

those who knowingly provide—knowingly provide—guns to felons. Under current law, you can be prosecuted by providing a gun only if you knew for certain that it would be used in a crime. The revision I propose would make it illegal to provide a firearm if you have reasonable cause to believe that it is going to be used in the commission of a crime. This is the best way, I believe, to go after the illegal gun trade, those who provide guns to those people who are predators in our society. We will no longer, under this provision, allow these gun providers to feign ignorance. They are helping felons and they need to be stopped.

Mr. President, all of these proposals are motivated by a single purpose. I, along with the police officers of this country, believe that we have to get the guns away from the gun criminals. Project Triggerlock was one major initiative that we can pursue at the Federal level to help make this happen. Imposing stiff mandatory minimums, cracking down on illegal gun providers, are also good, important measures.

All of the gun proposals contained in my crime legislation, Mr. President, really have the same goal. They are designed to assure American families who are living in crime-threatened communities that we are going to do what it takes to get guns off of their streets. We are going to go after the armed career criminals. We are going to prosecute them, convict them, and we are going to keep them off of our streets. That is why we have a Government in the first place, to protect the innocent, to keep ordinary citizens safe from violent, predatory crimes.

Mr. President, I believe that Government needs to do a much better job with this fundamental task. That is why targeting the armed career criminals is such a major component of the crime bill that I will be introducing.

Mr. President, tomorrow I intend to talk briefly about a third major component of my bill, and that is how we help the victims of crime, those who are victimized by the criminals, those who we, many times, forget.

It has been my experience that, unfortunately, many times society treats the criminals as if they are victims and the victims as if they are criminals. Provisions in the bill that I will be discussing tomorrow deal with that. We will reach out to the victims of crime to help them and to make the playing field more level.

Mr. President, at this point, I will yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SANTORUM). Without objection, it is so ordered.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 789

Mr. SMITH. Mr. President, I send a manager's amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments will be set aside, and the clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. SMITH] for himself, Mr. CHAFEE, and Mr. BAUCUS, proposes an amendment numbered 789.

Mr. SMITH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 38, line 18, strike the phrase "the Administrator has determined".

On page 39, after line 8 insert the following: "For purposes of developing the list required in this Section, the Administrator shall be responsible for collating and publishing only that information provided to the Administrator by States pursuant to this Section. The Administrator shall not be required to gather additional data over and above that provided by the States pursuant to this Section, nor to verify data provided by the States pursuant to this Section, nor to arbitrate or otherwise entertain or resolve disputes between States or other parties concerning interstate movements of municipal solid waste. Any actions by the Administrator under this Section shall be final and not subject to judicial review."

On page 38, after the "." on line 16 insert the following: "States making submissions referred to in this Section to the Administrator shall notice these submissions for public review and comment at the State level before submitting them to the Administrator."

On page 33, line 20, strike "(6)(D)" and insert "(6)(C)".

On page 34, line 13, strike "determined" and insert "listed".

On page 34, line 13, strike "(6)(E)" and insert "(6)(C)".

On page 36, line 16, strike "(6)(E)" and insert "(6)(C)".

On page 50, strike line 18 and insert the following: "in which the generator of the waste has an ownership interest."

Mr. SMITH. Mr. President, this amendment has been agreed to by both sides. It is a managers' amendment, a very technical amendment that has been requested by EPA, and it applies to tracking interstate waste pursuant to title I of the bill.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment (No. 789) was agreed to.

Mr. SMITH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Arizona, moves to table the motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 769

Mr. CHAFEE. Mr. President, I would like to address the pending amendment which is, indeed, the Kyl amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. CHAFEE. Mr. President, I would just like to say a few words about the amendment presented by the distinguished Senator from Arizona.

In our Environment and Public Works Committee, there are 16 members: 9 Republicans and 7 Democrats. The bill that is before the Senate today that the Senator from Arizona seeks to amend was approved in the committee by a vote of 16 to 0. Every Democrat and every Republican voted for it.

Now, this bill before the Senate represents a delicate balance. There are two sides to this issue. On one side is the following: The State and local governments say, why should we not be allowed to designate that all municipal solid waste, all solid waste within this entity, be it the city of Detroit or be it some small town in Michigan or town or city in Rhode Island, whether it is in the Nation—why should we not be able to designate that all of the municipal waste within that community go to a facility that we designate—we, the town fathers; and in that fashion, we, the town fathers and the community, will be able to afford a proper disposal facility, be it an incinerator or be it a licensed proper landfill?

