

EC-421. A communication from the Assistant Secretary of State, Legislative Affairs, transmitting, pursuant to law, a report relative to the payment of a reward pursuant to 22 U.S.C. Section 2708; to the Committee on Foreign Relations.

EC-422. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-392 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC-423. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-393 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC-424. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-394 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC-425. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-395 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC-426. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-396 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

EC-427. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-397 adopted by the Council on January 3, 1995; to the Committee on Governmental Affairs.

EC-428. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-398 adopted by the Council on January 3, 1995; to the Committee on Governmental Affairs.

EC-429. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-399 adopted by the Council on January 3, 1995; to the Committee on Governmental Affairs.

EC-430. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-401 adopted by the Council on January 3, 1995; to the Committee on Governmental Affairs.

EC-431. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-402 adopted by the Council on January 8, 1995; to the Committee on Governmental Affairs.

EC-432. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a report relative to the Senior Executive Service; to the Committee on Governmental Affairs.

EC-433. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, a Notice of Proposed Rulemaking docket number RM95-3; to the Committee on Governmental Affairs.

EC-434. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Native Hawaiian Revolving Loan Fund for fiscal year 1993; to the Committee on Indian Affairs.

EC-435. A communication from the Senior Attorney of the Copyright Office of the Library of Congress, transmitting, pursuant to law, a report of the activities of the Office under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC-436. A communication from the Secretary of the Judicial Conference of the United States, transmitting, pursuant to law, a report containing recommendations regarding the admission of character evidence in certain cases under the Federal Rules of Evidence; to the Committee on the Judiciary.

EC-437. A communication from the Director of Operations and Finance, American Battle Monuments Commission, transmitting, pursuant to law, a report relative to the Commission's compliance with the Freedom of Information Act during calendar year 1994; to the Committee on the Judiciary.

EC-438. A communication from the Executive Director of the Pennsylvania Avenue Development Corporation, transmitting, pursuant to law, a report relative to the Corporation's activities under the Freedom of Information Act during calendar year 1994.

EC-439. A communication from the Chief Justice of the United States, transmitting, pursuant to law, a report of the proceedings of the Judicial Conference of the United States on September 20, 1994; to the Committee on the Judiciary.

EC-440. A communication from the Chairman of the Harry S. Truman Scholarship Foundation, transmitting, pursuant to law, the annual report of the Foundation for 1994; to the Committee on Labor and Human Resources.

EC-441. A communication from the Secretary of the Smithsonian Institution, transmitting, pursuant to law, the annual proceedings of the One-Hundred and Third Continental Congress of the National Society of the Daughters of the American Revolution; to the Committee on Rules and Administration.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 395. A bill to authorize and direct the Secretary of Energy to sell the Alaska Power Marketing Administration, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAIG:

S. 396. A bill for the relief of Amalia Hatzipetrou and Konstantinos Hatzipetrou; to the Committee on the Judiciary.

By Mr. MCCAIN:

S. 397. A bill to benefit crime victims by improving enforcement of sentences imposing fines and special assessments, and for other purposes; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself, Mr. COHEN, Ms. SNOWE, Mr. HEFLIN, Mr. GRAHAM, and Mr. DODD):

S. 398. A bill to amend the Solid Waste Disposal Act to provide congressional authorization for State control over transportation of municipal solid waste, and for other purposes; to the Committee on Environment and Public Works.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for Mr. KEMPTHORNE (for himself, Mr. DOLE, Mr. COCHRAN, Mr. ROBB, Mr. ASHCROFT, Mr. BIDEN, Mrs.

BOXER, Mr. CAMPBELL, Mr. CRAIG, Mr. D'AMATO, Mr. DEWINE, Mr. DORGAN, Mr. FEINGOLD, Mr. GRAMM, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. INHOFE, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. LOTT, Mr. MCCAIN, Mr. MURKOWSKI, Mr. ROCKEFELLER, Mr. SIMPSON, Mr. STEVENS, and Mr. FORD):

S. Res. 77. A resolution to commemorate the 1995 National Peace Officers Memorial Day; considered and agreed to.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 395. A bill to authorize and direct the Secretary of Energy to sell the Alaska Power Marketing Administration, and for other purposes; to the Committee on Energy and Natural Resources.

##### ALASKA POWER ADMINISTRATION SALE ACT

Mr. MURKOWSKI. Mr. President, I am pleased today to introduce legislation to sell the Alaska Power Administration's two hydroelectric projects, as well as a trailing amendment which would lift the Alaska North Slope crude oil export ban.

Mr. President, title 1 of this legislation will authorize the sale of the Alaska Power Administration. The Alaska Power Administration is really different from the other Federal power marketing agencies of the Department of Energy. It has only two hydroelectric projects, Eklutna, near Anchorage, and Snettisham, near Juneau. These were never intended by Congress to remain indefinitely under Federal control.

The Eklutna Project Act, for example, states that:

Upon completion of amortization of the capital investment allocated to power, the Secretary is authorized and directed to report to the Congress upon the feasibility and desirability of transferring the Eklutna project to public ownership and control in Alaska.

Moreover, these two projects were created specifically to promote economic and industrial development in Alaska, and they are not the product of a water resource management plan.

I have been a strong advocate of ensuring that Alaskans control their own destiny, which is really what this bill is about. It will put the management of these two hydroelectric projects into the hands of those who best know Alaska. One project would be sold to the State of Alaska and the other will be sold to a group of three Alaskan public electric utilities.

Equally as important, this legislation will relieve the Federal Government of the expenses of operating and maintaining these two projects. It also provides for the termination of the Alaska Power Administration once the sale is complete, further saving money for taxpayers.

It is important to note that this legislation provides necessary safeguards for the environment. It requires the State of Alaska and the Eklutna purchasers to abide by the memorandum of agreement they entered into regarding the protection and enhancement of fish and wildlife. This legislation makes this legally enforceable.

Last year, the Committee on Energy and Natural Resources reported Senate bill 2383, the Alaska Power Administration Sale Authorization Act. The administration testified in strong support of this legislation. Unfortunately, the committee acted too late in the year to allow for Senate action. With early introduction in this Congress, I am hopeful we will see this legislation enacted into law soon.

There is one provision which needs to be included in the Alaska Power Administration legislation before it is sent to the President for signature. But I have not included it because it addresses the Internal Revenue Code. In order to indicate my strong desire that such a provision be included in the final bill, I have introduced it as a printed amendment.

Title 2 of this bill will lift the Alaska North Slope crude oil export ban. Alaska is the only State that is subject to such an onerous plan. The 1.6 million barrels of oil transported through the TransAlaska pipeline is not forced into the lower 48 crude markets, creating artificially low crude oil prices on the west coast. The majority of this oil is tankered along our coast to Washington and California.

Some of the oil is even shipped all the way down to Panama, pumped through the TransPanamanian pipeline, which is owned in large part by the Panamanian Government. The oil is then put back on smaller U.S.-flagged tankers that transport it into the gulf States at exorbitant prices. This process is no longer economic with the decline in the price of oil.

Now what we have seen is we have seen an increase in the supply of oil on the west coast. It has depressed the cost of crude oil in California by as much as \$3 a barrel, and that has discouraged the exploration of development of oilfields in California and Alaska.

The Department of Energy completed a study of the Alaskan North Slope crude oil ban in June 1994 and the Department of Energy concluded that the lifting of this ban would add as much as \$180 billion in tax revenue to the U.S. Treasury, create some 25,000 jobs by the year 2000, preserve some 3,300 maritime jobs, inasmuch as some of the oil will probably be moving to the Far East in U.S.-flagged vessels that are crewed by U.S. sailors, and would require additional ships because, obviously, the transit is longer than moving that oil down to the west coast. It would also increase American oil production by as much as 110,000 barrels a day, according to a DOE estimate. This study also found it would not signifi-

cantly impact gas prices to consumers in California.

Mr. President, this ban no longer makes any sense. Rather than decrease our dependence on foreign oil, it has decreased our domestic production, and made us more reliant on imported oil. Oil, like any other commodity, should find its own level and its own market. The exception of this has been the prohibition on allowing the export of Alaskan oil.

Mr. President, all this legislation would so is to allow the market to determine the price and buyer of the crude oil. The TransAlaska pipeline would still supply the west coast with crude oil because it is simply the closest market for the oil. The excess crude that creates a glut in California and the oil that is forced through the TransPanamanian pipeline would probably be sold overseas and find a market there. But the market would primarily determine where it is sold.

Mr. President, I ask unanimous consent that the bill and the associated amendment be printed in the CONGRESSIONAL RECORD and that my statement and the accompanying bill be addressed for referral as it appropriate.

