will cherish and take great pride in their Japanese American heritage. And it is through this same story that other Americans will learn that the preservation of our democracy requires constant vigilance and courage to not allow hysteria of any kind to strip innocent Americans of their basic rights.

That 1941 yearbook states, "Respectfully dedicated to our parents and the excellent home influence given us." Today I say to our Nisei veterans who died in combat, to our Nisei veterans who returned home and are no longer with us, and to our Nisei veterans we are blessed to still have with us: We dedicated this service to you and the excellent influence you have had on us.

God bless our Nisei veterans and their families, God bless their beloved Hawaii, and God bless the great nation they served so well both in battle and in peace.

#### THE CLEAN EFFICIENT AUTOMOBILES RESULTING FROM ADVANCED CAR TECHNOLOGIES ACT OF 2001

Mr. HATCH. Mr. President, I rise today to address a bill I have just introduced, S. 760, the "CLEAR Act," which is short for the Clean Efficient Automobiles Resulting from Advanced Car Technologies Act.

Let me begin my remarks by thanking the original cosponsors of S. 760, Senators ROCKEFELLER, JEFFORDS, KERRY, CRAPO, LIEBERMAN, COLLINS, CHAFEE, and GORDON SMITH, all of whom have joined with me in drafting this legislation which will help our country achieve a greater reliance on alternative fuel technologies.

Our proposal relies on a system of tax-based incentives to encourage development of alternative fuel technologies and consumer acceptance of these products. Rather than rely on a system of federal mandates, we use tax credits to promote all of the advanced technologies being pursued by auto manufacturers in a dramatic effort to reduce emissions and improve efficiency. These technologies include: fuel cell; hybrid electric; alternative fuel; and battery electric vehicles.

It is significant that our bipartisan initiative is founded on a belief that government should not be in the business of picking winners and losers in the free market. Rather, the CLEAR Act leaves it up to the consumer to choose among the lowest emitting vehicles.

By promoting the technologies and fuels that improve air quality, S. 760 helps to solve two of our nation's most difficult and expensive problems, air pollution and energy dependence. These are issues of critical concern in my home state of Utah. According to a study by Utah's Division of Air Quality, on-road vehicles in Utah account for 22 percent of particulate matter. This particulate matter can be harmful to citizens who suffer from chronic respiratory or heart disease, influenza, or asthma.

Automobiles also contribute significantly to hydrocarbon and nitrogen oxide emissions in my state. These two pollutants react in sunlight to form ozone, which in turn reduces lung function in humans and hurts our resistance to colds and asthma. In addition, vehicles account for as much as 87 percent of carbon monoxide emissions. Carbon monoxide can be harmful to persons with heart, respiratory, or circulatory ailments.

While Utah has made important strides in improving air quality, it is a fact that each year more vehicular miles are driven in our State. It is clear that if we are to have cleaner air, we must encourage the use of alternative fuels and technologies to reduce vehicle emissions.

Let me paint the picture on the national scale. In 1998, a year for which we have complete data, our nation had 121 regions that failed to attain the Environmental Protection Agency's National Ambient Air Quality Standards, NAAQS. This status directly threatens the quality of life of more than 100 million, or about one-third, of our citizens who must bear the health and the economic burden associated with non-attainment. Non-attainment status can be costly, whether due to the loss of federal highway money, lost economic opportunities, or the expensive measures required to reach attainment.

EPA has set new standards for both ozone and particulate matter, PM 2.5. By the EPA's own estimates, the annual cost of achieving the new ozone standard in 2010 was set at \$9.6 billion. Additionally, the EPA put the annual cost of achieving the PM 2.5 standard at \$37 billion, for a combined cost of \$47 billion annually. These staggering figures paint a graphic picture of why we need to invest more effort toward the promotion of alternative fuels. Every new alternative fuel or advanced technology car, truck, or bus on the road will displace a conventional vehicle's lifetime of emissions and reliance on imported oil.

This brings me to another important benefit of the CLEAR Act, increased energy independence. Whether during

the energy crisis in the 1970s, during the Persian Gulf War, or during our current energy crisis, every American has felt the sting of our dependency on foreign oil. And I might add, Mr. President, that our dependency on foreign oil has steadily increased to the point where we now depend on foreign sources for more than 57 percent of our oil. Last month alone, it was over 60 percent. When enacted, the CLEAR Act will play a key role in helping our nation improve its energy security by increasing the diversity of our fuel options and decreasing our need for gasoline. Our nation's energy strategy will not be complete without an incentive to increase the use of alternative fuels and advanced car technologies.

Historically, consumers have faced three basic obstacles to accepting the use of alternative fuels and advanced technologies. These are the cost of the vehicles, the cost of alternative fuel, and the lack of an adequate infrastructure of alternative fueling stations. The CLEAR Act would lower all three of these barriers.

First, we provide a tax credit of 50 cents per gasoline-gallon equivalent for the purchase of alternative fuel at retail. To give customers better access to alternative fuel, we extend an existing deduction for the capital costs of installing alternative fueling stations. We also provide a 50 percent credit for the installation costs of retail and residential refueling stations.

Finally, we provide tax credits to consumers to purchase alternative fuel and advanced technology vehicles. To make certain that the tax benefit we provide translates into a corresponding benefit to the environment, we split the vehicle tax credit into two. One part provides a base tax credit for the purchase of vehicles dedicated to the use of alternative fuel or vehicles using advanced technologies. The other part offers a bonus credit based on the vehicle's efficiency and reduction in emissions. In this way, we are confident that the CLEAR Act will provide the biggest possible "bang for the buck" in terms of providing a social benefit to our citizens.

We all recognize that in the future we will not use gasoline fueled vehicles to the same extent we do today. Our legislation is an attempt to bring benefits of cleaner air to our citizens sooner, to free our cities from expensive EPA regulations, and to reduce our consumption of foreign oil. S. 760 enables us to tackle these problems with incentives, not mandates.

Our proposal is the most comprehensive legislation ever brought before Congress to promote the use of alternative fuel vehicles and advanced car technologies among consumers. We urge our colleagues to join with us in this forward-looking approach to cleaner air and increased energy independence.

#### THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, April 24, 2001, the Federal debt stood at \$5,681,673,830,247.36. Five trillion, six hundred eighty-one billion, six hundred seventy-three million, eight hundred thirty thousand, two hundred forty-seven dollars and thirty-six cents.

One year ago, April 24, 2000, the Federal debt stood at \$5,711,906,000,000. Five trillion, seven hundred eleven billion, nine hundred six million.

Five years ago, April 24, 1996, the Federal debt stood at \$5,110,704,000,000. Five trillion, one hundred ten billion, seven hundred four million.

Ten years ago, April 24, 1991, the Federal debt stood at \$3,438,135,000,000. Three trillion, four hundred thirty-eight billion, one hundred thirty-five million.

Fifteen years ago, April 24, 1986, the Federal debt stood at \$1,959,555,000,000. One trillion, nine hundred fifty-nine billion, five hundred fifty-five million, which reflects a debt increase of more than \$3 trillion, \$3,722,118,830,247.36. Three trillion, seven hundred twenty-two billion, one hundred eighteen million, eight hundred thirty thousand, two hundred forty-seven dollars and thirty-six cents during the past 15 years.

#### ADDITIONAL STATEMENTS

##### CONGRATULATING CENTRAL FALLS HIGH SCHOOL

• Mr. CHAFEE. Mr. President, this past weekend, twenty-two exceptional students from Central Falls High School in Rhode Island visited Washington to compete in the national finals of the "We The People . . . The Citizen And The Constitution" program, after finishing in first place in the Rhode Island competition. In fact, this is the fourth time that the Central Falls High School team has won the statewide competition!

For those of my colleagues who are not familiar with it, the "We The People . . . The Citizen And The Constitution" program is among the most extensive educational specifically to ensure that young people understand the history and philosophy of the Constitution and the Bill of rights. The three-day national competition simulates a congressional hearing in which students are given the opportunity to demonstrate their knowledge while they evaluate, take, and defend positions on historical and contemporary constitutional issues.

Administered by the Center for Civic Education, the "We The People . . . The Citizen And The Constitution" program provide an excellent opportunity for students to gain an informed perspective on the significance of the U.S. Constitution and its place in our history. It is heartwarming to see young Rhode Islanders taking such an active and participatory interest in public affairs.

I am very proud of Gabriel Arias, Jorge Bolivar, Andrew Castillo, Karen Corrales, Johnathan DePina, Kinga Dobrzycki, Kayla England, Renee Fisher, Christina Garcia, Roseangel Gavidia, Karen Hurtado, Deborah Navarro, Jessica Pareja, Denisse Reyes, Erik Rua, Shirley Rua, Jesse Salazar, Janet Sanchez, Corey Stad, Monica Torres, Vladimir Uran, Sirabel Uran, for making it to the national finals. I congratulate this outstanding group of young men and women for their hard work and perseverance. Also, I want to applaud Jeff Schanck, a fine teacher who deserves so much credit for guiding the Central Falls High School team to the national finals.

Yesterday, I was pleased to visit with the students from Central Falls to offer my congratulations for what they have achieved. These students, with the guidance of Mr. Schanck, have learned much about the meaning of our nation and what countless men and women have fought and died to protect. No matter what the outcome of the contest, they have each earned the greatest prize of all: Knowledge.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session the presiding officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

#### MESSAGE FROM THE HOUSE

At 11:14 a.m., a message from the House of Representatives delivered by Ms. Niland, one of its reading clerks, announced that pursuant to section 1238(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398) and the order of the House of Wednesday, April 4, 2001, the Speaker on Thursday, April 5, 2001, appointed the following members on the part of the House of Representatives to the United States-China Security Review Commission: Mr. Stephen D. Bryen of Maryland, Ms. June Teufel Dryer of Florida, and Mr. James R. Lilley of Maryland.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 428. An act concerning the participation of Taiwan in the World Health Organization.

The message further announced that the House disagrees to the amendment

of the Senate to the concurrent resolution (H. Con. Res. 83) establishing the congressional budget for the United States Government for fiscal year 2002, revising the congressional budget for the United States Government for fiscal year 2001, and setting forth appropriate budgetary levels for each of fiscal years 2003 through 2011, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. NUSSLE, Mr. SUNUNU, and Mr. SPRATT, as the managers of the conference on the part of the House.

### MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 428. An act concerning the participation of Taiwan in the World Health Organization; to the Committee on Foreign Relations.

### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1534. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report relative to Voluntary Stationary Source Emission Reduction Programs Into State Implementation Plans; to the Committee on Environment and Public Works.

EC-1535. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "1999/2000 PCB Questions and Answers Manual—Part 4"; to the Committee on Environment and Public Works.

EC-1536. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Improving Air Quality with Economic Incentive Programs"; to the Committee on Environment and Public Works.

EC-1537. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978; Standards of Performance for Industrial-Commercial-Industrial Steam Generating Units" (FRL6965-4) received on April 5, 2001; to the Committee on Environment and Public Works.

EC-1538. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production" (FRL6965-5) received on April 5, 2001; to the Committee on Environment and Public Works.