If our citizens do not like this arrangement, if they think they can have their solid waste hauled away by some private entrepreneur in a different fashion, then they can vote Members out of office and we will be gone and the citizens can have a separate system, if that is what they want. At least we ought to have that power.

Now, on the other side of the equation is the view espoused by Senator KYL, which is that flow control is anti-competitive and is against the U.S. Constitution, in addition to all that. The Constitution has said that flow control is against the commerce clause and it should not be permitted.

However, the Senator in his amendment recognizes that there are some facilities that have been built pursuant to the belief that flow control will be there in perpetuity and, therefore, he has arranged under his amendment that those investments made by those communities can be paid off. In other words, his amendment is tailored to the life of the outstanding bonds.

Once they are paid off, then that ends it regarding flow control existing in that community. In other words, he has kept the flow control limited to a minimal period to provide for the payment of the bonds. Now, he has put a lot of thought into that argument, and as I say, an argument can be made for it, as indeed he has made.

In crafting this view, we balanced these two views. The ones who say on

one side, we do not want to have anything that inhibits competition; and on the other side those who say, why should we, in our communities, not be able to do what we want to do? If it is wrong we will be voted out of office. Leave that to the citizens. Do not have Big Brother in Washington, DC, saying how to do things.

We had those views vigorously brought to our attention both in the committee and on the floor of the Senate and in our conversations with other Senators.

What did we say? We set limits. We said, "We are going to give broader flow control possibilities than that suggested by the Senator from Arizona in his amendment." However, we are going to set an outside limit. This is going to end at a certain time under our bill. It ends at 30 years. That does it. But we did not want to cut it off immediately, for the same reasons the Senator from Arizona has suggested. We go a little beyond him because there are communities here that are tied up in contracts that are different from just paying off the bonds. They have different situations.

Indeed, they feel very strongly about the arrangements they have made within their communities, within some States. They do not want this limitation. If we are going to have this legislation passed, then it seems to me we have to recognize the views on both sides to a greater extent than is recognized by the Senator from Arizona in his amendment.

Therefore, Mr. President, when the proper time comes I will move to table the amendment of the Senator from Arizona—not that I think it is totally out of line. I can see the rationale that is behind his amendment.

The truth of the matter is it will upset this delicate arrangement that we have put together here over the past several weeks. I might say this was not just created by the imagination of this Senator or that Senator. It came as a result of hearings we had in connection with flow control and trying to craft a bill that is very, very difficult.

Indeed, what has been going on today and yesterday? We were on this bill starting at 12 o'clock yesterday, going up until something like 6:30. Today we have been on it since 9:30, with very little action on the floor.

Why? Because we are trying to compromise and recognize and deal with these various forces that are tugging in exactly opposite directions here. That is difficult to reconcile.

Therefore, Mr. President, I would hope that our colleagues would support the efforts of the committee in trying to meet this very, very, difficult compromise.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I wonder if the Senator from Rhode Island would engage in a colloquy with me regarding this legislation?

Mr. CHAFEE. I would be happy to.

Mr. KYL. Mr. President, I appreciate his characterization of my remarks. They are precisely as he described them. I appreciate the difficult dilemma that a chairman always has in trying to get legislation which is not uniformly agreed to and, therefore, requires some compromise.

Having conceded that much, first I want to make a very quick point, because there is some misinformation, I think, being conveyed, and that is that our amendment does not permit refinancing.

This is not something that the Senator from Rhode Island addressed but was addressed earlier. Under our amendment, I make it clear, that refinancing is committed so you are not bound by the original financing. Entities can refinance, and however long it takes for either the original bond issue or the refinanced bond issue to be repaid, that would be the length of time that this exemption under my amendment would pertain.

Mr. CHAFEE. In your bill—in other words, you refinance and you could extend beyond the period of the original bond?

Mr. KYL. I believe that is correct, yes.

Mr. CHAFEE. It was my understanding that refinancing was permitted but it could not extend beyond the date of the original financing. I may be wrong there.