Mr. President, I neglected to announce that the senior Senator from Alaska [Mr. STEVENS] joins me as a cosponsor on the bill.

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

S. 395

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

#### TITLE I

##### SECTION 101. SHORT TITLE.

This title may be cited as the "Alaska Power Administration Sale Act".

##### SEC. 102. SALE OF SNETTISHAM AND EKLUTNA HYDROELECTRIC PROJECTS.

(a) The Secretary of Energy is authorized and directed to sell the Snettisham Hydroelectric Project (referred to in this Act as "Snettisham") to the State of Alaska in accordance with the terms of this Act and the February 10, 1989, Snettisham Purchase Agreement, as amended, between the Alaska Power Administration of the Department of Energy and the Alaska Power Authority.

(b) The Secretary of Energy is authorized and directed to sell the Eklutna Hydroelectric Project (referred to in this Act as "Eklutna") to the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc., and the Matanuska Electric Association, Inc., (referred to in this Act as "Eklutna Purchasers") in accordance with the terms of this Act and the August 2, 1989, Eklutna Purchase Agreement, as amended, between the Department of Energy and the Eklutna Purchasers.

(c) The heads of other Federal departments and agencies, including the Secretary of the Interior, shall assist the Secretary of Energy in implementing the sales authorized and directed by this Act.

(d) The Secretary of Energy shall deposit sale proceeds in the Treasury of the United States to the credit of miscellaneous receipts.

(e) There are authorized to be appropriated such sums as may be necessary to prepare or acquire Eklutna and Snettisham assets for

sale and conveyance. Such preparations and acquisitions shall provide sufficient title to ensure the beneficial use, enjoyment, and occupancy to the purchasers of the asset to be sold.

##### SEC. 103 EXEMPTION.

(a)(1) After the sales authorized by this Act occur, Eklutna and Snettisham, including future modifications, shall continue to be exempt from the requirements of the Federal Power Act (16 U.S.C. 791a et. seq.).

(2) The exemption provided by paragraph (1) does not affect the Memorandum of Agreement entered into between the State of Alaska, the Eklutna Purchasers, the Alaska Energy Authority, and Federal fish and wildlife agencies regarding the protection, mitigation of, damages to, and enhancement of fish and wildlife, dated August 7, 1991, which remains in full force and effect.

(3) Nothing in this Act or the Federal Power Act preempts the State of Alaska from carrying out the responsibilities and authorities of the Memorandum of Agreement.

(b)(1) The United States District Court for the District of Alaska has jurisdiction to review decisions made under the Memorandum of Agreement and to enforce the provisions of the Memorandum of Agreement, including the remedy of specific performance.

(2) An action seeking review of a Fish and Wildlife Program ("Program") of the Governor of Alaska under the Memorandum of agreement or challenging actions of any of the parties to the Memorandum of agreement prior to the adoption of the Program shall be brought not later than 90 days after the date of which the Program is adapted by the Governor of Alaska, or be barred.

(3) An action seeking review of implementation of the Program shall be brought not later than 90 days after the challenged act implementing the program, or be barred.

(c) With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

(1) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers—

(A) at no cost to the Eklutna Purchasers;

(B) to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals, or replacements; and

(C) sufficient for the operation, maintenance, repair, and replacement of, and access to, Eklutna facilities located on military lands and lands managed by the Bureau of Land Management, including land selected by the State of Alaska.

(2) If the Eklutna Purchasers subsequently sell or transfer Eklutna to private ownership, the Bureau of Land Management may assess reasonable and customary fees for continued uses of the rights-of-way on land managed by the Bureau of Land Management and military lands in accordance with current law.

(3) Fee title to lands at Anchorage Substation shall be transferred to Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to, and selection of, those lands are invalid or relinquished.

(4) With respect only to approximately 853 acres of Eklutna lands identified in paragraphs 1.a., b., and c. of Exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select, and the secretary of the Interior shall convey, to the state, improved lands under the selection entitlements in section 6(a) of the Act of July 7, 1958 (Public Law 85-508) and the North Anchorage Land Agreement of January 31, 1983. The conveyance is subject to the rights-of-way provided

to the Eklutna Purchasers under paragraph (1).

(d) With respect to the approximately 2,671 acres of Snettisham lands identified in paragraphs 1.a and b. of Exhibit A of the Snettisham Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey to the State, improved lands under the selection entitlement in section 6(a) of the Act of July 7, 1958 (Public Law 85-508).

(e) Not later than 1 year after both of the sales authorized in section 2 have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—

(1) complete the business of, and close out, the Alaska Power Administration;

(2) prepare and submit to Congress a report documenting the sales; and

(3) return unused balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

(f) The Act of July 31, 1950 (64 Stat. 382) is repealed effective on the date, as determined by the Secretary of Energy, when all Eklutna assets have been conveyed to the Eklutna Purchasers.

(g) Section 204 of the Flood Control Act of 1962 (Public Law 87-874; 76 Stat. 1193) is repealed effective on the date, as determined by the Secretary of Energy, when all Snettisham assets have been conveyed to the State of Alaska.

(h) As of the later of the two dates determined in subsection (f) and (g), section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152(a)) is amended—

(1) in paragraph (1)—

(A) by striking our subparagraph (C); and

(B) by redesignating subparagraphs (D), (E) and (F) as subparagraphs (C), (D), and (E) respectively;

(2) in paragraph (2), by striking out “the Bonneville Power Administration, and the Alaska Power Administration” and inserting in lieu thereof “and the Bonneville Power Administration”.

(i) The Act of August 9, 1955 (69 Stat. 618), concerning water resources investigation in Alaska, is repealed.

(j) The sales of Eklutna and Snettisham under this Act are not considered a disposal of Federal surplus property under the following provisions of section 203 of the Federal Property and Administration Services Act of 1949 (40 U.S.C. 484) and section 13 of the Surplus Property Act of 1944 (50 U.S.C. app. 1622).

## TITLE II

### SEC. 201. SHORT TITLE.

This Title may be cited as “Trans-Alaska Pipeline Amendment Act of 1995”.

### SEC. 202. TAPS ACT AMENDMENTS.

Section 203 of the Act entitled the “Trans-Alaska Pipeline Authorization Act,” as amended (43 U.S.C. 1652), is amended—

(a) by inserting the following new subsection (f): “(f) Exports of Alaskan North Slope oil.

“(1) Subject to paragraphs (2) and (3), notwithstanding any other provision of law (including any regulation), any oil transported by pipeline over a right-of-way granted pursuant to this section may be exported.

“(2) Except in the case of oil exported to a country pursuant to a bilateral international oil supply agreement entered into by the United States with the country before June 25, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, the oil shall be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916, (46 U.S.C. App. 802)).

“(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers act (50 U.S.C. 1701 et seq.), or the National Emergencies Act (50 U.S.C. 1601 et seq.) to prohibit exportation of the oil.”.

### SEC. 203. SECURITY OF SUPPLY.

Section 410 of the Trans-Alaska Pipeline Authorization Act (87 Stat. 594) is amended to read as follows:

“The Congress reaffirms that the crude oil on the North Slope of Alaska is an important part of the Nation’s oil resources, and that the benefits of such crude oil should be equitably shared, directly or indirectly, by all regions of the country. The President shall use any authority he may have to ensure an equitable allocation of available North Slope and other crude oil resources and petroleum products among all regions and all of the several States.”.

### SEC. 204. ANNUAL REPORT.

Section 103(f) of the Energy Policy and Conservation Act (42 U.S.C. 6212(f)) is amended by adding at the end thereof the following:

“In the first quarter report for each new calendar year, the President shall indicate whether independent refiners in Petroleum Administration District 5 have been unable to secure adequate supplies of crude oil as a result of exports of Alaskan North Slope crude oil in the prior calendar year and shall make such recommendations to the Congress as may be appropriate.”.

### SEC. 205. GAO REPORT.

The Comptroller General of the United States shall conduct a review of energy production in California and Alaska and the effects of Alaskan North Slope crude oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast. The Comptroller General shall commence this review four years after the date of enactment of this Act and, within one year after commencing the review, shall provide a report to the Committee on Energy and Natural Resources in the Senate and the Committee on Resources in the House of Representatives. The report shall contain a statement of the principal findings of the review and such recommendations for consideration by the Congress as may be appropriate.

### SEC. 206. EFFECTIVE DATE.

This Act and the amendments made by it shall take effect on the date of enactment.

By Mr. McCAIN:

S. 397. A bill to benefit crime victims by improving enforcement of sentences imposing fines and special assessments, and for other purposes; to the Committee on the Judiciary.