EC-1539. A communication from the Assistant to the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Federal Aid in Sport Fish Restoration Program, Participation by the District of Columbia and U.S. Insular Territories and Commonwealths, 50 CFR part 80" (RIN1018-

AD 83) received on April 6, 2001; to the Committee on Environment and Public Works.

EC-1540. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Implementation Plans; Transportation Conformity: Idaho" (FRL6957-1) received on April 6, 2001; to the Committee on Environment and Public Works.

EC-1541. A communication from the Acting Secretary of the Army, transmitting, pursuant to law, a report relative to the navigation study for Ponce de Leon Inlet, Florida; to the Committee on Environment and Public Works.

EC-1542. A communication from the Acting Secretary of the Army, transmitting, pursuant to law, a report relative to the navigation improvements for the Port Jersey Channel, Bayonne, New Jersey; to the Committee on Environment and Public Works.

EC-1543. A communication from the Acting Secretary of the Army, transmitting, pursuant to law, a report relative to Success Dam, Tule River Basin, California; to the Committee on Environment and Public Works.

EC-1544. A communication from the Acting Secretary of the Army, transmitting, pursuant to law, a report relative to the Upper Des Plaines River, Illinois; to the Committee on Environment and Public Works.

EC-1545. A communication from the Attorney/Advisor of the Department of Transportation, transmitting, pursuant to law, the report of a vacancy in the position of Administrator of the Federal Highway Administration, Department of Transportation; to the Committee on Environment and Public Works.

EC-1546. A communication from the Assistant to the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Federal Aid in Sport Fish Restoration Program, Participation by the District of Columbia and U.S. Insular Territories and Commonwealths, 50 CFR part 80" (RIN1018-AB83) received on April 6, 2001; to the Committee on Environment and Public Works.

EC-1547. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled "Disaster Assistance; Cerro Grande Fire Assistance" (RIN3067-AD12) received on April 6, 2001; to the Committee on Environment and Public Works.

EC-1548. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of the designation of acting officer for the position of Associate Director, Mitigation Directorate, Federal Emergency Management Agency; to the Committee on Environment and Public Works.

EC-1549. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "EPA International Green Buildings Initiative" received on April 11, 2001; to the Committee on Environment and Public Works.

EC-1550. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Gasoline Volatility Requirements for Allegheny County" (FRL6962-3) received on April 11, 2001; to the Committee on Environment and Public Works.

EC-1551. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a

report entitled "2001 Update of Ambient Water Quality Criteria for Cadmium"; to the Committee on Environment and Public Works.

EC-1552. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Unregulated Contaminant Monitoring Regulation Guidance for Operators of Public Water Systems Serving 10,000 or Fewer People"; to the Committee on Environment and Public Works.

EC-1553. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, a report on licensing activities and regulatory duties; to the Committee on Environment and Public Works.

EC-1554. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Nebraska" (FRL6968-5) received on April 19, 2001; to the Committee on Environment and Public Works.

EC-1555. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Implementation Plans; Idaho" (FRL6962-1) received on April 19, 2001; to the Committee on Environment and Public Works.

EC-1556. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Final Additions to the Final Guidelines for the Certification and Recertification of the Operators of Community and Nontransient Noncommunity Public Water Systems; Final Allocation Methodology for Funding to States for the Operator Certification Expense Reimbursement Grants Program" (FRL6967-3) received on April 19, 2001; to the Committee on Environment and Public Works.

EC-1557. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District" (FRL6963-1) received on April 19, 2001; to the Committee on Environment and Public Works.

EC-1558. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revision to the California State Implementation Plan; Bay Area Air Quality Management District and Imperial County Air Pollution Control District" (FRL6954-8) received on April 19, 2001; to the Committee on Environment and Public Works.

EC-1559. A communication from the Chief of the Division of Scientific Authority, Fish and Wildlife Service, transmitting, pursuant to law, the report of a rule entitled "Changes in List of Species in Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora" (RIN1018-AH63) received on April 18, 2001; to the Committee on Environment and Public Works.

EC-1560. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Texas; Post 96 Rate of Progress Plan, Motor Vehicles Emissions Budgets (MVEB) and Contingency Measures for the Houston/Galveston (HGA) Ozone Nonattainment Area" (FRL6969-3) received on April 19, 2001; to the Committee on Environment and Public Works.

EC-1561. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality State Implementation Plans (SIP); Texas: Control of Gasoline Volatility" (FRL6969-4) received on April 23, 2001; to the Committee on Environment and Public Works.

EC-1562. A communication from the Acting Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants: Final Designation of Critical Habitat for the Bay Checkerspot Butterfly (*Euphydryas editha bayensis*)" (RIN1018-AH61) received on April 23, 2001; to the Committee on Environment and Public Works.

EC-1563. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Reregistration Eligibility Decision: Diclofop-Methyl"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1564. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Report on FQPA Tolerance Reassessment Progress and Interim Risk Management Decision for Fenitrothion"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1565. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Interim Reregistration Eligibility Decision (IRED) for Fenitrothion"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1566. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Reregistration Eligibility Decision: Etridiazole (Terrazole)"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1567. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Interim Reregistration Eligibility Decision (IRED): Oxamyl"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1568. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, a report entitled "Reregistration Eligibility Decision: Vinclozolin"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1569. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Zoxamide 3,5-dichloro-N-(3-chloro-1-methyl-2-oxopropyl)-4-Methylbenzamide; Pesticide Tolerance" (FRL6774-8) received on April 6, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1570. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Agricultural Mortgage Corporation Risk-Based Capital Requirements" (RIN3052-AB56) received on April 6, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1571. A communication from the Acting Administrator of the Commodity Credit Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Dairy and Cranberry Market Loss Assistance Programs, Honey Marketing Assistance Loan and LDP Program, Sugar Non-recourse Loan Program, and Payment Limitations for Marketing Loan Gains and Loan

Deficiency Payments" received on April 11, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1572. A communication from the Acting Administrator of the Commodity Credit Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Dairy Price Support, Dairy Recourse Loan, Livestock Assistance, American Indian Livestock Feed, and Pasture Recovery Programs" (RIN0560-AG32) received on April 11, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1573. A communication from the Acting Administrator of the Commodity Credit Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "2001 Crop Disaster Program" (RIN0560-AG32) received on April 11, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1574. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Propiconazole; Time-Limited Pesticide Tolerance" (FRL6778-1) received on April 11, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1575. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Metolachlor: Extension of Tolerance for Emergency Exemptions" (FRL6778-6) received on April 11, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1576. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Flumioxazin, Pesticide Tolerances" (FRL6778-5) received on April 19, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1577. A communication from the Deputy Associate Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hexythiazox; Pesticide Tolerances" (FRL6778-8) received on April 19, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1578. A communication from the Acting Administrator of the Agricultural Marketing Service, Fruit and Vegetable Programs, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Irish Potatoes Grown in Washington; Exemption from Handling and Assessment Regulations for Potatoes Shipped for Experimental Purposes" (FV00-946-1 FIR) received on April 19, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1579. A communication from the Congressional Review Coordinator of Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Brucellosis in Cattle; State and Area Classifications; South Dakota" (Doc. No. 00-103-2) received on April 19, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1580. A communication from the Congressional Review Coordinator of Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pine Shoot Beetle; Addition to Quarantined Area" (Doc. No. 99-101-2) received on April 19, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1581. A communication from the Congressional Review Coordinator of Policy and Program Development, Animal and Plant Health Inspection Service, Department of

Agriculture, transmitting, pursuant to law, the report of a rule entitled "Imported Fire Ant; Addition to Quarantined Areas" (Doc. No. 00-076-2) received on April 19, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1582. A communication from the Congressional Review Coordinator of Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tuberculosis Testing for Imported Cattle" (Doc. No. 00-102-1) received on April 19, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1583. A communication from the Congressional Review Coordinator of Policy and Program Development, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Brucellosis in Cattle; State and Area Classifications; Oklahoma" (Doc. No. 01-016-1) received on April 19, 2001; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1584. A communication from the Acting Administrator of the General Services Administration, transmitting, pursuant to law, the Annual Performance Report for Fiscal Year 2000; to the Committee on Governmental Affairs.

EC-1585. A communication from the Inspector General of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report relative to commercial activities; to the Committee on Governmental Affairs.

EC-1586. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the Annual Performance Report for Fiscal Year 2000; to the Committee on Governmental Affairs.

EC-1587. A communication from the Archivist of the United States, National Archives and Records Administration, transmitting, pursuant to law, the Annual Performance Report for Fiscal Year 2000; to the Committee on Governmental Affairs.

EC-1588. A communication from the Chairman of the Federal Labor Relations Authority, transmitting, pursuant to law, the Annual Program Performance Report for Fiscal Year 2000; to the Committee on Governmental Affairs.

EC-1589. A communication from the Executive Director of the Committee for Purchase from People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the report of additions to the procurement list received on April 6, 2001; to the Committee on Governmental Affairs.

EC-1590. A communication from the General Counsel of the Federal Emergency Management Agency, transmitting, the report of the designation of acting officer for the position of Deputy Director of the Federal Emergency Management Agency; to the Committee on Governmental Affairs.

EC-1591. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the Budget Estimates and Performance Plan for Fiscal Year 2002; to the Committee on Governmental Affairs.

EC-1592. A communication from the Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Federal Acquisition Circular 97-24 consisting of FAR Case 1999-010 (stay), Interim Rule, Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings—Revocation" received on April 11, 2001; to the Committee on Governmental Affairs.



EC-1593. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Annual Performance Report for Fiscal Year 2000 and the Performance Plan for Fiscal Year 2002; to the Committee on Governmental Affairs.

EC-1594. A communication from the General Manager of the Washington Metropolitan Area Transit Authority, transmitting, pursuant to law, the Annual Financial Report for Fiscal year 2000; to the Committee on Governmental Affairs.

EC-1595. A communication from the Attorney General of the United States, transmitting, pursuant to law, the Annual Performance Report for Fiscal Year 2000 and the Performance Plan for Fiscal Year 2002; to the Committee on Governmental Affairs.

EC-1596. A communication from the Senior Vice President and Chief Financial Officer of the Potomac Electric Power Company, transmitting, pursuant to law, the Balance Sheet for Fiscal Year 2000; to the Committee on Governmental Affairs.

EC-1597. A communication from the President's Pay Agent, transmitting, pursuant to law, a report relative to the General Schedule (GS) locality-based comparability payments to non-GS categories of positions in more than one executive agency; to the Committee on Governmental Affairs.

EC-1598. A communication from the Executive Director of the Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the report of additions to the procurement list received on April 18, 2001; to the Committee on Governmental Affairs.

EC-1599. A communication from the Chairman of the Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the Annual Performance Report for Fiscal Year 2000; to the Committee on Governmental Affairs.

EC-1600. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the Annual Performance Plan for Fiscal Year 2002; to the Committee on Governmental Affairs.

EC-1601. A communication from the Acting Administrator of the Agency for International Development, transmitting, pursuant to law, the Annual Performance Report for Fiscal Year 2000; to the Committee on Governmental Affairs.

EC-1602. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Certification of the Fiscal Year 2001 Revised Revenue Estimate"; to the Committee on Governmental Affairs.