Mr. KYL. I am sorry, yes. The Senator from Rhode Island is correct. In subsection (B):

(A) shall not be construed to preclude refinancing of the capital costs of a facility, but if, under the terms of a refinancing, completion of the scheduled for payment of capital costs will occur after the date on which completion would have occurred. * * *

Then the authority expires at the earlier of those two dates. The Senator is correct. With respect to the issue generally that a community should have the right to grant a monopoly, and that the remedy is to vote them out of office—the argument posited against this—I ask my colleague this question:

It is true that if a municipality, a county government or whatever, creates this monopoly they could be voted out of office. But is it not true that the U.S. Congress, by this legislation, will have created the situation where despite these people being voted out of office, the contract, under the bill as written—the contract term, or as long as it takes to refinance, or even the point at which the useful life ceases to exist, after it has been extended, up to 30 years—would still allow the monopoly to continue? So the candidates themselves may be defeated but that which they constructed, because we protected it, would continue to exist?

Mr. CHAFEE. That is correct.

Mr. KYL. I think that makes my point. We ought to be very, very careful when we are seeking ways to get around the U.S. Supreme Court deci-

sion interpreting the Constitution; that we should do so in the narrowest way possible. I think what we have done here is, in order to accommodate the special desires of different Senators from different States to go beyond just the repayment obligations but to actually continue to act as a monopoly so they will have a competitive advantage over others who might wish to provide the same kind of service, that in constructing the compromise we have, I think, gone too far and acted beyond the principle which justifies the more limited grandfathering, if you will, more limited exemption which I provided for in my amendment.

That is why, while I certainly recognize the difficulties the chairman has in cobbling together a compromise in something of this nature, I suggest colleagues may wish to support my amendment. I hope they would support my amendment. If that means we then have to go back and do some more working of the bill, then at least it might be done from a better basis.

I might ask the Senator from Rhode Island another question here. I can understand, under a very limited circumstance, why we might want to recognize a contract term which extends beyond the term for refinancing or financing bonds. There are basically three reasons why the monopoly is being granted here. One, to allow the refinancing to occur—both of us have agreed on that. Two, in order to extend the exemption to the point that contracts are outstanding. And, three, to extend it when something has been done to the plant to extend its useful life. I can understand a limited rationale in the second situation and we both provided for the first.

What I cannot understand is a rationale for the third aspect of the exemption whereby, simply because it makes economic sense to do so, or the jurisdiction in question decides to do something to the plant to extend its useful life, that fact ought to occasion us to grant an additional exemption.

At that point there is no longer contract obligation that might be more difficult to fulfill. There is no more investor interest out there. This is simply, perhaps, a very rational decision to extend the life of the plant, but not one which creates in my mind any rationale for extending the grant of authority here.

Would the Senator from Rhode Island care to respond to that?

Mr. CHAFEE. That is a good question. But the answer is—and we have had this raised, obviously, not only on the floor here but in calls from Governors that come to us. The original plea of the Governors is, "Why can't we do what we want to do? Who are you in Washington, always telling us, yes/no?"

As the Senator has pointed out, it is the Supreme Court that said no. It is not us who said "no." Indeed, what we

are doing is in effect coming to the rescue, if you would, of those communities that want to extend flow control or have flow control because, as the Senator knows, it was declared unconstitutional. So we are stepping in, trying to fill a void, fill a problem that exists.

But you say, OK, if you step in just step in for this limited period which is, as you say, the length of the bonds that are outstanding or what the contract requires between the facility and the community—whatever it might be. But the answer is that in many of these States and communities they set up arrangements based on flow control continuing to exist. In other words, they pass statutes that flow control be there. So we have some occasions where the length of time of the contract is not necessarily going to cover all the expenses and is going to be renegotiated for a variety of reasons, but all with the anticipation that the flow control statute that the municipality had entered into was going to continue to be there.

So they say, "We made arrangements." The arrangements might be the original bonds, for example, and did not cover the total construction cost of the facility. Or that they were dependent upon flow control to provide the flow of waste and the tipping fees for the rather high maintenance costs. They had it all worked out and they say, "Why can't we continue to do that?"

That is the rationale that we have, when we have State A, or B, or C, or Governor A, B, or C, calling us and saying this is what we want. So we have tried to juggle it around, leaving not everybody happy, as is apparent today.

Mr. KYL. If I could respond, I appreciate that fact. And I suspected that basically was the rationale for it. But it does seem to me that just because the operators of the plant want a monopoly does not necessarily mean that is good public policy or that we ought to go along with it. By definition, if at the time bonds have been paid off—since I doubt seriously these plants are constructed by anything other than bond issues—but once the bonds have been paid off, they have been built. They may continue to have high operating costs. But at that point it is the citizens of the State and the community whose interests we ought to have in mind, which is the rationale behind the interstate commerce clause in the first place, that a State should not grant a monopoly to either a private business or a State enterprise to extract more money from the taxpayers of the community than is necessary.