#### PRIVATIZATION OF DEFAULTED DEBT COLLECTION

• Mr. McCAIN. Mr. President, today I am introducing legislation to improve collection of the staggering amount of delinquent debt that convicted criminals owe to crime victims and the Federal Government. The bill calls on the Department of Justice to contract with private firms to collect criminal fines and special assessments from offenders who are in default. These criminal fines and assessments are used to finance various programs to assist crime victims. The Department of Justice is responsible for making criminal debt collections, but DOJ is not getting the job done. Privatizing the effort will enable us to tap into the source of bil-

ions of dollars that otherwise might go uncollected.

The Justice Department and the U.S. General Accounting Office reported an inventory of more than 110,000 overdue criminal debts valued at more than \$2.3 billion at the end of fiscal year 1992. This money, if collected, would be deposited into the Crime Victims Fund—for the counseling of victims of violent crime, for domestic abuse shelters, for many programs nationwide that help victims and their families cope with the devastation caused by these criminals.

But the money cannot go into the Crime Victims Fund unless it is collected. And right now, many defaulted fines and special assessments go uncollected because there is such a tremendous backlog of cases. When convicts escape from jail, they are hunted down and forced to do their time. So it seems ridiculous that criminal debtors who escape payment are not hunted down with the same determination and forced to make good on their debts to their victims and the Federal Government.

Currently, the Department of Justice is responsible for collecting past due debts, both criminal and civil. Within the Department of Justice, the Associate Deputy Attorney General plans and supervises the collections, while the U.S. attorneys in 94 judicial districts are charged with actually collecting the past due debts.

The U.S. attorney offices are not always able to handle the huge volume of debt collection cases, however, because of a backlog of older cases, inadequate resources, and other priorities. In fact, from 1985 to 1992, the number of criminal debts tripled while the time spent on collections declined. What effect can these fines possibly have, what good can they do for victims, if they are not strictly enforced?

At a time when fiscal restraint is a top priority, it is absurd that we are not vigorously pursuing this multibillions-dollar source of funds and that we are letting convicted criminals compound their crimes by defying court orders to pay fines for these misdeeds.

Mr. President, privatizing debt collection has proven to be effective. Public Law 99-578 authorized a pilot program that allowed the Attorney General to contract with 18 private law firms in 7 Federal judicial districts to collect past due civil debts, such as student loans as federally guaranteed mortgages. The General Accounting Office completed an evaluation of the pilot program in September 1994, and in its report to Congress, the GAO recommended expanding the pilot program because it was so successful.

The GAO report concluded that the private law firms were cost effective, collecting \$9.2 million in defaulted civil debts at a cost of \$2.4 million. Further, the private firms closed more cases at a low unit cost than the collectors in

the U.S. attorney offices. The U.S. attorney collectors spend \$422 to close each case compared to \$243 for the private firms. Most important of all, the GAO study noted that the private firms worked cases and collected debts that the U.S. attorney collectors had given up on or may never have dealt with because of their ever-increasing workloads.

This pilot program is successful dealing with civil debt collection. We should apply this same approach to capturing the \$2.3 billion in uncollected criminal debt.

The legislation I am introducing today would require the Director of the Administrative Office of the U.S. Courts to contract with private sector firms to collect defaulted criminal debts. The private firms would be paid on a contingent fee basis, which means that these firms would receive a set percentage of any amount that they collected. This approach would ensure that the Government will not pay for work unless it is completed and it would ensure that the private firms will be motivated to do the work.

All of the defaulted criminal debt that would be collected, less the contingency fee, would be deposited directly into the Crime Victims Fund, in accordance with Federal law. I want to stress that this is money that would not otherwise be collected if it were not for privatized collection. Every dollar collected will provide additional resources to render desperately needed victim assistance.

The Crime Victims Fund finances many vital programs across this Nation. In my home State of Arizona, the Brewster Center in Tucson annually depends on money from the Crime Victims Fund to provide shelter and counseling for more than 1,000 women and children living through the horror of domestic violence.

In Phoenix, AZ, the Crisis Nursery is a lifeline for the youngest and most helpless victims of crime—children. Last year, money from the Crime Victims Fund sheltered and counseled 806 children at the Crisis Nursery—helping them endure the tragedy of physical and sexual abuse, the loss of a murdered parent, and neglect or abandonment. Victims assistance programs in Arizona received slightly more than \$1 million from the Crime Victims Fund last year, but that amount is down for the third year in a row.

Every dollar of defaulted criminal debt that is collected as a result of this legislation means continued funding for places like Brewster Center and the Crisis Nursery. And, remember, this is money that is coming directly from court fines on the convicted criminals who committed the crimes.

Mr. President, I am amenable to discussion on the mandatory nature of this legislation. There may be some merit to considering an optional approach to contracting with private firms or, perhaps, a pilot program similar to the successful one that Congress

created for privatizing civil debt collection.

It is imperative, however, that we act swiftly because there is a 5-year statute of limitations on collection of the criminal special assessments. Every day that we spend debating this issue is one less day spent tracking down and collecting from these deadbeat criminals; and when the statute of limitations passes, that money is gone forever.

Mr. President, this legislation clearly empowers the Department of Justice to obtain much-needed help on an overwhelming task—collecting more than \$2 billion in defaulted criminal debts, and I urge quick consideration and passage of this measure.

I ask unanimous consent that several letters be printed in the RECORD.

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

NATIONAL ORGANIZATION FOR  
VICTIM ASSISTANCE,  
*Washington, DC, February 10, 1995.*

Hon. JOHN MCCAIN,  
*U.S. Senate,  
Washington, DC.*

DEAR SENATOR MCCAIN: I write to express the enthusiastic support of the National Organization for Victim Assistance for your proposed legislation to privatize the collection of backlogged, uncollected penalty assessments and criminal fines owed to the federal courts—and to the Crime Victims Fund.

As you know, the Victims of Crime Act of 1984, as amended, created the Crime Victims Fund, into which are placed virtually all Title 18 federal criminal fines, the "penalty assessments" created by VOCA, and forfeited bail bonds. These revenues (which run about \$150-\$200 million a year) are then expended on two small victim-oriented programs and two major ones—one supporting the various states' crime victim compensation programs, and the other thousands of local programs of personal assistance and advocacy.

Through these two programs, VOCA has become the "Marshall Plan of the victims' movement," a stimulator of huge growth in victim compensation and assistance programs. Its multiplier effects make all of us in the victims' movement very protective of its funding base, and very supportive of expanding that base wherever possible.

We therefore applaud your many efforts to increase VOCA's revenues, from trying to make the Federal Fine Center more productive in its collection efforts to proposing the doubling of the penalty assessments. But it is our estimation that the privatization of delinquent fine collections, which is your latest proposal, would prove to be by far the most beneficial to the Fund and to the programs and victims it supports.

The reason for this is the much-discussed \$4 billion backlog in unpaid fines. We, like you, have heard it said that much of this is uncollected and uncollectable, involving everything from many small assessments against deported aliens to a few fines against bigtime, white-collar offenders who are now effectively destitute.

To which we say, first, the financial services industry that does collections for government agencies of every description indicates that this is a worthwhile venture to pursue—and second, we have heard of no plausible alternative to the privatization option—and third, the delinquencies in question are over \$4 billion—and growing. A mere penny on each of those dollars adds up to very real money in the economy of VOCA.

To put this concern about federal fines into perspective, we believe very strongly that victims and their advocates have no special, legitimate interest in the setting of fine levels or the ordering of fines except that they meet one test—that of just and proportionate punishment.

But once that test is met, it is fair, indeed essential, for victim advocates to demand more effective efforts to collect the fines that are ordered. In our view, your privatization proposal offers that needed progress in improved collections, which makes it superior to every other alternative brought to our attention.

We therefore thank you for this newest expression of your support for crime victims and the programs that help them.

Sincerely,

MARLENE A. YOUNG, Ph.D., J.D.,  
*Executive Director.*

NATIONAL VICTIM CENTER,  
*Arlington, VA, February 13, 1995.*

Hon. JOHN MCCAIN,  
*Washington, DC.*

DEAR SENATOR MCCAIN: On behalf of the Board of Directors and Staff of the National Victim Center, we wish to express our support for your proposed measure to begin the privatization of the Federal fine collection program which secures delinquent penalties, fines and assessments destined for the Victims of Crime Act (VOCA) Fund.

The National Victim Center works with more than 8,000 victim and law enforcement organizations nationwide—a substantial number of which benefit directly or indirectly from VOCA funding through state administered compensation and victim assistance programs.