EC-1603. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the Annual Performance Report for Fiscal Year 2000; to the Committee on Governmental Affairs.

EC-1604. A communication from the Acting General Counsel of the United States Office of Personnel Management (OPM), transmitting, pursuant to law, the report of a vacancy in the position as Director of OPM; to the Committee on Governmental Affairs.

EC-1605. A communication from the Acting General Counsel of the United States Office of Personnel Management (OPM), transmitting, pursuant to law, the report of the designation of acting officer in the position of Director; to the Committee on Governmental Affairs.

EC-1606. A communication from the Acting General Counsel of the Office of National Drug Control Policy, transmitting, pursuant to law, the report of a vacancy in the position of Director of National Drug Control Policy, Executive Office of the President; to the Committee on the Judiciary.

EC-1607. A communication from the Acting General Counsel of the Office of National

Drug Control Policy, transmitting, pursuant to law, the report of a vacancy in the position of Deputy Director of National Drug Control Policy, Executive Office of the President; to the Committee on the Judiciary.

EC-1608. A communication from the Acting General Counsel of the Office of National Drug Control Policy, transmitting, pursuant to law, the report of a vacancy in the position of Deputy Director for Supply Reduction, Executive Office of the President; to the Committee on the Judiciary.

EC-1609. A communication from the Acting General Counsel of the Office of National Drug Control Policy, transmitting, pursuant to law, the report of a vacancy in the position of Deputy Director for Demand Reduction, Executive Office of the President; to the Committee on the Judiciary.

EC-1610. A communication from the Acting General Counsel of the Office of National Drug Control Policy, Executive Office of the President, transmitting, pursuant to law, the report of the designation of acting officer for the position of Director of National Drug Control Policy; to the Committee on the Judiciary.

EC-1611. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, a report concerning the Federal Rules of Bankruptcy Procedure; to the Committee on the Judiciary.

EC-1612. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, a report relative to the Federal Rules of Civil Procedure; to the Committee on the Judiciary.

EC-1613. A communication from the Acting Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to military expenditures for countries receiving United States assistance; to the Committee on Appropriations.

#### PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-19. A resolution adopted by the House of the Legislature of the State of Michigan relative to nonindigenous species being released in the ballast water of ships on the Great Lakes; to the Committee on Commerce, Science, and Transportation.

#### HOUSE RESOLUTION NO. 24

Whereas, While the problems created by the introduction of nonindigenous species into the Great Lakes from ballast water are not new, this situation is raising greater concerns as the damage done to this freshwater network becomes more apparent. The alarming rate at which the zebra mussel has spread demonstrates the serious problems that can result when the area's delicate ecology is thrown out of balance; and

Whereas, In recent years, numerous proposals have been advanced to halt the introduction of new species. Many of these proposals involve strengthening laws and enforcement on the release or treatment of ballast water; and

Whereas, In all discussions to address the issue created by ballast water discharges in the Great Lakes, it is essential that a regional approach be taken. With the multiple levels of government, including states, provinces, and two federal governments, it is important that there be a well-coordinated effort on this matter. A quilt of regulations or practices developed by the individual entities could provide more harm than good, not

only to the environment, but also to specific communities and to specific uses of the lakes; now, therefore, be it

*Resolved by the House of Representatives,* That we memorialize the Congress of the United States to enact legislation that offers a regional solution to the problems of nonindigenous species being released in the ballast water of ships on the Great Lakes; and be it further

*Resolved,* That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

Adopted by the House of Representatives, March 7, 2001.

#### 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. GRAHAM (for himself and Mr. NELSON of Florida):

S. 771. A bill to permanently prohibit the conduct of offshore drilling on the outer Continental Shelf off the State of Florida, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. COLLINS:

S. 772. A bill to permit the reimbursement of the expenses incurred by an affected State and units of local government for security at an additional non-governmental property to be secured by the Secret Service for protection of the President for a period of not to exceed 60 days each fiscal year; to the Committee on the Judiciary.

By Mr. TORRICELLI (for himself and Mr. CORZINE):

S. 773. A bill to provide for disclosure of fire safety standards and measures with respect to campus buildings, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BAYH (for himself and Mr. LUGAR):

S. 774. A bill to designate the Federal building and United States courthouse located at 121 West Spring Street in New Albany, Indiana, as the "Lee H. Hamilton Federal Building and United States Courthouse"; to the Committee on Environment and Public Works.

By Mrs. LINCOLN (for herself and Mr. REID):

S. 775. A bill to amend title XVIII of the Social Security Act to permit expansion of medical residency training programs in geriatric medicine and to provide for reimbursement of care coordination and assessment services provided under the medicare program; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. ENZI, Mr. BAUCUS, and Mr. WELLSTONE):

S. 776. A bill to amend title XIX of the Social Security Act to increase the floor for treatment as an extremely low DSH State to 3 percent in fiscal year 2002; to the Committee on Finance.

By Mr. ALLEN (for himself and Mr. BURNS):

S. 777. A bill to permanently extend the moratorium enacted by the Internet Tax Freedom Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself, Mr. STEVENS, Mr. LEAHY, Mr. KOHL, Mr. DASCHLE, Mr. REID, Mr. WARNER, and Mr. GRAMM):

S. Res. 73. A resolution to commend James Harold English for his 23 years of service to the United States Senate; considered and agreed to.

By Mr. DAYTON (for himself, Ms. STABENOW, Mr. JOHNSON, and Mr. ROCKEFELLER):

S. Res. 74. A resolution expressing the sense of the Senate regarding consideration of legislation providing medicare beneficiaries with outpatient prescription drug coverage; to the Committee on Finance.

By Mr. LOTT (for Mr. HUTCHINSON (for himself, Mr. DODD, Mr. CRAPO, Mr. KENNEDY, Mr. INHOFE, Mrs. FEINSTEIN, Mr. CRAIG, Mrs. MURRAY, Mr. SPECTER, Mr. EDWARDS, Ms. MIKULSKI, Mr. HELMS, Mr. BIDEN, and Mr. KERRY)):

S. Res. 75. A resolution designating the week beginning May 13, 2001, as "National Biotechnology Week"; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

S. 39

At the request of Mr. STEVENS, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 39, a bill to provide a national medal for public safety officers who act with extraordinary valor above and beyond the call of duty, and for other purposes.

S. 41

At the request of Mr. HATCH, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 41, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to increase the rates of the alternative incremental credit.

S. 60

At the request of Mr. BYRD, the names of the Senator from Missouri (Mr. BOND) and the Senator from Alabama (Mr. SHELBY) were added as cosponsors of S. 60, a bill to authorize the Department of Energy programs to develop and implement an accelerated research and development program for advanced clean coal technologies for use in coal-based electricity generating facilities and to amend the Internal Revenue Code of 1986 to provide financial incentives to encourage the retrofitting, repowering, or replacement of coal-based electricity generating facilities to protect the environment and improve efficiency and encourage the early commercial application of advanced clean coal technologies, so as to allow coal to help meet the growing need of the United States for the generation of reliable and affordable electricity.

S. 133

At the request of Mr. BAUCUS, the name of the Senator from Massachu-

setts (Mr. KENNEDY) was added as a cosponsor of S. 133, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes.

S. 231

At the request of Mr. CAMPBELL, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 231, a bill to amend the Elementary and Secondary Education Act of 1965 to ensure that seniors are given an opportunity to serve as mentors, tutors, and volunteers for certain programs.

S. 250

At the request of Mr. BIDEN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 250, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued by Amtrak, and for other purposes.

S. 277

At the request of Mr. KENNEDY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 277, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

S. 316

At the request of Mr. MCCONNELL, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 316, a bill to provide for teacher liability protection.

S. 350

At the request of Mr. SMITH of New Hampshire, the names of the Senator from Texas (Mr. GRAMM) and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 350, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance State response programs, and for other purposes.

At the request of Mr. CHAFEE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 350, *supra*.

S. 393

At the request of Mr. FRIST, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 393, a bill to amend the Internal Revenue Code of 1986 to encourage charitable contributions to public charities for use in medical research.

S. 441

At the request of Mr. CAMPBELL, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 441, a bill to provide Capitol-flown flags to the families of law enforcement officers and firefighters killed in the line of duty.

S. 452

At the request of Mr. MURKOWSKI, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of

S. 452, a bill to amend title XVIII of the Social Security Act to ensure that the Secretary of Health and Human Services provides appropriate guidance to physicians, providers of services, and ambulance providers that are attempting to properly submit claims under the medicare program to ensure that the Secretary does not target inadvertent billing errors.

S. 486

At the request of Mr. LEAHY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 486, a bill to reduce the risk that innocent persons may be executed, and for other purposes.

S. 543

At the request of Mr. WELLSTONE, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 554

At the request of Mrs. MURRAY, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 554, a bill to amend title XVIII of the Social Security Act to expand medicare coverage of certain self-injected biologicals.

S. 656

At the request of Mr. REED, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of S. 656, a bill to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence.

S. 659

At the request of Mr. CRAPO, the names of the Senator from Virginia (Mr. WARNER), the Senator from New Hampshire (Mr. SMITH, of New Hampshire), the Senator from Michigan (Mr. LEVIN), and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 659, a bill to amend title XVIII of the Social Security Act to adjust the labor costs relating to items and services furnished in a geographically reclassified hospital for which reimbursement under the medicare program is provided on a prospective basis.

S. 706

At the request of Mr. KERRY, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 706, a bill to amend the Social Security Act to establish programs to alleviate the nursing profession shortage, and for other purposes.

S. 739

At the request of Mr. WELLSTONE, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from

New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 739, a bill to amend title 38, United States Code, to improve programs for homeless veterans, and for other purposes.

S. RES. 63

At the request of Mr. CAMPBELL, the name of the Senator from Kentucky (Mr. McCONNELL) was added as a cosponsor of S. Res. 63, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

S. RES. 68

At the request of Mr. JOHNSON, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. Res. 68, a resolution designating September 6, 2001 as "National Crazy Horse Day."

S. CON. RES. 28

At the request of Ms. SNOWE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Con. Res. 28, a concurrent resolution calling for a United States effort to end restrictions on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM (for himself and Mr. NELSON of Florida):

S. 771. A bill to permanently prohibit the conduct of offshore drilling on the outer Continental Shelf off the State of Florida, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. GRAHAM. Mr. President, I rise today with my colleague, Senator BILL NELSON, to introduce legislation that will protect the coast of Florida in the future from the damages of offshore drilling.

In past Congresses, I have introduced similar legislation that sought to codify the annual moratorium on leasing in the Eastern Gulf of Mexico and ensure that state's receive all environmental documentation prior to making a decision on whether to allow drilling off of their shores.

Today, I am introducing legislation that takes these steps, plus several others. The Outer Continental Shelf Protection Act will protect Florida's fragile coastline from outer continental shelf leasing and drilling in three important ways.

First, we transform the annual moratorium on leasing and preleasing activity off the coast of Florida into a permanent ban covering planning areas in the Eastern Gulf of Mexico, the Straits of Florida, and the Florida section of the South Atlantic.

Second, the Outer Continental Shelf Protection Act corrects an egregious conflict in regulatory provisions where an effected state is required to make a consistency determination for proposed oil and gas production or development

under the Coastal Zone Management Act prior to receiving the Environmental Impact Statement, EIS, for them from the Mineral Management Service.