And if a private investor or some other competitor can build a plant, can come up with the capital to do so and compete favorably with an institution that has already been totally financed by public funds and had that financing repaid, then at that point public policy would suggest that the people are more benefited by the lower prices and the

competition because, by definition, they are the ones who are getting the contract rather than the older, outmoded or very expensive facility that we have been protecting in the meantime.

So I guess I can recognize that the owners or operators of the plants may wish to stay in business without competition. I still am not clear as to why that should occasion us to grant an exemption from an otherwise constitutional prohibition here.

As I say, I can understand the rationale as to the first point as to the bonds, and to some extent on the contracts, but on this third area here—and what I am searching for here is a possible accommodation with the chairman and others who would be involved in this—I just really fail to see the rationale for the third. Perhaps that is something we could explore an agreement on.

Mr. CHAFEE. I think the Senator made a rather telling point. He pointed out that if they enter into these contracts and the town fathers say, "Look, if you do not like it you can vote us out of office," you say, "What good does it do to vote you out of office, you have locked us in for 20 years? It is little satisfaction for us that you are gone but we are stuck with the contract."

But I would like to say this. Here we are in a situation where if this Senate does nothing or this Congress does nothing, there will be no flow control at all.

Yet we have publicly elected servants, Governors, Senators, coming to us and say, "Extend this in perpetuity." That is what many of them want. These are people who are saying this before it is a done deal. In other words, the public knows their position, should know it, and many Governors—it has been no secret—do not say, "Don't tell anybody, I am urging you to do this."

So there are a lot of factors involved. But pursuant to the wishes and the views of the Senator from Arizona, and our own views likewise, we have set a sunset. We said this is all over with. We do not care what your arguments are. At the end of 30 years, there is not going to be any more flow control. You did give us arguments about bonds, this, that, but that is it. You may say 30 years is a long time. It is not just some people on the floor of the Senate who are after us to change that.

Mr. KYL. Unlike STROM THURMOND, we are going to be gone by the end of 30 years. But I see the point.

If the Senator will just yield for one final comment, I appreciate the arguments the Senator has made. I think what I am suggesting is something that is correct on principle. I would not want it to impede good legislation. I tried to suggest a couple of areas of possible ways of dealing with the issue and would be happy to continue to pursue those areas should anyone be interested.

On my behalf, I am not doing this for anybody in my State, because we do

not have this. But I urge my colleagues to support the amendment and enable us perhaps with a little stronger leverage to go back and construct something that would make a little more sense.

I thank the Senator for yielding.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LAUTENBERG. Mr. President, I find this a rather distressing moment because the amendment that is proposed, frankly, will do much to undo a lot of hard work that was done in a consensus fashion in trying to arrive at a way to accommodate the need for States to dispose of their trash in a sensible way. When you say "trash, garbage," et cetera, immediately it sounds like the subject is on the trivial side of things. It is hardly that because there are a few States that do not have a problem. As a matter of fact, this country of ours, and this world of ours is filled with problems created by the excess creation of trash by its citizens.

It is a serious problem when you come from a State like mine, the most crowded State in the country. We still value the quality of life that we can develop. We like our hills. Some call them mountains. It depends on whether you have seen mountains or not. But they are our hills and they are our forests, they are our woodlands, and our streams. And we try to make as good use of those as we can. We want for our children nothing different than those who live in Montana or Wyoming or in the other places, the wide open places. As a matter of fact, population growth in this country is much more toward the crowded areas because young people like to be where other young people are, and as a consequence there has to be a national cooperation on efforts like this to help us deal sensibly with the problem.

Now, this bill is carefully crafted—the bill itself; I am not talking about the amendment of the Senator from Arizona—to give States the power to restrict in some form or fashion the amount of trash that comes to their States from other States. This is not a simple calculation because within States there is often enormous disputes between those who govern the local community—mayors, councils—those sometimes who are responsible for county government and State government because the mayor in a town may very well be able to find a way to get rid of their trash from the community by shipping it to the nearest, cheapest out-of-State facility.

To give you an example, in my own State we have created some waste disposal facilities, and in order to build

those facilities we had to go out and arrange for financing, indebtedness, and that indebtedness, like any other business, was calculated on a particular revenue or financial stream that was going to permit them to pay their bills and also to pay off their indebtedness.