In preparation for last fall's hearing held by the Senate Committee on Government Affairs, I spoke with dozens of VOCA Administrators and VOCA sub-grantees in the field. When asked about the importance of VOCA Funding to their program, the unanimous response was that this source of financial support was not only important but indispensable to the survival of their programs. In fact, most made it clear that given reductions in contributions from other private and public sources, programs are being forced to rely more heavily than ever on VOCA money to keep their doors open.

While the resources available to assist crime victims continue to shrink in these times of fiscal caution and restraint, the demand for victim assistance and services continue to grow. Let me provide some specific examples given to me directly from State Administrators and victim service organizations last fall.

Typical is the case of the Jefferson County Domestic Violence Shelter in Arvada, Colorado. In 1993 alone 524 domestic violence victims were turned away for lack of space, including 222 children.

Texas was forced to de-fund some of its victim service programs like the Court Appointed Special Advocates (CASA) Program that provides child victims of abuse and sexual assault with a volunteer advocate to protect their rights and represent their interests before the court—particularly when the offender is a parent. In many cases, CASA volunteers are the only persons in the system who are performing such services. Without them, children will be left to fend for themselves in a system they cannot comprehend. Surrounded by adults making demands, they are too frightened or simply unable to fulfill.

Washington State recently funded a program to provide assistance to male victims of sexual assault (the most common target of

pedophiles). The program had resources to serve about 50 clients. Within three months, it had applications from more than 500 victims.

Thus, every dollar collected in fines for the VOCA fund makes a difference in the life of some crime victim. This fact viewed in the shadow of \$4 billion in outstanding fines makes collection of Federal Fines an important priority of the victims' movement. It is for this reason that the movement generally supported the decision to use a portion of the VOCA fund to aid in the collection. More than \$6 million per year is earmarked off the top of the VOCA Fund for that specific purpose. A good portion of that money has been dedicated to the creation of a "Federal Fine Center" as an investment that would assure a far greater return in increased collections.

Unfortunately, reports raise serious questions concerning the wisdom of that investment. After years in developing and millions of dollars spent, crime victims and their advocates are left with little alternative than to doubt the viability of the Center and Federal Government's current collection strategy.

We feel your proposal to privatize a portion of that collection process is an important first step in the pursuit of an alternative and more effective collection strategy. The challenge presented by the collection of fines is not dramatically different than that faced by hundreds of thousands of private firms seeking collection of debt. Yet such private concerns seem to have far greater success in meeting the challenge of debt collection than their counter-parts in the Federal Judicial System.

We believe the time has come to look to the private sector for solutions to our critical fine collection quandary. Given current circumstances, we feel that crime victims, advocates and service providers have little to lose and everything to gain.

Your proposal to allow private firms the opportunity to collect unpaid fines after 120 days will be a challenging test of private sector's proficiency. If they succeed in collecting these relatively "stale debts", then expansion of their role in the collection arena may be desirable.

While the National Victim Center continues to believe there is a need to overhaul the entire Federal fine collection process, your proposed measure represent the first serious step toward that undertaking.

It is for this reason that the Board of Directors and staff of the National Victim Center strongly urge your colleagues to co-sponsor and support this measure of crucial importance to our nation's crime victims.

Thank you for your consideration and support.

Sincerely,

DAVID BEATTY,  
*Director of Public Policy.*

ARIZONA DEPARTMENT OF  
PUBLIC SAFETY,  
*Phoenix, AZ, February 10, 1995.*

Senator JOHN MCCAIN,  
*United States Senate,*  
*Washington, DC.*

DEAR SENATOR MCCAIN: Thank you for providing us the opportunity to respond to the proposed Privatization of Defaulted Debt Collection Act.

The Arizona Department of Public Safety administers the federal Victims of Crime Act (VOCA) victim assistance grant which supports private non-profit and governmental agencies who serve victims of crime. For the past several years, the level of deposits into the Crime Victims Fund has dropped due to decreasing collections. This results in a reduction of victim services during a time when victim services should be significantly

increased. Agencies who provide direct assistance to victims of sexual assault, child abuse, domestic violence and other violent crimes are dramatically impacted.

Therefore, the Arizona Department of Public Safety strongly supports the proposed legislation which would ultimately result in more funding for victims of crime.

Sincerely,

LYNN PIRKLE,  
*VOCA Grant Administrator.*•

By Mr. LAUTENBERG (for himself, Mr. COHEN, Ms. SNOWE, Mr. HEFLIN, Mr. GRAHAM, and Mr. DODD):

S. 398. A bill to amend the Solid Waste Disposal Act to provide congressional authorization for State control over transportation of municipal solid waste, and for other purposes; to the Committee on Environment and Public Works.

#### FLOW CONTROL ACT

• Mr. LAUTENBERG. Mr. President, I rise today to reintroduce the Flow Control Act. The Flow Control Act will overturn a 1994 Supreme Court decision and give State and local governments the authority to control the flow of solid waste under specific circumstances. The Supreme Court decision, if allowed to stand, could result in chaos in communities in virtually all of the States where flow control authority is currently in place and constitutes a critical component of strategies to manage waste. My legislation provides that State and local governments, not the Federal Government, will decide whether to use flow control authority.

The bill I am introducing today contains the provisions of title II of S. 2345 which were negotiated by a House-Senate conference committee and passed the House. Unfortunately, the bill died on the Senate floor because of concerns regarding another issue in the bill on the last day of the Congress last October. It was endorsed last year by all those parties faced with the responsibility of disposing of solid waste. While there are technical problems with the bill, it incorporates the bulk of the agreement worked out last year. I intend to work with all of the parties to address these remaining technical issues.

On May 16, 1994, in a 6-to-3 decision, the Supreme Court ruled in the case of *Carbone versus Clarkstown* that a New York municipality could not require that garbage generated in the locality be sent to a designated waste management facility. The Court held that a Clarkstown, NY, flow control ordinance interfered with interstate commerce and deprived out-of-State firms access to the local trash market. The Constitution provides that only the Federal Government may regulate commerce among the States unless it specifically delegates this authority to them. The court's ruling held that this power had not been granted by Congress to the States.

If not reversed, this decision will have a significant effect on the ability

of State and local governments to manage garbage. Historically, State and local governments have had the responsibility for municipal solid waste management. This is recognized in the Nation's solid waste management law, the Resource Conservation and Recovery Act or RCRA. In RCRA, the Congress found that collection and disposal of garbage is primarily a function for State and local governments. To foster this function, RCRA requires EPA to provide assistance in the development and implementation of State solid waste management plans. States are encouraged to develop statewide solid waste management plans. Before EPA approves a plan, it must find that the plan identifies the responsibilities of State, regional, and local governments and has provided for the establishment of such State regulatory powers as is necessary to implement the plan. It's clear from RCRA that Congress intended that State and local governments have the authority necessary to manage solid waste. My bill authorizes, but doesn't require, State and local governments to use flow control authority.

According to the Congressional Research Service, 43 States, including New Jersey, either utilize flow control authority or have authorized local governments to use flow control for waste management. Flow control laws have been in place in New Jersey since 1979 and control all of the nonhazardous solid waste in the State's 567 municipalities and 21 counties. Flow control has been a significant part of New Jersey's ability to build an infrastructure to handle the 14 million tons of solid waste requiring disposal annually. Collectively, this infrastructure represents a capital investment of over \$2 billion. New Jersey's recycling programs also are dependent on revenues received for use of New Jersey waste management facilities.

The Supreme Court decision threatens this authority, undercuts the roles of State and local governments in solid waste management and negates the planning process contemplated by the Congress in RCRA. It would impose a radical change in the way solid waste is managed in the United States.

The *Carbone* decision could hamper solid waste management efforts in three ways. First, the decision makes it impossible for cities to guarantee a steady stream of waste to waste disposal and processing facilities. Without this guaranteed steady stream of garbage, communities will be unable to secure financing to build solid waste management facilities. This threatens New Jersey's program to become solid waste self-sufficient by the end of the decade. It also threatens New Jersey's existing program to restrict exports of garbage without approval by the State.

In addition, localities would lose the revenue generated by garbage disposal at municipal facilities as garbage flowed to other facilities. This would

eliminate the source of funding for related nonprofitable waste management activities such as recycling and household hazardous waste programs. We need to increase recycling efforts. But the loss of flow control authority threatens existing efforts and makes an expansion of recycling programs less likely. Local governments will be forced to increase taxes to pay for the costs of these imported solid waste programs.

Finally, existing bonds used to finance waste management facilities are at risk if localities cannot send an adequate level of garbage to the facility to generate revenues to pay off the bonds. If localities cannot send an adequate level of garbage to a facility to generate the revenue needed to pay off the bonds, they face default and the affected communities face higher taxes.