Our bill requires that the EIS is provided to affected states before they make a consistency determination, and it requires that every oil and gas development plan have an EIS completed prior to development.

Third, our bill buys back leases in the Eastern Gulf of Mexico which are an immediate threat to Florida's natural heritage and economic engine.

What does this bill mean for Florida? The elimination of preleasing activity and lease sales off the coast of Florida protects our economic and environmental future.

For years, I have taken my children and grandchildren to places like Grayton Beach so that they can appreciate the natural treasures and local cultures that are part of both their own heritage and that of the Florida Panhandle.

We have a solemn obligation to preserve these important aspects of our state's history for all of our children and grandchildren. Much of our identity as Floridians is tied to the thousands of miles of pristine coastline that surround most of our state.

The Florida coastline will not be safe if offshore oil and gas resources are developed. For example, a 1997 Environmental Protection Agency, EPA, study indicated that even in the absence of oil leakage, a typical oil rig can discharge between 6,500 and 13,000 barrels of waste per year. The same study also warned of further harmful impact on marine mammal populations, fish populations, and air quality.

In addition to leakages and waste discharges, physical disturbances caused by anchoring, pipeline placement, rig construction, and the resuspension of bottom sediments can also be destructive. Given these conclusions, Floridians are unwilling to risk the environmental havoc that oil or natural gas drilling could wreak along the sensitive Panhandle coastline.

Because the natural beauty and diverse habitats of the Gulf of Mexico, the Florida Keys, and Florida's Atlantic Coast attract visitors from all over the world and support a variety of commercial activities, an oil or natural gas accident in these areas could have a crippling effect on the economy. In 1996, the cities of Panama City, Pensacola, and Fort Walton Beach reported \$1.5 billion in sales to tourists. Florida's fishing industry benefits from the fact that nearly 90 percent of reef fish caught in the Gulf of Mexico come from the West Florida continental shelf.

For the last several years, I have been working with my colleagues, former Senator Connie Mack and now Senator BILL NELSON, Congressman JOE SCARBOROUGH, and others to head off the threat of oil and natural gas drilling. In June of 1997, we introduced

legislation to cancel six natural gas leases seventeen miles off of the Pensacola coast and compensate Mobil Oil Corporation for its investment. Five days after the introduction of that legislation and two months before it was scheduled to begin exploratory drilling off Florida's Panhandle, Mobil ended its operation and returned its leases to the federal government.

While that action meant that Panhandle residents faced one less economic and environmental catastrophe-in-the-making, it did not completely eliminate the threats posed by oil and natural gas drilling off Florida's Gulf Coast. Florida's Congressional representatives fight hard each year to extend the federal moratorium on new oil and natural gas leases in the Gulf of Mexico. But that solution is temporary.

Today we are introducing the Outer Continental Shelf Protection Act to make permanent our efforts to protect Florida's coastlines. I look forward to working with my colleagues on the Energy and Natural Resources Committee to move this legislation forward and protect the coast of future generations of Floridians and visitors to Florida.

By Ms. COLLINS:

S. 772. A bill to permit the reimbursement of the expenses incurred by an affected State and units of local government for security at an additional non-governmental property to be secured by the Secret Service for protection of the President for a period of not to exceed 60 days each fiscal year; to the Committee on the Judiciary.

Ms. COLLINS. Mr. President, today I introduce a bill to provide fair reimbursement to state and local law enforcement organizations for additional costs incurred by them in providing frequent assistance to the Secret Service to protect the President of the United States.

Of course, the Secret Service has the principal responsibility for protecting our Presidents. Without the assistance of state and local law enforcement organizations, however, providing that protection would be more costly and more difficult, if not impossible. For the most part, state and local law enforcers provide this assistance with no need for or expectation of reimbursement from the Federal government. In some cases, however, reimbursement is appropriate. It is appropriate, for example, when state and local law enforcement organizations are required to incur substantial expenses on a frequent basis in localities that are small and thus does not have adequate financial bases to provide the necessary services without reimbursement.

This is not a new idea. Dating back to at least the Administration of President Jimmy Carter, the Federal government has provided reimbursement to local and sometimes state organizations where sitting Presidents maintain a principal residence. In the early 1990s, reimbursement was provided for

services provided for then-President Bush's visits to Kennebunkport, Maine. Reimbursement is similarly available now to Crawford, Texas. The bill I am introducing will extend this authority to localities and states other than the place of principal residence when the sitting President so designates.

I envision that it will help, for example, the Kennebunkport Police Department and associated law enforcement organizations in my home state. I expect that the allure of summer in Maine will draw President George W. Bush to the Bush family residence in Kennebunkport for several visits in the coming months. My bill will help ensure that the town, with a population of only 3,720, will not have to shoulder alone the substantial financial burden associated with these visits. In addition, however, I anticipate that in the future other localities will benefit, for this bill has been carefully drafted to provide reimbursement to localities and states designated by future Presidents.

This bill will not result in an unlimited "windfall" to local and state law enforcement organizations. It requires that the organizations requesting reimbursement first incur the expenses and therefore will likely discourage excessive expenditures. It also limits the number of days for which reimbursements may be sought to not more than 60 days per fiscal year. In addition, it provides reimbursement only for services provided in conjunction with visits to small localities with a population of no more than 7,000 residences. Finally, the total amount of reimbursement is limited to not more than \$100,000 per fiscal year.

I encourage my colleagues to support this modest, yet important and equitable provision of support to local and state law enforcement organizations.

By Mr. TORRICELLI (for himself and Mr. CORZINE):

S. 773. A bill to provide for disclosure of fire safety standards and measures with respect to campus buildings, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. TORRICELLI. Mr. President, today I rise to introduce the Campus Fire Safety Right-to-Know Act so that we can move forward in protecting our children at our colleges and universities. It is an unfortunate reality that it often takes great tragedies to highlight vulnerabilities in our laws.

On January 19, 2000, several New Jersey families experienced an unimaginable tragedy. A fire in a freshman college dormitory killed 3 students and injured 62 others. Investigations into the fire revealed that the dorm was not equipped with a sprinkler system, which could have saved lives. In addition, during that fatal evening, many students delayed leaving the building because they assumed it was a false alarm, an all too common occurrence.

On March 19, 2000, a fire broke out at a fraternity house at a Pennsylvania

university, killing three students. This was not the first fire at that fraternity house, in 1994, five students were killed in a fraternity house fire.

On June 8, 2000, a student was killed in an early morning fraternity house fire at an Illinois University. Local authorities said the building was not protected with an automatic fire sprinkler system.

And, as recently as April 1, 2001, a fire in a residence hall at a New Hampshire college forced 100 students out of the building and seriously damaged at least two apartments. This was the second fire to occur at a residence hall at that college within two months.

This is a national crisis that endangers our children's lives.

Although the average number of college residence fires dropped 10 percent in the last decade, an average of 66 students still are injured in campus fires in dorms, and fraternity and sorority houses. In the 11 deadly campus fires between 1900 and 1997, an average of two people died in each.

The National Fire Protection Association reports that 72 percent of dorms, and fraternity and sorority houses that suffer fires are not equipped with life saving sprinkler systems, even though sprinklers are proven to cut by up to two-thirds the risks of death and property damage in fires.

I have a proposal that will help make university housing safer. The Campus Fire Safety Right to Know Act would highlight the issue of campus fire safety by requiring colleges and universities to provide annual reports that explain fire policies, frequency of false alarms, and whether dorms are equipped with sprinkler systems.

These reports would be straightforward and based on the types of reporting that many campuses already do.

Colleges and universities could use these reports to highlight their successes and progress with campus fire safety. They would be, in part, a marketing tool to attract students and families.

The reports would also bring greater awareness about campus fire safety to schools that have not made progress, and encourage them to take action.

And, the reports would be a resource for students and their families, so that they know whether their dorms are fire safe and can work with their schools to improve fire safety.

My bill is supported by universities in my State, Seton Hall, Rutgers and Princeton, and is also endorsed by the National Fire Protection Association, the National Safety Council, and College Parents of America.

We need to pass this measure so that we can ensure that the tragedies in New Jersey, Illinois, and Pennsylvania are the last of their kinds.

By Mr. BAYH (for himself and Mr. LUGAR):

S. 774. A bill to designate the Federal building and United States courthouse located at 121 West Spring Street in

New Albany, Indiana, as the "Lee H. Hamilton Federal Building and United States Courthouse"; to the Committee on Environment and Public Works.

Mr. BAYH. Mr. President, it is with great pride that I rise today to pay tribute to a good friend and a great man, former Congressman Lee Hamilton. I am honored to introduce legislation designating the Federal Building and United States Courthouse located at 121 W. Spring Street in New Albany, Indiana, as the "Lee H. Hamilton Federal Building and U.S. Courthouse."

Lee Hamilton was born in Daytona Beach, FL, on April 20, 1931, and raised in Evansville, IN. He attended Evansville Central High school, where he excelled both in the classroom and on the basketball court. As a senior, he led his team to the final game of the Indiana state basketball tournament, and received the prestigious Tresler award for scholarship and athletics.

After graduation, Congressman Hamilton attended Depauw University, and earned his bachelor's degree in 1952. He went on to study for one year in post-war Germany at Goethe University, before enrolling in law school at Indiana University, where he received his Doctor of Jurisprudence Degree in 1956.

In 1964, Lee Hamilton was first elected to the U.S. House of Representatives, where he went on to serve with distinction for 34 years. During his long tenure in office, he established himself as a leader in International Affairs, serving as the chairman of the House Foreign Relations committee, Intelligence Committee, and Iran-Contra committee. Mr. Hamilton was widely respected for his powerful intellect and impressive knowledge of foreign affairs, and remains unquestionably one of our nation's foremost experts on foreign policy.

In addition to his record on foreign affairs, Mr. Hamilton also played an important role in reforming the institution of Congress itself. He cochaired the Joint Committee on the Organization of Congress where he worked to reform the institution by instituting the gift-ban, tightening lobbying restrictions, and applying the laws of the workplace to Congress.

Even with all his success in Washington, however, Mr. Hamilton never forgot his Hoosier roots. He always remained down-to-earth and accessible to his Southern Indiana constituents. Over the years, he was presented with a number of opportunities to ascend to other offices, including the U.S. Senate, Secretary of State, and the Vice-Presidency of the United States. He chose instead to retain his House seat and fulfill his commitments to the people of Southern Indiana.

Today, Congressman Hamilton remains active in foreign policy and congressional reform. He currently heads the Woodrow Wilson International Center for Scholars in Washington, DC, and serves as the director of the Center on Congress at Indiana University.

Congressman Hamilton has received numerous public service awards including the Paul H. Nitze Award for Distinguished Authority on National Security Affairs, the Edmund S. Muskie Distinguished Public Service Award, the Phillip C. Habib Award for Distinguished Public Service, the Indiana Humanities Council Lifetime Achievement Award and the U.S. Association of Former Members of Congress' Statesmanship Award. It is only fitting that we recognize Congressman Hamilton's many years of service to the people of Southern Indiana by naming the New Albany Federal Building and U.S. Courthouse in his honor.