So lots of communities across this country developed something called a flow control program that says a State may regulate where the trash is going to go, not simply permit a mayor, even though it looks on its surface to be in the best interests of the residents of the community, to simply say OK, tipping fees, which are the fees associated with the disposal of garbage, to send it to State X nearby are one-third or 40 percent of what it might cost to send it to a nearby waste processing facility. That can be true on a particular day at a particular moment.

However, Mr. President, what happens if suddenly the opportunity to ship to State X, Y, or Z is terminated by laws that are pending in this body that say look, we are not going to take your garbage. We are not going to permit our communities to take it even though it is a revenue-producing source, even though it is clean, even though it has met all of the standards under RCRA for being a sanitary landfill where there is no possibility of leaching into the water supply, there is no danger to the community, even though we know it is great politics to keep the garbage out of the contract State. The fact is we have a contract and the Supreme Court says you cannot interfere with interstate commerce—unless, of course, laws are drawn to permit obstructing it in an ingenious way so that it gets around the constitutional question.

Well, what happens is those of us who live in exporting States are very nervous about the future, of what happens if suddenly the export possibility is cut off. And I repeat, though I have said it on this floor several times, the New Jersey story. When we were an importing State for garbage—Philadelphia used to ship its trash to my State—we tried through the courts to stop it. We went as far as the Supreme Court, and the Supreme Court said no, you cannot stop it. Well, we learned something. We were a net importer, and now as fate would have it we are an exporter. And in order to protect the solvency of our State, it was determined that my State would have a flow control structure, and they tried to direct the trash to the facilities that can accommodate it not just now, not just next year but in much of the next century as well.

That is the thought that went into this bill. Do not cut us off at the border and at the same time not permit us to control the flow within our States. My State of New Jersey wants to be independent. We do not want to depend on anybody else, to be gracious and fair and all that kind of stuff. We know that we have to take care of ourselves, so as a consequence we wrote the law to permit us to do that.

Well, now, after all of the deliberations that have gone on—and the distinguished chairman of the Environment and Public Works Committee from Rhode Island is in the Chamber. He worked very hard to get a consensus. He supports the flow control notion because he knows how important it is to the States that are concerned. Forty States in this country of ours have flow control authority, and they will be adversely affected by this amendment.

The amendment makes it difficult to expand landfills. For example, there are many landfills that need to be improved. If a 10-year bond was taken out for the original landfill 8 years ago, then that landfill operator will have little incentive to make improvements because he does not know how much waste will be coming in after 20 years. How good business is going to be he does not know because we are liable to cut off the opportunity for him to continue financing.

So we have an amendment now which I frankly believe would be very disruptive, and I want all the Senators from all the States that have flow control authority to pay attention because they could be losing a valuable asset, the sensible management of their trash problems.

We are going to have a vote on this amendment, I understand, at 2:30, and I would caution those offices where there is any interest at all in what happens with flow control to make sure that those Senators are alerted to the problems that might be created for them.

This amendment, by the way, is opposed by the National Association of Counties. They know what the problems are. It would be difficult to finance equipment, to finance new facilities because the amendment limits very specifically the financing of facilities to those that are presently in operation; would limit them to 30 years of life even if 25 have gone by. That means only 5 more. And the State may not have any other solution to its problems.

So I hope our colleagues will listen very carefully to what is being discussed, to note that the chairman of the Environment and Public Works Committee, that the chairman of the Subcommittee on Superfund, under whose jurisdiction this is, will be opposing this amendment and that others will take leave from them.

With that, I yield the floor, Mr. President.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I yield to my colleague, the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I will submit an amendment to the pending bill. I ask unanimous consent that the pending amendment be set aside temporarily.

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

AMENDMENT NO. 867

(Purpose: To provide flow control authority to certain solid waste districts)

Mr. JEFFORDS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for himself and Mr. LEAHY, proposes an amendment numbered 867.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 64, between lines 2 and 3, insert the following:

“(f) STATE SOLID WASTE DISTRICT AUTHORITY.—A solid waste district of a State may exercise flow control authority for municipal solid waste and for recyclable material voluntarily relinquished by the owner or generator of the material that is generated within its jurisdiction if—

“(1) the solid waste district is currently required to initiate a recyclable materials recycling program in order to meet a municipal solid waste reduction goal of at least 30 percent by the year 2000, and uses revenues generated by the exercise of flow control authority strictly to implement programs to manage municipal solid waste, other than development of incineration; and

“(2) prior to May 15, 1994, the solid waste district—

“(A) was responsible under State law for the management and regulation of the storage, collection, processing, and disposal of solid wastes within its jurisdiction;

“(B) was authorized by State statute (enacted prior to January 1, 1990) to exercise flow control authority, and subsequently adopted the authority through a law, ordinance, regulation, contract, franchise, or other legally binding provision; and

“(C) was required by State statute (enacted prior to January 1, 1992) to develop and implement a solid waste management plan consistent with the State solid waste management plan, and the district solid waste management plan was approved by the appropriate State agency prior to September 15, 1994.”