The Supreme Court decision already is having an adverse effect on local governments. Moody's Investors Services, a bond rating service, is reviewing the bond rating for 100 solid waste facilities dependent on flow control. Facilities in New Jersey, Pennsylvania, Ohio, Minnesota, and Wisconsin where flow control ordinances are facing court challenges are at particular risk of having their bonds devalued or degraded. The bond rating for the Lancaster County Pennsylvania Solid Waste Management Authority has been lowered and the rating for the Camden County Pollution Control Authority was placed on a credit watch. A number of solid waste facilities already have been cancelled or stalled because Congress has failed to act to authorize flow control.

The flow control provision takes a balanced approach to addressing the concerns raised by the Supreme Court decision. It is intended to give State and local governments flow control authority under certain circumstances while requiring that local communities use a competitive designation process in making flow control decisions to ensure that free market competition is a component of flow control efforts. The provision has four major components.

First, it protects all existing flow control arrangements where flow control had been used to designate solid waste management facilities prior to May 15, 1994.

Second, it grants authority to States and local governments to institute additional flow control authority for: recyclables which have been voluntarily surrendered to the government, and municipal solid waste generated from household, commercial, industrial and institutional sources, as well as incinerator ash and construction and demolition debris if such waste had been flow controlled under a State or local law, ordinance, solid waste management plan or legally binding provision prior to May 15, 1994 or the local government had committed to the designation of one or more waste management facilities for the transportation, management or disposal of waste and

had made a designation within 5 years of the enactment of this section.

Third, it provides that flow control authority can only be used if the community has a program to remove recyclables from the solid waste stream in accordance with State law or a local solid waste management plan. Recyclable materials are materials which have been separated, or diverted at the point of generation, from municipal solid waste. This language does not require materials to be separated at the point of generation because some recycling operations have multiple sorting arrangements some of which may occur after the point of generation. The language in this bill ensures that such multiple sorting operations will be considered recycling.

Fourth, it requires that when a local government decides to implement flow control authority, it undertake a competitive designation process which considers the facilities and services which the private sector can provide. Local governments in states other than New Jersey would also have to undertake a determination regarding whether they needed flow control to manage their waste.

This competitive designation process requires the government to establish specific criteria to be used to select facilities and also compare alternatives when designating a facility for flow control. The process also provides for public participation during the selection process. At the same time, it allows State and local governments to retain final decision making authority over most waste disposal decisions. A process is established which allows a Governor to certify that the State has a competitive process which satisfies this requirement.

Mr. President, I know some have expressed concern that flow control legislation will allow local governments to establish uneconomical monopolies on solid waste management. I believe that market competition can reduce the costs of solid waste management and, in turn, individual property taxes. That's why my legislation requires a competitive designation process. Municipal solid waste is a State and local government responsibility but doesn't have to be carried out by these governments. There are numerous examples of successful efforts to privatize government operations. This bill will bring the pressure of the free market to bear on solid waste decisions and hopefully lead to the most efficient operation providing relief to local taxpayers.

I want to make clear what this bill does not do. It does not tell State and local governments how to manage waste. Decisions on how to manage garbage and where to site management facilities are not Federal responsibilities. These decisions have been and continue to be issues for local governments to decide, subject to State permits. The provision does not require State and local governments to use flow control authority. Again, this de-

cision is left to these governments. The provision leaves State and local governments with the same authority they've had other than dealing with flow control to address solid waste.

Mr. President, many of my colleagues have expressed concern about the effect that unfunded mandates can have on State and local governments. I share this concern. But if we fail to act to overturn this Supreme Court decision, we could significantly increase the costs to local governments of solid waste management just as if the Congress had imposed a costly unfunded mandate on these governments. We should be giving State and local governments wide latitude to address solid waste management, particularly because the Federal Government does not provide assistance for State and local solid waste management programs.

The legislation I have developed has been endorsed by a wide range of organizations including the Conference of Mayors, and National Association of Counties, the National League of Cities, the National Association of Towns and Townships, the National Conference of State Legislatures, the Institute of Scrap Recycling Industries, and hundreds of local communities across the country.

Mr. President, we cannot expect State and local governments to manage solid waste as contemplated by RCRA if we fail to provide those governments with the tools to ensure that properly sized facilities to manage the waste are constructed. My legislation merely overturns the Supreme Court decision and provides State and local governments with the tools they need to manage solid waste. It maintains the status quo and avoids the radical change in solid waste management which would result from the Supreme Court decision.

The Congress must deal with the ambiguities that flow from the Supreme Court decision soon. State and local governments need to discharge their responsibilities for solid waste disposal.

Mr. President, I urge my colleagues to join in support of the Flow Control Act of 1995. I ask unanimous consent that a copy of the bill, an October 7, 1994 letter signed by all parties in support of the bill, and a number of articles discussing the adverse effect the Supreme Court decision is having on local communities be included in the CONGRESSIONAL RECORD.

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

S. 398

*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 "Flow Control Act of 1995".

**SEC. 2. CONGRESSIONAL AUTHORIZATION OF STATE CONTROL OVER TRANSPORTATION, MANAGEMENT, AND DISPOSAL OF MUNICIPAL SOLID WASTE.**

Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding after section 4010 the following new section:

**“SEC. 4011. CONGRESSIONAL AUTHORIZATION OF STATE CONTROL OVER TRANSPORTATION, MANAGEMENT, AND DISPOSAL OF MUNICIPAL SOLID WASTE.**

“(a) AUTHORITY.—

“(1) IN GENERAL.—Each State and each qualified political subdivision may, in accordance with this section—

“(A)(i) exercise flow control authority for municipal solid waste, incinerator ash from a solid waste incineration unit, construction debris, or demolition debris generated within the boundaries of the State or qualified political subdivision if, before May 15, 1994, the State or qualified political subdivision—

“(I) adopted a law, ordinance, regulation, solid waste management plan, or legally binding provision that contains flow control authority and, pursuant to such authority, directs such solid waste, ash, or debris to a proposed or existing waste management facility designated before May 15, 1994; or

“(II) adopted a law, ordinance, regulation, solid waste management plan, or legally binding provision that identifies the use of one or more waste management methods that will be necessary for the transportation, management, or disposal of municipal solid waste generated within such boundaries, and committed to the designation of one or more waste management facilities for such method or methods;

“(ii) after the effective date of this section, in the case of a State or qualified political subdivision that adopted such a law, ordinance, regulation, plan, or legally binding provision that meets the requirements of subclause (I) or (II) of clause (i), exercise flow control authority over such solid waste from any existing or future waste management facility to any other existing or future waste management facility; and

“(iii) after the effective date of this section, in the case of a State or qualified political subdivision that adopted such a law, ordinance, regulation, plan, or legally binding provision that meets the requirements of subclause (I) of clause (i), exercise flow control authority over such solid waste, ash, or debris from any existing waste management facility to any other existing or proposed waste management facility, and may do so without regard to subsection (b)(2); and

“(B) exercise flow control authority for voluntarily relinquished recyclable materials generated within the boundaries of the State or qualified political subdivision.

“(2) REASONABLE REGULATION OF COMMERCE.—

“(A) A law, ordinance, regulation, solid waste management plan, or legally binding provision of a State or qualified political subdivision, described in paragraph (1), that implements or exercises flow control authority in compliance with this section shall be considered to be a reasonable regulation of commerce and shall not be considered to be an undue burden on or otherwise as impairing, restraining, or discriminating against interstate commerce.

“(B) A contract or franchise agreement entered into by a State or political subdivision to provide the exclusive or nonexclusive authority for the collection, transportation, or disposal of municipal solid waste, and not otherwise involving the exercise of flow control authority described in paragraph (1), shall be considered to be a reasonable regulation of commerce and shall not be considered to be an undue burden on or otherwise as impairing, restraining, or discriminating against interstate commerce.

“(b) LIMITATIONS.—

“(1) LIMITATION OF AUTHORITY REGARDING RECYCLABLE MATERIALS.—A State or qualified political subdivision may exercise the authority described in subsection (a)(1)(B) with respect to recyclable materials only if—

“(A) the generator or owner of the materials voluntarily made the materials available to the State or qualified political subdivision, or the designee of the State or qualified political subdivision, and relinquished any rights to, or ownership of, such materials; and

“(B) the State or qualified political subdivision, or the designee of the State or qualified political subdivision, assumes such rights to, or ownership of, such materials.

“(2) LIMITATION OF AUTHORITY REGARDING SOLID WASTE OR RECYCLABLE MATERIALS.—

“(A) A State or qualified political subdivision may exercise the authority described in subparagraph (A) or (B) of subsection (a)(1) only if the State or qualified political subdivision establishes a program to separate, or divert at the point of generation, recyclable materials from municipal solid waste, for purposes of recycling, reclamation, or reuse, in accordance with any Federal or State law or municipal solid waste planning requirements in effect.