It is my hope that the Federal Building and U.S. Courthouse located at 121 W. Spring Street in New Albany will soon bear the name of my friend and fellow Hoosier, Congressman Lee Hamilton.

By Mrs. LINCOLN (for herself and Mr. REID):

S. 775. A bill to amend title XVIII of the Social Security Act to permit expansion of medical residency training programs in geriatric medicine and to provide for reimbursement of care coordination and assessment services provided under the Medicare Program; to the Committee on Finance.

Mrs. LINCOLN. Madam President, I rise today to introduce the Geriatric Care Act of 2001, a bill to increase the number of geriatricians in our country through training incentives and Medicare reimbursement for geriatric care.

I am proud to be joined in this effort today by Senator HARRY REID of Nevada. Senator REID has been a pioneer in seeking real commonsense solutions to the health care challenges facing our Nation's seniors. In fact, he has graciously allowed me to include in this bill components of a bill he introduced during the last Congress. Moreover, he has been an invaluable resource and ally to me as I have grappled with the solutions to these challenges we are seeking.

Our country teeters on the brink of revolutionary demographic change as baby boomers begin to retire and Medicare begins to care for them. As a member of the Finance Committee and the Special Committee on Aging, I have a special interest in preparing health care providers and Medicare for the inevitable aging of America. By improving access to geriatric care, the Geriatric Care Act of 2001 takes an important first step in modernizing Medicare for the 21st century.

The 76 million baby boomers are aging and in 30 years, 70 million Americans will be 65 years and older. They will soon represent one-fifth of the U.S. population, the largest proportion of older persons in our Nation's history. Our Nation's health care system will face an unprecedented strain as our population grows older.

Our Nation is simply ill-prepared for what lies ahead. Demand for quality care will increase, and we will need

physicians who understand the complex health problems that aging inevitably brings. As seniors live longer, they face much greater risk of disease and disability. Conditions such as heart disease, cancer, stroke, diabetes, and Alzheimer's disease occur more frequently as people age. The complex problems associated with aging require a supply of physicians with special training in geriatrics.

Geriatricians are physicians who are first board certified in family practice or internal medicine and then complete additional training in geriatrics. Geriatric medicine provides the most comprehensive health care for our most vulnerable seniors. Geriatrics promotes wellness and preventive care, helping to improve patients' overall quality of life by allowing them greater independence and preventing unnecessary and costly trips to the hospital or institutions.

Geriatric physicians also have a heightened awareness of the effects of prescription drugs. Given our seniors' growing dependence on prescriptions, it is increasingly important that physicians know how, when, and in what dosage to prescribe medicines for seniors. Frequently, our older patients respond to medications in very different ways from younger patients. In fact, 35 percent of Americans 65 years and older experience adverse drug reactions each year.

According to the National Center for Health Statistics, medication problems may be involved in as many as 17 percent of all hospitalizations of seniors each year. Care management provided by a geriatrician will not only provide better health care for our seniors, but it will also save costs to Medicare in the long term by eliminating the pressures on more costly medical care through hospitals and nursing homes. Quite clearly, geriatrics is a vital thread in the fabric of our health care system, especially in light of our looming demographic changes. Yet today there are fewer than 9,000 certified geriatricians in the United States. Of the approximately 98,000 medical residency and fellowship positions supported by Medicare in 1998, only 324 were in geriatric medicine and geriatric psychiatry. Only three medical schools in the country—the University of Arkansas for Medical Sciences in Little Rock being one of them—have a department of geriatrics. This is remarkable when we consider that of the 125 medical schools in our country, only 3 have areas of residency in geriatrics.

As if that were not alarming enough, the number of geriatricians is expected to decline dramatically in the next several years. In fact, most of these doctors will retire just as the baby boomer generation becomes eligible for Medicare. We must reverse this trend and provide incentives to increase the number of geriatricians in our country.

Unfortunately, there are two barriers preventing physicians from entering

geriatrics: insufficient Medicare reimbursements for the provisions of geriatric care, and inadequate training dollars and positions for geriatricians. Many practicing geriatricians find it increasingly difficult to focus their practice exclusively on older patients because of insufficient Medicare reimbursement. Unlike most other medical specialties, geriatricians depend most entirely on Medicare revenues.

A recent MedPAC report identified low Medicare reimbursement levels as a major stumbling block to recruiting new geriatricians. Currently the reimbursement rate for geriatricians is the same as it is for regular physicians, but the services geriatricians provide are fundamentally different. Physicians who assess younger patients simply don't have to invest the same time that geriatricians must invest assessing the complex needs of elderly patients. Moreover, chronic illness and multiple medications make medical decisionmaking more complex and time consuming. Additionally, planning for health care needs becomes more complicated as geriatricians seek to include both patients and caregivers in the process.

We must modernize the Medicare fee schedule to acknowledge the importance of geriatric assessment and care coordination in providing health care for our seniors. Geriatric practices cannot flourish and these trends will not improve until we adjust the system to reflect the realities of senior health care.

The Geriatric Care Act I am introducing today addresses these shortfalls. This bill provides Medicare coverage for the twin foundations of geriatric practice: geriatric assessment and care coordination. The bill authorizes Medicare to cover these essential services for seniors, thereby allowing geriatricians to manage medications effectively, to work with other health care providers as a team, and to provide necessary support for caregivers.

The Geriatric Care Act also will remove the disincentive caused by the graduate medical education cap established by the 1997 Balanced Budget Act. As a result of this cap, many hospitals have eliminated or reduced their geriatric training programs. The Geriatric Care Act corrects this problem by allowing additional geriatric training slots in hospitals. By allowing hospitals to exceed the cap placed on their training slots, this bill will help increase the number of residents in geriatric training programs.

My home State of Arkansas ranks sixth in the Nation in percentage of population 65 and older. In a decade, we will rank third. In many ways, our population in Arkansas is a snapshot of what the rest of the United States will look like in the near future.

All of us today could share stories about the challenges faced by our parents, our grandparents, our families, our friends, our loved ones as they contend with the passing years. These are

the people who have raised us, who have loved us, who have worked for us, and who have fought for us. Now it is our turn to work for them, to fight for them, and this is where we must start.

I ask my colleagues to join me in support of this legislation to modernize Medicare, to support crucial geriatric services for our Nation's growing population of seniors. I also urge my colleagues to recognize that this is only the beginning of what I hope will be a grand overhaul of the way we think about and deliver care to our Nation's elderly. There are many more things to discuss and to address—adult daycare, long-term care insurance, just to name a few. But it is essential that we begin soon, that we begin now in preparing those individuals we will need 10 years from now in order to be able to care for our aging population in this Nation.

Madam President, I also want to submit three letters of support for this bill, along with a list of organizations that support this important legislation, and encourage all of my colleagues to recognize the unbelievable responsibility we have today to prepare for the seniors of tomorrow. I ask unanimous consent that the items I mentioned be printed in the RECORD.

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

THE NATIONAL COUNCIL  
ON THE AGING,  
Washington, DC, April 24, 2001.

Hon. BLANCHE L. LINCOLN,  
Dirksen Senate Office Building,  
Washington, DC.

DEAR SENATOR LINCOLN: On behalf of the National Council on the Aging (NCOA)—the nation's first organization formed to represent America's seniors and those who care for them—I write to express our organization's support for the Geriatric Care Act of 2001.

A major shortcoming of the Medicare program is the grossly inadequate, fragmented manner in which chronic care needs are addressed. Some of the major problems include: specific geriatric and chronic care needs are not clearly identified; services are poorly coordinated, if at all; medications are not managed properly, resulting in avoidable adverse reactions; family caregivers are excluded from the care planning process; transitions across settings are disjointed; and follow-up care and access to consultation to promote continuity are often unavailable. All of these serious problems cry out for Medicare coverage of care coordination. NCOA strongly supports your efforts to address these critical shortcomings in the Medicare program.

NCOA also supports efforts to increase the number of health care providers who have geriatric training. Given the aging of our population and the coming retirement of the baby boomers, it is important to have physicians trained to care for older patients who may be frail and suffer from multiple, chronic conditions. We applaud your efforts to meet this challenge by introducing legislation to allow for growth in geriatric residency programs above the hospital-specific cap established by the Balanced Budget Act of 1997.

We applaud your leadership on behalf of our nation's most frail, vulnerable citizens and stand ready to assist you in working to

enact the Geriatric Care Act of 2001 into law this year.

Sincerely,

HOWARD BEDLIN,  
Vice President, Public Policy and Advocacy.

AMERICAN ASSOCIATION OF HOMES  
AND SERVICES FOR THE AGING,  
Washington, DC, April 18, 2001.

Hon. BLANCHE L. LINCOLN,  
Dirksen Senate Office Building,  
Washington, DC.

DEAR SENATOR LINCOLN: I understand that you are introducing legislation to provide incentives for the training of geriatricians and to require Medicare reimbursement for geriatric assessments and care management for beneficiaries with complex care needs. The American Association of Homes and Services for the Aging (AAHSA) strongly supports your proposal, which would help to alleviate the serious shortage of physicians trained to meet the special needs of older people.

AAHSA is a national non-profit organization representing more than 5,600 not-for-profit nursing homes, continuing care retirement communities, assisted living and senior housing facilities, and community service organizations. More than half of AAHSA's members are religiously sponsored and all have a mission to provide quality care to those in need. Every day AAHSA members serve over one million older persons across the country.

Residents of long-term care facilities rely on physician services more than the general population does. The severity of older people's medical conditions compounded by multiple co-morbidities demand more time per visit than younger or healthier people need. Many of these seniors would benefit from the services of a geriatrician, who is trained in the special medical needs of older people. Unfortunately, few physicians elect to specialize in this field. In addition, the Medicare Part B fee schedule does not recognize the specialty services of geriatricians and the time and effort they spend providing medical care of this older, more vulnerable population. Nursing facilities have a difficult time finding physicians, let alone geriatric specialists, to serve residents. Geriatric clinic practices find it difficult to provide the level of service this population requires and deserves for the payment that they receive through the Medicare fee schedule.

Your legislation would do much to address these issues, and AAHSA is anxious to work with you toward its passage. Please feel free to contact Will Bruno, our Director of Congressional Affairs.

Sincerely,

WILLIAM L. MINNIX, JR., D. Min.  
President and CEO.

AMERICAN ASSOCIATION  
FOR GERIATRIC PSYCHIATRY,  
Bethesda, MD, April 24, 2001.

Hon. BLANCHE L. LINCOLN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR LINCOLN: On behalf of the American Association for Geriatric Psychiatry (AAGP), I would like to take this opportunity to thank you for your introduction of the "Geriatric Care Act of 2001."

Although geriatric psychiatry is a relatively small medical specialty, it is one for which demand is growing rapidly as the population ages and the "baby boom" generation nears retirement. Arbitrary, budget-driven limits on Medicare payment for graduate medical education, such as caps on the aggregate number of residents and interns at a teaching hospital, could discourage the expansion of training programs in geriatric psychiatry and other fields that are extremely relevant to the Medicare population.

Your bill would help to increase the number of physicians with the specialized geriatric training that is needed to serve the growing number of elderly persons in this country.