Mr. LEAHY. Mr. President, I ask unanimous consent that I be listed as a cosponsor with the Senator from Vermont.

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

Mr. JEFFORDS. Mr. President, hopefully we will be able to reconcile our differences that we have right now with respect to the pending bill.

Vermont, I think, is a pioneer in this area. Some years ago, it set up a methodology of trying to reach what we believed were national goals as well as our own State's goals, and that was to try and develop recycling to reduce the amount of solid waste that enters into our waste system. Thus, we organized districts throughout the State. And also to try to enhance the ability to recycle, we have allowed some tipping fees to be exacted in order to take care

of the costs that are involved with recycling.

If my memory serves me right, when I was on the committee that is handling this legislation, we had set or were going to set national goals that we ought to try to reach a 30-percent goal of recycling. Vermont right now is over 25 percent and moving toward 30 percent.

What would happen, if this bill passes and if the existing Supreme Court decision is not changed, is that Vermont will have to move away from what is a very desirable situation, and that is to be able to reduce our flow of trash by over 25 percent.

Mr. President, in 1987 the State of Vermont passed a solid waste management act which allowed small rural towns and cities to band together to solve their solid waste problems. Building a landfill which complies with EPA standards under the Resource Conservation and Recovery Act is not cheap. Recognizing that landfills out of compliance would be shutting down, and facing the reality that landfill space was dramatically declining, Vermont acted to assist small communities in their effort to handle their solid waste. The 1987 solid waste management law allows Vermont towns the ability to band together. Passage of Vermont's solid waste law and the implementation of the State's solid waste plan has been incredibly successful to date in achieving this goal. But we are not finished yet.

Mr. President, Vermont has spent over \$20 million developing its district waste management plans. The vast majority of these plans rely on flow control. Without this ability, many small towns and cities would not have been able to plan for the future, reduce their production of waste or implement far reaching recycling and waste reduction programs. The communities in my State need to be able to count on the results of their investments. They need to continue to work to solve their solid waste problems together, in coordination with the State.

The loss of local authority over solid waste planning would be disastrous. These solid waste districts have developed comprehensive waste reduction plans, in order to reduce the costs of disposal and remove the need to continually open new and costly landfills. Since 1992, there has been a dramatic increase in the number of households and businesses participating in local waste reduction and recycling programs. And it is working. Currently, Vermont recycles approximately 25 percent of its solid waste and over 40 percent of Vermont's towns have recycling programs in place. And these are rural towns. Recycling in rural areas is not easy, nor cheap. I am proud of what these Vermont communities have achieved and want to ensure the continued growth of this trend in the future.

Mr. President, Vermont is among the most rural States in the Nation. Our

solid waste districts generally have not financed disposal facilities, such as landfills, nor recycling infrastructure through the issuance of revenue bonds. Therefore, the exemptions in the bill will not hold. But the financial health of these communities necessitates the continuation of their ability to direct flows of waste. And these waste districts are just beginning to fully implement their waste management plans, which may include the sighting of safe, but expensive, waste disposal facilities.

My State has chosen to manage its waste in this manner. Now, in this time when the theme is to reduce mandates from Washington, are we going to impose a Washington solution on Vermont and other States who are properly managing their waste? Essentially, Washington will be removing Vermont's ability to implement their solid waste management plan. Washington will dismantle Vermont's recycling program. Washington will increase Vermont's waste generation, thereby increasing costs associated with waste disposal. Washington will end Vermont's ability to safely manage its waste, waste which without my amendment can go to out-of-State incinerators and less preferable landfills.

I ask my colleagues to let Vermont manage its waste as it chooses, not as Washington dictates. Do not impose a Washington mandate on Vermont. Let us maintain our extremely successful waste reduction and recycling programs.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I join with Senator JEFFORDS on this, because I think it is extremely important to our State. S. 534, as it is presently written, trashes Vermont's solid waste management plan, I might say literally and figuratively.