“(B) A State or qualified political subdivision may exercise the authority described in clause (i) or (ii) of subsection (a)(1)(A) only if, after conducting one or more public hearings, the State or qualified political subdivision—

“(i) finds, on the basis of the record developed at the hearing or hearings, that it is necessary to exercise the authority described in subparagraph (A) or (B) of subsection (a)(1) to meet the current solid waste management needs (as of the date of the record) or the anticipated solid waste management needs of the State or qualified political subdivision for the management of municipal solid waste or recyclable materials;

“(ii) finds, on the basis of the record developed at the hearing or hearings, including an analysis of the ability of the private sector and public bodies to provide short and long term integrated solid waste management services with and without flow control authority, that the exercise of flow control authority is necessary to provide such services in an economically efficient and environmentally sound manner; and

“(iii) provides a written explanation of the reasons for the findings described in clauses (i) and (ii), which may include a finding of a preferred waste management methodology or methodologies for providing such integrated solid waste management services.

“(C) With respect to each designated waste management facility, the authority of subsection (a) shall be effective until completion of the schedule for payment of the capital costs of the waste management facility concerned (as in effect on May 15, 1994), or for the remaining useful life of the original waste management facility, whichever is longer. At the end of such period, the authority of subsection (a) shall be effective for any waste management facility for which subparagraph (B) and subsection (c) have been complied with by the State or qualified political subdivision, except that no facility, and no State or qualified political subdivision, subject to subsection (a)(1)(A)(i)(I) or subsection (a)(1)(A)(ii) shall be required to comply with subparagraph (B) for a period of 10 years after the date of enactment of this section. Notwithstanding the provisions of this paragraph, compliance with subparagraph (B) shall not be required where—

“(i) a designated waste management facility is required to retrofit or otherwise make significant modifications to meet applicable

environmental requirements or safety requirements;

“(ii) routine repair or scheduled replacements of existing equipment or components of a designated waste management facility is undertaken that does not add to the capacity of the waste management facility; or

“(iii) a designated waste management facility expands on land legally or equitably owned, or under option to purchase or lease, by the owner or operator of such facility and the applicable permit includes such land.

“(D) Notwithstanding anything to the contrary in this section, paragraphs (2)(B) and (2)(C) shall not apply to any State (or any of its political subdivisions) that, on or before January 1, 1984, enacted regulations pursuant to a State law that required or directed the transportation, management, or disposal of solid waste from residential, commercial, institutional and industrial sources as defined by State law to specific waste management facilities and applied those regulations to every political subdivision in the State.

“(3) LIMITATION TO APPLIED AUTHORITIES.—The authority described in subsection (a)(1)(A) shall apply only to the specific classes or categories of solid waste to which the authority described in subsection (a)(1)(A)(i)(I) was applied by the State or qualified political subdivision before May 15, 1994, and to the specific classes or categories of solid waste for which the State or qualified political subdivision committed to the designation of one or more waste management facilities as described in subsection (a)(1)(A)(i)(II).

“(4) EXPIRATION OF AUTHORITY.—The authority granted under subsection (a)(1)(A)(i)(II) shall expire if a State or qualified political subdivision has not designated, by law, ordinance, regulation, solid waste management plan, or other legally binding provision, one or more proposed or existing waste management facilities within 3 years after the date of enactment of this section.

“(5) LIMITATION ON REVENUE.—A State or qualified political subdivision may exercise the authority described in subsection (a) only if the State or qualified political subdivision limits the use of any of its revenues derived from the exercise of such authority primarily to solid waste management services.

“(c) COMPETITIVE DESIGNATION PROCESS.—

“(1) IN GENERAL.—A State or qualified political subdivision may exercise the authority described in subsection (a) only if the State or qualified political subdivision develops and implements a competitive designation process, with respect to each waste management facility or each facility for recyclable materials. The process shall—

“(A) ensure that the designation process is based on, or is part of, a municipal solid waste management plan that is adopted by the State or qualified political subdivision and that is designed to ensure long-term management capacity for municipal solid waste or recyclable materials generated within the boundaries of the State or qualified political subdivision;

“(B) set forth the goals of the designation process, including at a minimum—

“(i) capacity assurance;

“(ii) the establishment of provisions to provide that protection of human health and the environment will be achieved; and

“(iii) any other goals determined to be relevant by the State or qualified political subdivision;

“(C) identify and compare reasonable and available alternatives, options, and costs for designation of the facilities;

“(D) provide for public participation and comment;

“(E) ensure that the designation of each facility is accomplished through an open competitive process during which the State or qualified political subdivision—

“(i) identifies in writing criteria to be utilized for selection of the facilities, which shall not discriminate unfairly against any particular waste management facility or any method of management, transportation or disposal, and shall not establish qualifications for selection that can only be met by public bodies;

“(ii) provides a fair and equal opportunity for interested public persons and private persons to offer their existing (as of the date of the process) or proposed facilities for designation; and

“(iii) evaluates and selects the facilities for designation based on the merits of the facilities in meeting the criteria identified; and

“(F) base the designation of each such facility on reasons that shall be stated in a public record.

“(2) CERTIFICATION.—

“(A) IN GENERAL.—A Governor of any State may certify that the laws and regulations of the State in effect on May 15, 1994, satisfy the requirements for a competitive designation process under paragraph (1).

“(B) PROCESS.—In making a certification under subparagraph (A), a Governor shall—

“(i) publish notice of the proposed certification in a newspaper of general circulation and provide such additional notice of the proposed certification as may be required by State law;

“(ii) include in the notice of the proposed certification or otherwise make readily available a statement of the laws and regulations subject to the certification and an explanation of the basis for a conclusion that the laws and regulations satisfy the requirements of paragraph (1);

“(iii) provide interested persons an opportunity to comment on the proposed certification, for a period of time not less than 60 days, after publication of the notice; and

“(iv) publish notice of the final certification, together with an explanation of the basis for the final certification, in a newspaper of general circulation and provide such additional notice of the final certification as may be required by State law.

“(C) APPEAL.—Within 120 days after publication of the final certification under subparagraph (B), any interested person may file an appeal of the final certification in the United States Circuit Court of Appeals for the Federal judicial district of the State, for a judicial determination that the certified laws and regulations do not satisfy the requirements of paragraph (1) or that the certification process did not satisfy the procedural requirements of subparagraph (B). The appeal shall set forth the specific reasons for the appeal of the final certification.

“(D) LIMITATION TO RECORD.—Any judicial proceeding brought under subparagraph (C) shall be limited to the administrative record developed in connection with the procedures described in subparagraph (B).

“(E) COSTS OF LITIGATION.—In any judicial proceeding brought under subparagraph (C), the court shall award costs of litigation (including reasonable attorney fees) to any prevailing party whenever the court determines that such award is appropriate.

“(F) LIMITATION ON REVIEW OF CERTIFICATIONS.—If no appeal is taken within 120 days after the publication of the final certification, or if the final certification by the Governor of any State is upheld by the United States Circuit Court of Appeals and no party seeks review by the Supreme Court (within applicable time requirements), the final certification shall not be subject to judicial review.

“(G) LIMITATION ON REVIEW OF DESIGNATIONS.—Designations made after the final certification and pursuant to the certified laws and regulations shall not be subject to judicial review for failure to satisfy the requirements of paragraph (1).

“(d) OWNERSHIP OF RECYCLABLE MATERIALS.—

“(1) PROHIBITION ON REQUIRED TRANSFERS.—Nothing in this section shall authorize any State or qualified political subdivision, or any designee of the State or qualified political subdivision, to require any generator or owner of recyclable materials to transfer any recyclable materials to such State or qualified political subdivision unless the generator or owner of the recyclable materials voluntarily made the materials available to the State or qualified political subdivision and relinquished any rights to, or ownership of, such materials.

“(2) OTHER TRANSACTIONS.—Nothing in this section shall prohibit any person from selling, purchasing, accepting, conveying, or transporting any recyclable materials for purposes of transformation or remanufacture into usable or marketable materials, unless a generator or owner voluntarily made the materials available to the State or qualified political subdivision and relinquished any rights to, or ownership of, such materials.