In addition, we support the provision of your bill, which would provide Medicare reimbursement for assessment and care coordination. This will help to provide those Medicare beneficiaries with severe physical and mental disorders with the access to the appropriate and coordinated care that they deserve.

AAGP commends you for your commitment to ensuring that America's senior citizens have adequate access to effective health care, and we look forward to working with you on the "Geriatric Care Act of 2001."

Sincerely,

STEPHEN BARTELS, MD,  
President.

SUPPORTERS OF THE GERIATRIC CARE ACT OF  
2001

American Association for Geriatric Psychiatrists.

Alzheimer's Association.

Alliance for Aging Research.

American Geriatrics Society.

National Chronic Care Consortium.

National Council on Aging.

National Committee to Preserve Social Security and Medicare.

American Association for Homes and Services for the Aging.

International Longevity Center.

By Mr. BINGAMAN (for himself  
Mr. ENZI, Mr. BAUCUS, and Mr.  
WELLSTONE):

S. 776, A bill to amend title XIX of the Social Security Act to increase the floor treatment as an extremely low DSH State to 3 percent in fiscal year 2002; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation with Senators ENZI, BAUCUS, and WELLSTONE, entitled the "Medicaid Safety Net Hospital Improvement Act of 2001." This legislation is absolutely critical to the survival of many of our nation's safety net hospitals. It would provide additional funding to address their growing burden of providing uncompensated care to many of our nation's 42.6 million uninsured residents, including 463,000 in New Mexico, through the Medicaid disproportionate share hospital, or DSH, program.

In recognition of the burden borne by hospitals that provide a large share of care to low-income patients, including Medicaid and the uninsured, the Congress established the Medicaid DSH program to give additional funding to support such "disproportionate share" hospitals. By providing financial relief to these hospitals, the Medicaid DSH program maintains hospital access for the poor. As the National Governors' Association has said, "Medicaid DSH's funds are an important part of statewide systems of health care access for the uninsured."

Recent reports by the Institute of Medicine entitled "America's Health Care Safety Net: Intact But Endangered," the National Association of Public Hospitals entitled "The Dependence of Safety Net Hospitals" and the Commonwealth Fund entitled "A Shared Responsibility: Academic



Health Centers and the Provision of Care to the Poor and Uninsured" have all highlighted the importance of the Medicaid DSH program to our health care safety net.

As the Commonwealth Fund report, which was released just this last week, notes: "The Medicaid DSH program has had a beneficial effect on patient access. The average payment rate for Medicaid inpatient services has increased dramatically. Medicaid payments for hospital services were only 76 percent of the cost of providing this care in 1989. By 1994, Medicaid payments had increased to 94 percent of costs."

Unfortunately, as the Commonwealth Fund report adds, "... there are large inequities in how these funds are distributed among states." In fact, for 15 states, including New Mexico, our federal DSH allotments are not allowed to exceed 1 percent of our state's Medicaid program costs. In comparison, the average state spends around 9 percent of its Medicaid funding on DSH. This disparity and lack of Medicaid DSH in "extremely low-DSH states" threatens the viability of our safety net providers. In New Mexico, these funds are critical but inadequate to hospitals all across our state, including University Hospital, Eastern New Mexico Regional Hospital, St. Vincent's Hospital, Espanola Hospital, and others.

In an analysis of the Medicaid DSH program by the Urban Institute, the total amount of federal Medicaid DSH payments in six states was less than \$1 per Medicaid and uninsured individual compared to five states that had DSH spending in excess of \$500 per Medicaid and uninsured individual. That figure was just \$14.91 per Medicaid and uninsured person in New Mexico. Compared to the average expenditure of \$218.96 across the country, such disparities cannot be sustained.

As a result, this bipartisan legislation increases the allowed federal Medicaid DSH allotment in the 15 "extremely low-DSH states" from 1 percent to 3 percent of Medicaid program costs, which remains far less, or just one-third, of the national average. I would add that the legislation does not impact the federal DSH allotments in other states but only seeks greater equity by raising the share of federal funds to "extremely low-DSH states."

Once again, the Commonwealth Fund recommends such action. As the report finds, "States with small DSH programs are not permitted to increase the relative size of their DSH programs . . . [C]urrent policy simply rewards the programs that acted quickly and more aggressively, without regard to a state's real need of such funds." Therefore, the report concludes, "... greater equity in the use of federal funds should be established among states."

Again, this is achieved in our legislation by raising the limits for "extremely low-DSH states" from 1 percent to 3 percent and not by redistrib-

uting or taking money away from other states.

Failure to support these critical hospitals could have a devastating impact not only on the low-income and vulnerable populations who depend on them for care but also on other providers throughout the communities that rely on the safety net to care for patients whom they are unable or unwilling to serve.

As the Institute of Medicine's report entitled "America's Health Care Safety Net: Intact But Endangered" states, "Until the nation addresses the underlying problems that make the health care safety net system necessary, it is essential that national, state, and local policy makers protect and perhaps enhance the ability of these institutions and providers to carry out their missions."

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. 776

*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 "Medicaid Safety Net Improvement Act of 2001".

#### SEC. 2. INCREASE IN FLOOR FOR TREATMENT AS AN EXTREMELY LOW DSH STATE TO 3 PERCENT IN FISCAL YEAR 2002.

(a) INCREASE IN DSH FLOOR.—Section 1923(f)(5) of the Social Security Act (42 U.S.C. 1396r-4(f)(5)) is amended—

(1) by striking "fiscal year 1999" and inserting "fiscal year 2000";

(2) by striking "August 31, 2000" and inserting "August 31, 2001";

(3) by striking "1 percent" each place it appears and inserting "3 percent"; and

(4) by striking "fiscal year 2001" and inserting "fiscal year 2002".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on October 1, 2001, and apply to DSH allotments under title XIX of the Social Security Act for fiscal year 2002 and each fiscal year thereafter.

#### STATEMENTS ON SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 73—TO COMMEND JAMES HAROLD ENGLISH FOR HIS 23 YEARS OF SERVICE TO THE UNITED STATES SENATE

Mr. BYRD (for himself, Mr. STEVENS, Mr. LEAHY, Mr. KOHL, Mr. DASCHLE, Mr. REID, Mr. WARNER, and Mr. GRAMM) submitted the following resolution; which was considered and agreed to:

S. RES. 73

Whereas James Harold English became an employee of the United States Senate in 1973, and has ably and faithfully upheld the high standards and traditions of the staff of the United States Senate;

Whereas James Harold English served as Clerk of the Transportation Appropriations Subcommittee from 1973 to 1980;

Whereas James Harold English served as the Assistant Secretary of the Senate in 1987 and 1988;

Whereas James Harold English has served as Democratic Staff Director of the Appropriations Committee of the United States Senate from 1989 to 2001;

Whereas James Harold English has faithfully discharged the difficult duties and responsibilities of Staff Director and Minority Staff Director of the Appropriations Committee of the United States Senate with great pride, energy, efficiency, dedication, integrity, and professionalism;

Whereas he has earned the respect, affection, and esteem of the United States Senate; and

Whereas James Harold English will retire from the United States Senate on April 30, 2001, with over 30 years of Government Service—23 years with the United States Senate: Now, therefore, be it

*Resolved*, That the United States Senate—

(1) Commends James Harold English for his exemplary service to the United States Senate and the Nation, and wishes to express its deep appreciation and gratitude for his long, faithful, and outstanding service.

(2) The Secretary of the Senate shall transmit a copy of this resolution to James Harold English.

#### SENATE RESOLUTION 74—EXPRESSING THE SENSE OF THE SENATE REGARDING CONSIDERATION OF LEGISLATION PROVIDING MEDICARE BENEFICIARIES WITH OUTPATIENT PRESCRIPTION DRUG COVERAGE

Mr. DAYTON (for himself, Ms. STABENOW, Mr. JOHNSON, and Mr. ROCKEFELLER) submitted the following resolution; which was referred to the Committee on Finance.

S. RES. 74

*Resolved*, That it is the sense of the Senate that, by not later than June 20, 2001, the Senate should consider legislation that provides medicare beneficiaries with outpatient prescription drug coverage.

Mr. DAYTON. Mr. President, today I am introducing a resolution which expresses the sense of the Senate that the Senate will consider legislation providing prescription drug coverage for senior citizens by June 20, 2001. The resolution does not specify what form of coverage will be considered; rather, it simply commits us to scheduling consideration of this important legislation, and hopefully its passage, in the near future.

Many of us have promised the senior citizens of our states that Congress would enact this kind of program. As you know, last year the 106th Senate was unable to reach agreement on whether to provide prescription drug coverage directly through Medicare, through subsidized insurance policies, or another mechanism. While these disagreements stymied any one measure's passage, it appeared that an overwhelming majority of Senators then supported some form of coverage.

I believe it is imperative that we get a program of financial assistance for hard-pressed senior citizens quickly enacted. While I have my own preference for direct, voluntary coverage under Medicare, I am most concerned that some form of financial assistance be provided to desperate senior citizens in

Minnesota and across the country, whose lives are being traumatized by the unaffordable costs of their prescription medicines. Their economic security, their emotional well-being, and their physical health are being threatened, even ruined, by ever-increasing costs over which they have no control.

I respectfully request your support for this resolution when it comes to the floor for a vote.

**SENATE RESOLUTION 75—DESIGNATING THE WEEK BEGINNING MAY 13, 2001, AS "NATIONAL BIOTECHNOLOGY WEEK"**

Mr. LOTT (for Mr. HUTCHINSON (for himself, Mr. DODD, Mr. CRAPO, Mr. KENNEDY, Mr. INHOFE, Mrs. FEINSTEIN, Mr. CRAIG, Mrs. MURRAY, Mr. SPECTER, Mr. EDWARDS, Ms. MIKULSKI, Mr. HELMS, Mr. BIDEN, and Mr. KERRY) submitted the following resolution; which was referred to the Committee on the Judiciary:

**S. RES. 75**

Whereas biotechnology is increasingly important to the research and development of medical, agricultural, industrial, and environmental products;

Whereas public awareness, education, and understanding of biotechnology is essential for the responsible application and regulation of this new technology;

Whereas biotechnology has been responsible for breakthroughs and achievements that have benefited people for centuries and contributed to increasing the quality of human health care through the development of vaccines, antibiotics, and other drugs;

Whereas biotechnology is central to research for cures to diseases such as cancer, diabetes, epilepsy, multiple sclerosis, heart and lung disease, Alzheimer's disease, Acquired Immune Deficiency Syndrome (AIDS), and innumerable other medical ailments;

Whereas biotechnology contributes to crop yields and farm productivity, and enhances the quality, value, and suitability of crops for food and other uses that are critical to the agriculture of the United States;

Whereas biotechnology promises environmental benefits including protection of water quality, conservation of topsoil, improvement of waste management techniques, reduction of chemical pesticide usage, production of renewable energy and biobase products, and cleaner manufacturing processes;

Whereas biotechnology contributes to the success of the United States as the global leader in research and development, and international commerce;

Whereas biotechnology will be an important catalyst for creating more high-skilled jobs throughout the 21st century and will lead the way in reinvigorating rural economies and;

Whereas it is important for all Americans to understand the beneficial role biotechnology plays in improving quality of life and protecting the environment: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the week beginning May 13, 2001, as "National Biotechnology Week"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Mr. HUTCHINSON. Mr. President, I rise today with Senators DODD, CRAPO,

KENNEDY, INHOFE, FEINSTEIN, CRAIG, MURRAY, SPECTOR, EDWARDS, MIKULSKI, HELMS, BIDEN, and KERRY to introduce a Senate Resolution declaring May 13–20, "National Biotechnology Week."