What we want to do is let the Vermont solution work in Vermont. We hear a lot about States' rights these days, but we are about to undermine our State's right to manage waste in Vermont. We hear a lot about how States could find the best solutions to their problem, but this bill says the States' solutions are wrong. We hear a lot about not forcing States to adhere to national environmental standards, but when my own State goes and exceeds the national standard within the borders of our own State, we are told we cannot do that.

Now here we have a bill that says States can control what comes across their borders, but they cannot control what is within their borders. That is absurd.

My State uses flow control to reduce the leakage of household hazardous waste into the environment. That is something that benefits all Americans. My State uses flow control to increase recycling in rural areas.

Vermont manages waste better than Federal statutes, like the Clean Air Act and the Clean Water Act require. If

a State like Vermont wants to go above and beyond the call of duty in addressing solid waste problems, then the Federal Government ought to stand out of its way. We are not suggesting we do less. We are just saying give us the right to do more if that is what we want.

The opponents of this amendment say the free market will take care of our solid waste management. Well, the fact is in a rural State like Vermont the free market will not increase recycling nor separate and collect household hazardous wastes or address a number of the other things that we are doing in Vermont.

When the State legislature or an individual waste management district chooses to pursue the policy suggested by Senators from other States, they will have the opportunity to do so. Until then, they ought to be allowed to pursue the policies they have set up themselves, especially when everybody agrees the policy goes beyond any national standards. We ought to be able to do what we want within our own borders in a case where we are not only not harming anybody else, but we are actually making the environment better.

Mr. JEFFORDS. Mr. President, I would also point out that this does not interfere in the sense of competition. There are bids that go out for those who want to bid. The only problem that is created is the tipping fee, which has to eventually, of course, be paid by the people that are getting the advantage of the waste disposal. And that helps in paying for the recycling programs.

In rural areas where you do not have large amounts of trash that is recyclable in the sense that it can be sold, you have to make up that cost some way. The question is, is it not better to put that cost on those that are getting the advantages of the waste disposal system? I think everyone would agree, the answer is yes. And if the answer is yes, then why should we not be allowed to do it? It is not in any way interfering with the problems that the Supreme Court handled, which was interfering with respect to fair and open competition.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CHAFEE. Mr. President, am I correct in believing that 2:30 is the time set for the vote on the Kyl amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. CHAFEE. That is the pending amendment, right?

AMENDMENT NO. 769

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of amendment No. 769 offered by the Senator from Arizona [Mr. KYL].

Mr. CHAFEE. Mr. President, I move to table the Kyl amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 769. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 79, nays 21, as follows:

[Rollcall Vote No. 162 Leg.]

YEAS—79

Abraham	Frist	McConnell
Akaka	Glenn	Mikulski
Baucus	Gorton	Moseley-Braun
Bennett	Graham	Moynihan
Biden	Grams	Murray
Bingaman	Grassley	Nunn
Bond	Gregg	Packwood
Boxer	Harkin	Pell
Bradley	Hatch	Pressler
Breaux	Hatfield	Pryor
Bumpers	Heflin	Reid
Burns	Helms	Roth
Chafee	Hollings	Santorum
Coats	Hutchison	Sarbanes
Cohen	Inouye	Shelby
Conrad	Jeffords	Simon
Coverdell	Johnston	Simpson
D'Amato	Kassebaum	Smith
Daschle	Kennedy	Snowe
DeWine	Kerrey	Specter
Dodd	Kerry	Thomas
Dole	Lautenberg	Leahy
Dorgan	Leahy	Thompson
Exon	Levin	Thurmond
Faircloth	Lieberman	Warner
Feinstein	Lugar	Wellstone
Ford	Mack	

NAYS—21

Ashcroft	Domenici	Lott
Brown	Feingold	McCain
Bryan	Gramm	Murkowski
Byrd	Inhofe	Nickles
Campbell	Kempthorne	Robb
Cochran	Kohl	Rockefeller
Craig	Kyl	Stevens

So the motion to lay on the table the amendment (No. 769) was agreed to.

Mr. PRYOR. Mr. President, seeing no other Members of the Senate seeking recognition at this time, I would like to ask unanimous consent that I may be allowed to speak as in morning business, not to exceed 12 minutes.

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

COMMENDATION TO FORMER PRESIDENT BUSH

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me and I thank the distinguished managers for allowing me to speak.