“(e) RETAINED AUTHORITY.—Upon the request of any generator of municipal solid waste affected by this section, the State or political subdivision may authorize the diversion of all or a portion of the solid wastes generated by the generator making such request to a solid waste facility, other than the facility or facilities originally designated by the political subdivision, where the purpose of such request is to provide a higher level of protection for human health and the environment and reduce potential future liability under Federal or State law of such generator for the management of such wastes. Requests shall include information on the environmental suitability of the proposed alternative treatment or disposal facility and method, compared to that of the designated facility and method. In making such a determination the State or political subdivision may consider the ability and willingness of both the designated and alternative disposal facility or facilities to indemnify the generator against any cause of action under State or Federal environmental statutes and against any cause of action for nuisance, personal injury, or property loss under any State law.

“(f) EXISTING LAWS AND CONTRACTS.—

“(1) IN GENERAL.—To the extent consistent with subsection (a), this section shall not supersede, abrogate, or otherwise modify any of the following:

“(A) Any contract or other agreement (including any contract containing an obligation to repay the outstanding indebtedness on any proposed or existing waste management facility or facility for recyclable materials) entered into before May 15, 1994, by a State or qualified political subdivision in which such State or qualified political subdivision has designated a proposed or existing waste management facility, or facility for recyclable materials, for the transportation, management or disposal of municipal solid waste, incinerator ash from a solid waste incineration unit, construction debris or demolition debris, or recyclable materials, pursuant to a law, ordinance, regulation, solid waste management plan, or legally binding provision adopted by such State or qualified political subdivision before May 15, 1994, if, in the case of a contract or agreement relating to recyclable materials, the generator or owner of the materials, and the State or qualified political subdivision, have met the appropriate condi-

tions in subsection (b)(1) with respect to the materials.

“(B) Any other contract or agreement entered into before May 15, 1994, for the transportation, management or disposal of municipal solid waste, incinerator ash from a solid waste incineration unit, or construction debris or demolition debris.

“(C)(i) Any law, ordinance, regulation, solid waste management plan, or legally binding provision—

“(I) that is adopted before May 15, 1994;

“(II) that pertains to the transportation, management, or disposal of solid waste generated within the boundaries of a State or qualified political subdivision; and

“(III) under which a State or qualified political subdivision, prior to May 15, 1994, directed, limited, regulated, or prohibited the transportation, management, or disposal of municipal solid waste, or incinerator ash from, a solid waste incineration unit, or construction debris or demolition debris, generated within the boundaries;

if the law, ordinance, regulation, solid waste management plan, or legally binding provision is applied to the transportation of solid waste described in subclause (III), to a proposed or existing waste management facility designated before May 15, 1994, or to the management or disposal of such solid waste at such a facility, under such law, ordinance, regulation, solid waste management plan, or legally binding provision.

“(ii) Any law, ordinance, regulation, solid waste management plan, or legally binding provision—

“(I) that is adopted before May 15, 1994; and

“(II) that pertains to the transportation or management of recyclable materials generated within the boundaries of a State or qualified political subdivision;

if the law, ordinance, regulation, solid waste management plan, or legally binding provision is applied to the transportation of recyclable materials that are generated within the boundaries, and with respect to which the generator or owner of the materials, and the State or qualified political subdivision, have met the appropriate conditions described in subsection (b)(1), to a proposed or existing facility for recyclable materials designated before May 15, 1994, or to the management of such materials, under such law, ordinance, regulation, solid waste management plan, or legally binding provision.

“(2) CONTRACT INFORMATION.—A party to a contract or other agreement that is described in subparagraph (A) or (B) of paragraph (1) shall provide a copy of the contract or agreement to the State or qualified political subdivision on request. Any proprietary information contained in the contract or agreement may be omitted in the copy, but the information that appears in the copy shall include at least the date that the contract or agreement was signed, the volume of municipal solid waste or recyclable materials covered by the contract or agreement with respect to which the State or qualified political subdivision could otherwise exercise authority under subsection (a) or paragraph (1)(C), the source of the waste or materials, the destination of the waste or materials, the duration of the contract or agreement, and the parties to the contract or agreement.

“(3) EFFECT ON INTERSTATE COMMERCE.—Any contract or agreement described in subparagraph (A) or (B) of paragraph (1), and any law, ordinance, regulation, solid waste management plan, or legally binding provision described in subparagraph (C) of paragraph (1), shall be considered to be a reasonable regulation of commerce by a State or qualified political subdivision, retroactive to

the effective date of the contract or agreement, or to the date of adoption of any such law, ordinance, regulation, solid waste management plan, or legally binding provision, and shall not be considered to be an undue burden on or otherwise as impairing, restraining, or discriminating against interstate commerce.

“(4) LIMITATION.—Any designation by a State or qualified political subdivision of any waste management facility or facility for recyclable materials after the date of enactment of this section shall be made in compliance with subsection (c). Nothing in this paragraph shall affect any designation made before the date of enactment of this section, and any such designation shall be deemed to satisfy the requirements of subsection (c).

“(g) SAVINGS CLAUSE.—

“(1) FEDERAL OR STATE ENVIRONMENTAL LAWS.—Nothing in this section is intended to supersede, amend, or otherwise modify Federal or State environmental laws (including regulations) that apply to the disposal or management of solid waste or recyclable materials at waste management facilities or facilities for recyclable materials.

“(2) STATE LAW.—Nothing in this section shall be interpreted to authorize a qualified political subdivision to exercise the authority granted by this section in a manner inconsistent with State law.

“(h) PROHIBITION.—No political subdivision may exercise flow control authority to direct the movement of municipal solid waste to any waste management facility for which a Federal permit was denied twice before the enactment of this section.

“(i) DEFINITIONS.—For purposes of this section only, the following definitions apply:

“(1) COMMITTED TO THE DESIGNATION OF ONE OR MORE WASTE MANAGEMENT FACILITIES.—The term ‘committed to the designation of one or more waste management facilities’ means that a State or qualified political subdivision was legally bound to designate one or more existing or future waste management facilities or performed or caused to be performed one or more of the following actions for the purpose of designating one or more such facilities:

“(A) Obtained all required permits for the construction of such waste management facility prior to May 15, 1994.

“(B) Executed contracts for the construction of such waste management facility prior to May 15, 1994.

“(C) Presented revenue bonds for sale to specifically provide revenue for the construction of such waste management facility prior to May 15, 1994.

“(D) Submitted to the appropriate regulatory agency or agencies, on or before May 15, 1994, administratively complete permit applications for the construction and operation of a waste management facility.

“(E) Formed a public authority or a joint agreement among qualified political subdivisions, pursuant to a law authorizing such formation for the purposes of designating facilities.

“(F) Executed a contract or agreement that obligates or otherwise requires a State or qualified political subdivision to deliver a minimum quantity of solid waste to a waste management facility and that obligates or otherwise requires the State or qualified political subdivision to pay for that minimum quantity of solid waste even if the stated minimum quantity of solid waste is not delivered within a required timeframe, otherwise commonly known as a ‘put or pay agreement’.

“(G) Adopted, pursuant to a State statute that specifically described the method for designating by solid waste management districts, a resolution of preliminary designa-

tion that specifies criteria and procedures for soliciting proposals to designate facilities after having completed a public notice and comment period.

“(H) Adopted, pursuant to a State statute that specifically described the method for designating by solid waste management districts, a resolution of intent to establish designation with a list of facilities for which designation is intended.

“(2) DESIGNATION; DESIGNATE.—The terms ‘designate’, ‘designated’, ‘designation’ or ‘designating’ mean a requirement of a State or qualified political subdivision, and the act of a State or qualified political subdivision, to require that all or any portion of the municipal solid waste that is generated within the boundaries of the State or qualified political subdivision be delivered to a waste management facility identified by a State or qualified political subdivision, and specifically includes put or pay agreements of the type described in paragraph (1)(F).

“(3) FLOW CONTROL AUTHORITY.—The term ‘flow control authority’ means the authority to control the movement of solid waste or recyclable materials and direct such waste or recyclable materials to one or more designated waste management facilities or facilities for recyclable materials.

“(4) INDUSTRIAL SOLID WASTE.—The term ‘industrial solid waste’ means solid waste generated by manufacturing or industrial processes, including waste generated during scrap processing and scrap recycling, that is not hazardous waste regulated under subtitle C. ‘Industrial solid waste’ does not include municipal solid waste specified in paragraph (5)(A)(iii).

“(5) MUNICIPAL SOLID WASTE.—

“(A) IN GENERAL.—Subject to the limitations of subsection (b)(3), the term ‘municipal solid waste’ means—

“(i) any solid waste discarded by a household, including a single or multifamily residence;

“(ii) any solid waste that is discarded by a commercial, institutional, or industrial source;

“(iii) residue remaining after recyclable materials have been separated or diverted from municipal solid waste described in clause (i) or (ii);

“(iv) any waste material or waste substance removed from a septic tank, septic pit, or cesspool, other than from portable toilets; and

“(v) conditionally exempt small quantity generator waste under section 3001(d), if it is collected, processed or disposed with other municipal solid waste as part of municipal solid waste services.