There have been phenomenal advancements in science over the last few years that are allowing us to improve health care, increase crop yields, reduce the use of pesticides, and replace costly industrial processes involving harsh chemicals with cheaper, safer, biological processes. These advancements have occurred due to the hard work and diligence of scientists and researchers in United States, and all around the world, who have spent their lives promoting and perfecting the practice of biotechnology.

Biotechnology is the use of biological processes to solve problems or make useful products. While the use of biological processes for these purposes is not new, the use of recombinant DNA technology and our greater understanding of the role of genetics in our lives have led to the creation of hundreds of products and therapeutic treatments with a wide variety of health, agricultural, and environmental benefits.

Through the analysis of genes and gene products, we will soon be able to forecast disease and create preventative therapies that will drastically reduce the cost of health care by limiting the number of drug treatments necessary and reducing the amount of time patients must be in the hospital. This same technology will enable us to refocus health care on promoting health and preventing disease rather than restoring health in the sick and treating the symptoms and effects of full-blown illness in our nation's health care clinics.

With the publication of the human genome sequence, we are now one step closer to understanding the mechanisms of disease. The identification of which genes are activated, how, and the determination of the functional characteristics of their RNA and protein products are frontiers that remain for our next generation of scientists. However, we are quickly moving towards those frontiers, shedding light on the complex functions of our own bodies that have been shrouded in mystery and speculation for centuries.

In the area of agriculture, the benefits and potential for biotechnology are no less stunning—allowing us to increase the yield of commodities while reducing the use of pesticides. As the world population continues to balloon and the amount of arable land available decreases, we will increasingly look to biotechnology to meet the needs of people everywhere. Researchers in industry and academia are also exploring the possibilities for genetic traits that will yield maximum production, even in the face of inclement weather.

They are also looking for ways to use biotechnology to create novel plants that will provide food that has value

added traits such as reduced fat content and increased levels of vitamins and minerals that our diets here in the United States or those in the developing world may be deficient in. The potential for the product known as "golden rice," which could substantially combat blindness and anemia in the third world, is immense. In the next ten to twenty years, we will likely be able to grow vaccines in plants, eliminating the difficulties of distribution in many areas of the world.

Industrial biotechnology also shows tremendous potential for reducing the pollution and waste generated through industrial production. Through the use of enzymes and other biological components, industries are able to minimize material and energy inputs while simultaneously maximizing renewable resources. An added benefit of those processes is that they limit the production of hazardous pollutants and wastes while producing recyclables or biodegradable products. Industrial biotechnology has been used to create environmentally friendly laundry detergents with fewer phosphates and paper production treatments that reduce the discharge of chlorine. Industrial enzymes have also been used to create ethanol and other alternative fuels from corn and biomass.

Aside from the environmental benefits of both agricultural and industrial biotechnology, researchers have used this technology to actually solve environmental problems and clean up environmental disasters. Through the use of bioremediation, the use of living organisms to degrade toxic waste into harmless byproducts, researchers and environmentalists have been able to clean polluted coastlines and areas where fuels have leaked into the soil. Cities and towns throughout the world are now using microbes to remove pollutants from their sewage systems, and the EPA is now using bioremediation to clean up some of our nation's most serious waste sites.

With all of these marvelous benefits, there is no doubt that biotechnology is touching our lives and improving our world. But, along with this technology comes the responsibility to understand and carefully evaluate it. If there is to be a future for this technology, and we are to fully realize its benefits, elected officials and the public must be informed and engaged about the basics of technology itself and its incredible benefits.

This is why my colleagues and I are pleased to introduce this resolution declaring May 13–20, 2001, as "National Biotechnology Week." It is our hope that public officials, community leaders, researchers, professors, and school teachers across the country will take this week to actively promote understanding of biotechnology in their communities and their classrooms.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 352. Mr. SMITH of New Hampshire (for himself, Mr. REID, Mr. CHAFEE, and Mrs. BOXER) proposed an amendment to the bill S. 350, to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance State response programs, and for other purposes.

## TEXT OF AMENDMENTS

**SA 352.** Mr. SMITH of New Hampshire (for himself, Mr. REID, Mr. CHAFEE, and Mrs. BOXER) proposed an amendment to the bill S. 350, to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, to enhance State response programs, and for other purposes; as follows:

Beginning on page 57, strike line 24 and all that follows through page 58, line 3, and insert the following:

“(ii)(I) is contaminated by a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

“(II)(aa) is contaminated by petroleum or a petroleum product excluded from the definition of ‘hazardous substance’ under section 101; and

“(bb) is a site determined by the Administrator or the State, as appropriate, to be—

“(AA) of relatively low risk, as compared with other petroleum-only sites in the State; and

“(BB) a site for which there is no viable responsible party and which will be assessed, investigated, or cleaned up by a person that is not potentially liable for cleaning up the site; and

“(cc) is not subject to any order issued under section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)); or

“(III) is mine-scarred land.”

On page 65, between lines 11 and 12, insert the following:

“(4) **INSURANCE.**—A recipient of a grant or loan awarded under subsection (b) or (c) that performs a characterization, assessment, or remediation of a brownfield site may use a portion of the grant or loan to purchase insurance for the characterization, assessment, or remediation of that site.

On page 67, line 16, before the period, insert the following: “, including threats in areas in which there is a greater-than-normal incidence of diseases or conditions (including cancer, asthma, or birth defects) that may be associated with exposure to hazardous substances, pollutants, or contaminants”.

On page 68, between lines 16 and 17, insert the following:

“(J) The extent to which a grant would address or facilitate the identification and reduction of threats to the health or welfare of children, pregnant women, minority or low-income communities, or other sensitive populations.

On page 70, between lines 2 and 3, insert the following:

“(4) **REPORT TO CONGRESS.**—Not later than 3 years after the date of enactment of this section, the Inspector General of the Environmental Protection Agency shall submit to Congress a report that provides a description of the management of the program (including a description of the allocation of funds under this section).

On page 71, strike lines 15 through 17 and insert the following:

“(k) **EFFECT ON FEDERAL LAWS.**—Nothing in this section affects any liability or response authority under any Federal law, including—

“(1) this Act (including the last sentence of section 101(14));

“(2) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

“(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

“(4) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and

“(5) the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

“(1) **FUNDING.**—

“(1) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$200,000,000 for each of fiscal years 2002 through 2006.

“(2) **USE OF CERTAIN FUNDS.**—Of the amount made available under paragraph (1), \$50,000,000, or, if the amount made available is less than \$200,000,000, 25 percent of the amount made available, shall be used for site characterization, assessment, and remediation of facilities described in section 101(39)(D)(ii)(II).”

On page 93, line 4, before “develop”, insert “purchase insurance or”.

On page 94, line 11, strike “and”.

On page 94, line 14, strike the period at the end and insert “; and”.

On page 94, between lines 14 and 15, insert the following:

“(iii) a mechanism by which—

“(I) a person that is or may be affected by a release or threatened release of a hazardous substance, pollutant, or contaminant at a brownfield site located in the community in which the person works or resides may request the conduct of a site assessment; and

“(II) an appropriate State official shall consider and appropriately respond to a request under subclause (I).

On page 97, line 7, after “Administrator”, insert “, after consultation with the State,”.

On page 97, line 18, after the period, insert the following: “Consultation with the State shall not limit the ability of the Administrator to make this determination.”.

## AUTHORITY FOR COMMITTEES TO MEET

## COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, April 25, 2001. The purpose of this hearing will be to review agricultural trade issues.

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

## COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, April 25, 2001, immediately following the nomination hearing, on status of labor issues in airline industry.

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

## COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Com-

mittee, on Commerce, Science, and Transportation be authorized to meet on Wednesday, April 25, 2001, at 9:30 a.m. on the nomination of Brenda Becker to be Assistant Secretary for Legislative and Intergovernmental Affairs (DOC), and Michael Jackson to be Deputy Secretary for the Department of Transportation.

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

## COMMITTEE ON FINANCE

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Wednesday, April 25, 2001, to hear testimony on Medicare and SSI Benefits: Turning off the Spigot to Prisoners, Fugitives, the Deceased and other ineligible.

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

## COMMITTEE ON FOREIGN RELATIONS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 25, 2001, at 10:30 a.m. and at 2 p.m., to hold two hearings.

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

## COMMITTEE ON THE JUDICIARY

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, April 25, 2001, at 10 a.m., in SD226.

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

## SELECT COMMITTEE ON INTELLIGENCE

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, April 25, 2001, at 2 p.m., to hold a closed briefing on intelligence matters.

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

## SUBCOMMITTEE ON CONSUMER AFFAIRS, FOREIGN COMMERCE AND TOURISM

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Affairs, Foreign Commerce and Tourism of the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, April 25, 2001, at 2:30 p.m., on west coast gas prices.

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

## SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, April 25, 2001, to conduct a hearing on “HUD’s Program, Budget and Management Priorities for FY 2002.”

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

## SUBCOMMITTEE ON STRATEGIC

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Strategic of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, April 25, 2001, at 2:30 p.m., in open session to receive testimony on the fiscal year 2002 budget request of the National Nuclear Security Administration in review of the Defense authorization request for fiscal year 2002 and the future years Defense program.

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

## PRIVILEGES OF THE FLOOR

Mr. INHOFE. Mr. President, I ask unanimous consent that Daniel Wood be given floor privileges for this day.

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

Mr. REID. Mr. President, I ask unanimous consent that Mathew Tinnings, a fellow in Senator BINGAMAN's office, be granted the privilege of the floor for the pendency of the debate on S. 350.

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

## SENATOR ROBERT KERREY OF NEBRASKA

Mr. KERRY. Madam President, I want to share a couple of thoughts regarding some reports that have appeared in the media in the last few hours regarding our colleague, Senator Bob Kerrey.

Some reports have been written during the last 24 hours about an incident that took place in Vietnam in February 1969, several weeks prior to Senator Kerrey receiving the Congressional Medal of Honor for the secret mission on which he served. I read a couple of those reports. I want to express my personal concern about the approach of the media to this issue, and express my personal support for Senator Bob Kerrey, particularly for the nature and the circumstances of the mission which has been written about.

It is my hope that the media is not going to engage in some kind of 32-year-later binge because there is a difference of memory about a particularly confusing night in the delta in a free fire zone under circumstances which most of us who served in Vietnam understood were the daily fare of life in Vietnam at that point in time.

I served in the very same area that Bob Kerrey did. I served there at the very same time that he did. I remember those free fire zones. I remember our feelings then and the great confusion many people felt about the ambiguities we were automatically presented with then by a military doctrine that suggested that certain areas were wholly and totally "enemy territory," but nevertheless to the naked eye we could often perceive life as we knew it in Vietnam being carried on in those areas.

Inevitably, there were older citizens, women, children, and others who were often, as a matter of strategy by the Viet Cong, drawn into the line of fire and put in positions of danger without regard, I might add, for their side as well as ours.

To the best of my memory, most people worked diligently—I know Senator Kerrey did as well as others—to avoid the capacity for confusion or for accidents. I know certainly within our unit there was a great deal of pride on many occasions when orders were changed on the spot simply because perceptions on the spot made it clear that there was the potential for innocents to be injured.

I fully remember what it was like to "saddle up" for a nighttime mission with no Moon, with no light, trying to move clandestinely and trying to surprise people. The confusion that can ensue in those kinds of situations is not confusion that lends itself to a 32-year-later judgment.

There were occasions in Vietnam, as everyone knows, when innocents were victims. There wasn't a soldier there at that time, or who has come back to this country and home today, who doesn't regret that.

But I also know it is simply a disservice to our Nation and to the quality of the service and a person such as Bob Kerrey to have condemnation after the fact which does anything to diminish the quality of service, or the unit's service, or the service of so many others who spent their sweat and blood and youth in that particularly difficult battlefield.

So it is my hope that in the next days people will understand the appropriate perspective and put this issue in its appropriate perspective. Bob Kerrey served with distinction. He obviously feels anguish and pain about those events, but I do not believe they should diminish, for one moment, the full measure of what he has given to his country and of what he represents. It is my hope that he personally will not allow it to.

## TAIWAN

Mr. KERRY. Madam President, I want to say a word about what President Bush said this morning with respect to Taiwan because if what the President said is, in fact, what he means, or if it is indeed the new policy of the United States, it has profound implications for our country. He made a far-reaching comment this morning on the American defense of Taiwan, a comment which suggests that without any consultation with Congress, without any prior notice to the Congress, a policy that has been in place for 30 years is now summarily being changed with implications that I believe are serious.

When asked by Charles Gibson, on ABC's "Good Morning America," whether the United States had an obligation to defend Taiwan if Taiwan were

attacked by China, President Bush said:

Yes, we do, and the Chinese must understand that.

Charles Gibson then asked:

With the full force of the American military?

President Bush responded:

Whatever it took to help Taiwan defend itself.

For almost 30 years, through Republican and Democrat administrations alike, the cornerstone of our approach to policy toward China and Taiwan has been the so-called "one China" policy: There is but one China; Taiwan is a part of China, and the question of Taiwan's future must be settled peacefully.

This policy was laid out in the 1972 Shanghai Communiqué issued by the United States and China at the end of President Nixon's historic visit. It was reaffirmed in subsequent bilateral communiques—in 1979, when the United States recognized the People's Republic of China and again in 1982 on the question of U.S. arms sales to Taiwan.

A consistent tenet of this policy is the U.S. expectation that the question of reunification of China and Taiwan will be settled peacefully. We have never stated what the United States would do if Beijing attempted to use force to reunify Taiwan with the mainland—until today. We have not stated it in the course of Republican and Democrat administrations alike because we understood the danger of doing so.

We have been deliberately vague about what the circumstances might be under which we would come to Taiwan's defense, not only to discourage Taiwan from drawing us in by declaring independence but also to deter a Chinese attack by keeping Beijing guessing as to what the response might be.

Sometimes some people have talked about trying to reduce that ambiguity and simplify it and simply say, of course we would come to their defense. But if you do that, you invite a set of consequences that might carry with it its own set of dangers, and you may lose control of the capacity to make a determination about what has happened and what the circumstances really are to which you need to respond.

President Bush's comments this morning on "Good Morning America" suggest that the administration has decided to abandon the so-called strategic ambiguity. If so, the President has made a major policy change with absolutely no consultation with the Foreign Relations Committee, the Armed Services Committee, the Intelligence Committee, or the leadership of the Congress.

In my view, it is a policy change that serves neither our interests nor Taiwan's. Any situation which results in the use of force across the Taiwan Strait is unlikely to be simply black and white, as clear as can be. The Tonkin Gulf is a classic example of that.

To this day, people debate over whether or not there really was an attack on the Maddox and the Turner Joy, and whether or not there was an appropriate response under those circumstances.

The scenarios which could lead to the use of force and the conditions under which the United States might respond are simply too variable to lend themselves to a simple, clear declaration such as the declaration made by the President this morning.

For example, if China attacked in response to what it sees as a Taiwanese provocation, would we then respond? Apparently so, according to President Bush. Or if Taiwan declared independence, and China responded militarily, would we then come to Taiwan's defense? Have we given Taiwan a card it wanted all along, which is the capacity to know that no matter what it does, the United States would, in fact, be there to defend it?

The answer to that question is the reason that we have carried this ambiguity through President Ford, President Carter, President Reagan, President Bush, the President's father, and President Clinton.

In a subsequent interview on CNN, the President reiterated that we maintain the "one China" policy, and he hopes Taiwan will not declare independence. But he remained vague as to what we would do if Taiwan did declare independence and China attacked.

To remove the strategic ambiguity runs the risk of decreasing Taiwan's security rather than increasing it and of eliminating the flexibility that we will need to determine how to respond in any given situation.

Notwithstanding President Bush's efforts to clarify that the United States does not want Taiwan to declare independence, the new policy has the automatic impact, if it is in place, and if it is the declaration that was made, of emboldening Taiwan and, frankly, reducing our control over events.

Although I have argued that we need to inject more clarity into our engagement with China, I personally believe that on this question our interests and Taiwan's are better served by the ambiguity that has existed and would be better served by maintaining it. It not only deters a Chinese attack, but it discourages Taiwan from misreading what the United States might do.

President Bush has said that the United States has an obligation to defend Taiwan. Certainly we want to help Taiwan preserve its thriving democracy and robust, growing economy. I have said previously that I think this is enough of a message to the Chinese, that no American President could stand idly by and watch while that democracy that has been gained is set back, by force or otherwise. Nevertheless, we need to press both Taipei and Beijing to reinvigorate the cross-strait dialogue, without any misinterpretations about our role.

So let us be clear: The Taiwan Relations Act does not commit the United States to come to the defense of Taiwan in the event of an attack. The Taiwan Relations Act commits us to pro-

vide Taiwan with the necessary military equipment to meet its legitimate self-defense needs. The arms package that the Bush administration just approved for Taiwan, I believe, is the right mix and the right measure, and it will significantly increase the Taiwanese defensive capacities. I support that package.

It may be the case that we would send American forces ultimately to Taiwan's defense if there were an attack, but that decision should not be made by an American President in advance during a television interview.

A decision of this magnitude, which holds the potential for risking the lives of American military men and women, should be made in response to the circumstances at the moment, on the ground, in the air, and, most importantly, in consultation with the Congress of the United States in the due performance of its responsibilities with respect to the engagement of our forces overseas.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Madam President, I ask unanimous consent to speak for 15 minutes.

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

(The remarks of Mrs. LINCOLN pertaining to the introduction of S. 775 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. LINCOLN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### ORDERS FOR THURSDAY, APRIL 26, 2001

Mr. NICKLES. Mr. President, I ask unanimous consent that when the Senate completes its business today it adjourn until the hour of 10 a.m. on Thursday, April 26. I further ask unanimous consent that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business until 11 a.m. with Senators speaking for 10 minutes each with the following exceptions: Senator THOMAS or his designee from 10 to 10:30, and Senator DURBIN or his designee from 10:30 to 11 a.m.

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

#### PROGRAM

Mr. NICKLES. For the information of all Senators, it is hoped that the Senate can begin consideration of S. 149, the Export Administration Act, at approximately 11 a.m. Therefore, votes

could occur during tomorrow's session. In addition, the negotiations on the education bill are continuing, and it is still hoped that an agreement can be reached prior to the end of the week.

#### ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. NICKLES. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 3:56 p.m., adjourned until Thursday, April 26, 2001, at 10 a.m.

#### NOMINATIONS

Executive nominations received by the Senate April 25, 2001:

##### DEPARTMENT OF AGRICULTURE

LOU GALLEGOS, OF NEW MEXICO, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE, VICE PAUL W. FIDDICK, RESIGNED.

MARY KIRTLEY WATERS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE, VICE ANDREW C. FISH, RESIGNED.

##### FEDERAL TRADE COMMISSION

TIMOTHY J. MURIS, OF VIRGINIA, TO BE A FEDERAL TRADE COMMISSIONER FOR THE UNEXPIRED TERM OF SEVEN YEARS FROM SEPTEMBER 26, 1994, VICE ROBERT PITOFKY, RESIGNED.

##### DEPARTMENT OF ENERGY

LEE SARAH LIBERMAN OTIS, OF VIRGINIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF ENERGY, VICE MARY ANNE SULLIVAN, RESIGNED.

##### DEPARTMENT OF HEALTH AND HUMAN SERVICES

CLAUDE A. ALLEN, OF VIRGINIA, TO BE DEPUTY SECRETARY OF HEALTH AND HUMAN SERVICES, VICE KEVIN L. THURM, RESIGNED.

##### DEPARTMENT OF LABOR

PAT PIZZELLA, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE PATRICIA WATKINS LATTIMORE.

##### IN THE AIR FORCE

THE FOLLOWING NAMED UNITED STATES AIR FORCE RESERVE OFFICER FOR APPOINTMENT AS CHIEF OF AIR FORCE RESERVE AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 8038 AND 601:

##### To be lieutenant general

MAJ. GEN. JAMES E. SHERRARD III, 0000

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be major general

BRIG. GEN. GREGORY B. GARDNER, 0000  
BRIG. GEN. ROBERT I. GRUBER, 0000  
BRIG. GEN. CRAIG R. MCKINLEY, 0000  
BRIG. GEN. JAMES M. SKIFF, 0000

##### To be brigadier general

COL. RICHARD W. ASH, 0000  
COL. THOMAS L. BENE, JR., 0000  
COL. PHILIP R. BUNCH, 0000  
COL. CHARLES W. COLLIER, JR., 0000  
COL. RALPH L. DEWSNUP, 0000  
COL. CAROL ANN FAUSONE, 0000  
COL. SCOTT A. HAMMOND, 0000  
COL. DAVID K. HARRIS, 0000  
COL. DONALD A. HAUGHT, 0000  
COL. KENCIL J. HEATON, 0000  
COL. TERRY P. HEGGEMEIER, 0000  
COL. RANDALL E. HORN, 0000  
COL. THOMAS J. LIEN, 0000  
COL. DENNIS G. LUCAS, 0000  
COL. JOSEPH E. LUCAS, 0000  
COL. FRANK PONTELANDOLFO, JR., 0000  
COL. RONALD E. SHOOPMAN, 0000  
COL. BENTON M. SMITH, 0000  
COL. HOMER A. SMITH, 0000  
COL. ANNETTE L. SOBEL, 0000  
COL. CLAIR ROBERT H. ST. III, 0000  
COL. REX W. TANBERG, JR., 0000  
COL. MICHAEL H. WEAVER, 0000  
COL. LAWRENCE H. WOODBURY, 0000