Mr. President, this morning's Washington Post and many television and radio news programs throughout America and perhaps the world, reported on what I would like to call a portrait in courage, and the person standing tall in that portrait was none other than former President George Bush.

Like many of my friends and family in Arkansas, former President Bush is a gun enthusiast. He is a long-time member of the National Rifle Association.

But like many other NRA members, President Bush was deeply offended by a recent NRA fundraising letter signed by Mr. Wayne LaPierre, the NRA's executive vice president. The LaPierre letter referred to several law enforcement officials: "Jack-booted thugs who harass, intimidate, even murder law-abiding citizens." The NRA referred to Federal agents "wearing Nazi bucket helmets and black storm trooper uniforms to attack law-abiding citizens."

This irresponsible, inflammatory NRA fundraising letter incited the former President of the United States to the point that he wrote NRA President Thomas Washington to resign his NRA membership.

Former President Bush's letter reads as follows:

Your broadside against Federal agents deeply offends my own sense of decency and honor and it offends my concept of service to our country.

President Bush continues in his letter:

It indirectly slurs a wide array of government law enforcement officials who are out there day and night, laying their lives on the line for all of us.

Mr. President, I am asking unanimous consent that an excerpt from the story in the Washington Post about President Bush resigning his membership from the National Rifle Association be printed at this point in the RECORD.

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

But his resignation letter was more personal than political.

"Al Whicher, who served on my [Secret Service] detail when I was vice president and president, was killed in Oklahoma City," Bush wrote. "He was no Nazi. He was a kind man, a loving parent, a man dedicated to serving his country—and serve it well he did.

"In 1993, I attended the wake for ATF agent Steve Willis, another dedicated officer who did his duty. I can assure you that this honorable man, killed by weird cultists, was no Nazi." Willis was one of four federal agents killed in the initial February 1993 raid on the Branch Davidian compound near Waco, Tex.

"John Magaw, who used to head the [Secret Service] and now heads ATF, is one of the most principled, decent men I have ever known," Bush wrote. "He would be the last to condone the kind of illegal behavior your ugly letter charges. The same is true for the FBI's able Director Louis Freeh. I appointed Mr. Freeh to the federal bench. His integrity and honor are beyond question."

The letter concluded, "You have not repudiated Mr. LaPierre's unwarranted attack. Therefore, I resign as a life member of NRA, said resignation to be effective upon your receipt of this letter. Please remove my name from your membership list. Sincerely, George Bush."

GATT AND GENERIC DRUGS

Mr. PRYOR. Mr. President, when we in Congress voted on the GATT treaty

recently, we all knew that we were breaking down trade barriers and leveling the playing field in international trade.

Make no mistake, I believe that Americans will benefit from this agreement when it is implemented in June. But never, Mr. President, in our wildest dreams or imagination, would we have ever thought we were voting to give special treatment and a \$6 billion windfall to the prescription drug industry on one hand and higher drug prices to American consumers on the other. Yet that is exactly what is happening.

Mr. President, here is what has happened to bring us to this point today. Last year, the United States agreed under GATT to a new patent law, good for 20 years from filing. Our old patents were for 17 years, the effective date from their date of issue.

We also agreed under GATT to give existing patents the longer of the two patent terms. This extension applies to all industries.

At the same time, we knew that generic companies of all kinds all over America had already made significant investments based upon old patent expiration dates. These companies were prepared to introduce their competitively priced drug products just as the brand-name monopolies end.

We did not want to jeopardize the jobs and the factories which were at stake. So we decided under GATT to adopt a formula under which these generic companies could proceed with the introduction of their products if they paid the patent holders "equitable remuneration" for the period of time left on their patents.

Mr. President, here is where this story really begins. It just so happens that over 100 prescription drugs now protected by patents will be getting extra patent life under GATT.

For example, Glaxo's patent for the world's best selling drug, Zantac, would have run out December 5, 1995, but will now last until 1997. Generic drug companies have already spent millions of dollars to prepare to market lower cost, equivalent drugs on that date, giving consumers of America a tremendous price break.

But a small handful of brand-name pharmaceutical companies have objected. They are saying, "Thank you for the extra patent life. We really appreciate that part of GATT. But you should know there is an obscure provision in U.S. drug law which we think protects us from the rest of the GATT treaty. We are sorry our generic competitors have invested heavily in their business, but they do not deserve the protections that are rightfully theirs under GATT. So we guess we will not have any competition for quite some time."