“(B) EXCLUSIONS.—The term ‘municipal solid waste’ shall not include any of the following:

“(i) Hazardous waste required to be managed in accordance with subtitle C (other than waste described in subparagraph (A)(v)), solid waste containing a polychlorinated biphenyl regulated under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or medical waste listed in section 11002.

“(ii) (I) A recyclable material.

“(II) A material or a product returned from a dispenser or distributor to the manufacturer or the agent of the manufacturer for credit, evaluation, or reuse unless such material or product is discarded or abandoned for collection, disposal or combustion.

“(III) A material or product that is an out-of-date or unmarketable material or product, or is a material or product that does not conform to specifications, and that is returned to the manufacturer or the agent of the manufacturer for credit, evaluation, or reuse unless such material or product is discarded or abandoned for collection, disposal or combustion.

“(iii) Any solid waste (including contaminated soil and debris) resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act.

“(iv) (I) Industrial solid waste.

“(II) Any solid waste that is generated by an industrial facility and transported for the purpose of containment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or a facility that is located on property owned by the generator.

“(6) QUALIFIED POLITICAL SUBDIVISION.—The term ‘qualified political subdivision’ means a governmental entity or political subdivision of a State, as authorized by the State, to plan for, or determine the methods to be utilized for, the collection, transportation, disposal or other management of municipal solid waste generated within the boundaries of the area served by the governmental entity or political subdivision.

“(7) RECYCLABLE MATERIAL.—The term ‘recyclable material’ means any material (including any metal, glass, plastic, textile, wood, paper, rubber, or other material) that has been separated, or diverted at the point of generation, from solid waste for the purpose of recycling, reclamation, or reuse.

“(8) SOLID WASTE MANAGEMENT PLAN.—The term ‘solid waste management plan’ means a plan for the transportation, treatment, processing, composting, combustion, disposal or other management of municipal solid waste, adopted by a State or qualified political subdivision pursuant to and conforming with State law.

“(9) WASTE MANAGEMENT FACILITY.—The term ‘waste management facility’ means any facility or facilities in which municipal solid waste, incinerator ash from a solid waste incineration unit, or construction debris or demolition debris is separated, stored, transferred, treated, processed, combusted, deposited or disposed.

“(10) EXISTING WASTE MANAGEMENT FACILITY.—The term ‘existing waste management facility’ means a facility under construction or in operation as of May 15, 1994.

“(11) PROPOSED WASTE MANAGEMENT FACILITY.—The term ‘proposed waste management facility’ means a facility that has been specifically identified and designated, but that was not under construction, as of May 15, 1994.

“(12) FUTURE WASTE MANAGEMENT FACILITY.—The term ‘future waste management facility’ means any other waste management facility.”

#### SEC. 203. TABLE OF CONTENTS AMENDMENT.

The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 4011 the following new item: “Sec. 4011. Congressional authorization of State control over transportation, management and disposal of municipal solid waste.”. OCTOBER 7, 1994.

DEAR CONGRESSPERSON/SENATOR: We, the undersigned, have been negotiating in good faith over the past several days to craft a waste flow control proposal which is acceptable to stakeholders on both sides of the issue. The attached document represents our best efforts at reaching consensus on this complex and, at times, difficult issue.

Negotiators on both sides have made significant concessions. Each of us, if true to his/her own self-interest, would make changes to the attached legislative draft.

However, we are united in our belief that Congress must take action to provide a stable municipal solid waste regulatory environment for communities and businesses in light of the Carbone Supreme Court decision. If Congress fails to act in the wake of the Carbone decision, it will leave many facilities in financial jeopardy.

The attached document addresses the need to protect existing flow control arrangements and the facilities that are financially dependent on waste flow control, and allows a competitive, free-market process to continue. While imperfect, this proposal meets the immediate needs of public and private entities, and is far more preferable to the uncertainty which will result if no bill is passed.

We urge you to support enactment of this compromise in this session of Congress.

Respectfully submitted,

Browning-Ferris Industries, Public Securities Association, National Association of Counties, WMX Technologies, Environmental Transportation Association, Laidlaw, Inc., Chambers Development Company, Inc., Ogden Projects, Inc., National League of Cities, U.S. Conference of Mayors, Solid Waste Management Association of North America, Southern Pacific Transportation Company. •

• Mr. DODD. Mr. President, I want to speak today about flow control authority—an issue that is vital to the public safety and fiscal soundness of States and localities. I commend Senator LAUTENBERG and the coalition of local government officials, waste management groups, and public security interests for working to craft this important legislation.

I feel so strongly about the need for action that I was prepared to introduce my own legislation this Congress. Frankly, I would have liked to see more authority given to municipalities. State and local governments have a vested interest in how solid waste produced within their borders is transported and disposed. However, I recognize that a hard-fought consensus has been reached, and I am pleased to be a cosponsor of this important legislation.

According to the Environmental Protection Agency [EPA], approximately 35 States were adversely affected by the May 1994 Supreme Court Carbone decision, which invalidated local flow control authority. It is important to note that Justice O'Connor, while siding with the majority, did in fact state that it was within Congress' purview to authorize local imposition of flow control. It is my feeling that if Congress does not enact legislation, States will continue to suffer environmentally and financially.

Flow control is essential to the implementation of Connecticut's integrated waste management plan. Many localities have made significant capital investments to move away from outdated landfills to construct efficient, yet costly, waste disposal centers. Approximately 86 percent of Connecticut's waste is now disposed of in these state-of-the-art facilities. The State, and ultimately the taxpaying citizens, are backing \$500 million in bonds that were used to finance the construction

of regional waste disposal centers and recycling transfer stations. Profits from the facilities, used to pay off the bonds, were to be ensured by flow control authority.

Almost 75 percent of Connecticut municipalities entered into "put-or-pay" contracts, and will be forced to pay penalties for the shortfall created by trash moving elsewhere. At a time when Congress is trying to ease the tax burden on working families, it is highly likely that their taxes could increase, if towns are unable to meet their garbage quotes. If transporters choose to deliver waste to landfills out of State, then citizens will in effect pay twice—first, to have their waste transported away, and again to cover the put-or-pay requirement. Finally, municipal bond ratings could plummet, increasing the cost of future local projects.

This legislation strikes an appropriate balance. Only those communities that have already relied on flow control authority or have detailed plans to do so, are protected. This legislation is proconsumer and probusiness because it preserves competition and levels the playing field. This bill is also proenvironment because it encourages the further construction of recycling and composting facilities as a byproduct of a successful revenue bond financing program.

The legislation that we are introducing today is identical to what passed the House of Representatives last fall. It was most unfortunate that in the Senate, flow control legislation fell victim to the stalling tactics employed by some members on the other side of the aisle on the last day of the session. This compromise legislation died, despite strong bipartisan support.

Mr. President, I hope that this year we will be successful. It is clear that this issue is not going away and it is important to the people on my State and in many others that we deal with this problem. I urge my fellow Senators to join me in moving forward on this vital piece of legislation. •

#### ADDITIONAL COSPONSORS

S. 109

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 109, a bill to amend the Internal Revenue Code of 1986 relating to the treatment of livestock sold on account of weather-related conditions.

S. 110

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 110, a bill to amend the Internal Revenue Code of 1986 to provide that a taxpayer may elect to include in income crop insurance proceeds and disaster payments in the year of the disaster or in the following year.

S. 145

At the request of Mr. GRAMM, the name of the Senator from Tennessee

[Mr. THOMPSON] was added as a cosponsor of S. 145, a bill to provide appropriate protection for the Constitutional guarantee of private property rights, and for other purposes.

S. 181

At the request of Mr. HATCH, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 181, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage small investors, and for other purposes.

S. 198

At the request of Mr. CHAFEE, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 198, a bill to amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes.

S. 218

At the request of Mr. MCCONNELL, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 218, a bill to repeal the National Voter Registration Act of 1993, and for other purposes.

S. 240

At the request of Mr. DOMENICI, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 240, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act.

S. 277

At the request of Mr. D'AMATO, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 277, a bill to impose comprehensive economic sanctions against Iran.

S. 287

At the request of Mrs. HUTCHISON, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 287, a bill to amend the Internal Revenue Code of 1986 to allow home-makers to get a full IRA deduction.

S. 303

At the request of Mr. LIEBERMAN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 303, a bill to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes.

S. 304

At the request of Mr. SANTORUM, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 328

At the request of Mr. SANTORUM, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor