

cover 70 percent of the surface of the globe. Maintenance of such stability is vital to U.S. national security and economic strength."

I strongly agree and look forward to the Senate giving its advice and consent to this historic convention during the 104th Congress.

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

The PRESIDING OFFICER (Mr. ASHCROFT). The clerk will call the roll. The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

Mr. DOMENICI. Mr. President, in a minute or so, I am going to send an amendment to the desk. But so as to not waste time, let me take a few minutes to talk before it is submitted.

First of all, I understand the managers of this bill want to get it finished today, and I gather the leader wants to do it quickly. I want to be cooperative. Essentially, I am not going to say a great deal, other than, first, I compliment Senator KEMPTHORNE on language in this bill that I call common-sense language that relates to small and arid landfills. They are relieved of some very expensive monitoring, and I compliment the Senator for that.

Second, I would like to go a little further, because I want to add a little more common sense. I think common sense, with reference to regulatory processes, was part of the last election. You do not hear me come to the floor trying to second-guess what the election was about. But I am convinced that as to people regulated, be it cities, counties, tiny communities, small business people, the election was about common sense.

So I am going to send an amendment to the desk which would allow States to promulgate their own regulations with regard to small landfills, provided that those regulations are sufficient to protect human health and environment.

In my amendment, small landfills are those which receive 20 tons or less of municipal waste per day based upon an annual average. Such landfills, as the occupant of the chair, the former Governor of a great State would know, serve very small communities. In my State of New Mexico alone there are 50 such small community landfills. Let me suggest that they are not next door to anything. Those landfills are out in a huge, huge open space surrounded, in most instances, by hundreds, if not thousands, of acres of unused land, public or private.

So we are not talking about these small landfills in my 50 small communities as, per se, bothering anyone. The question is, are they safe? Do they protect the health and environment?

Frankly, I believe that our States are sufficiently different, and that States ought to be able to determine the regulations that these small landfill operators, small communities, must comply with in order to meet the standards of our law. I believe States are totally capable of drafting the regulations for safe and healthy small landfills in rural America and in rural New Mexico.

According to the Environmental Protection Agency, these small landfills make up 50 percent of the total number of landfills and contribute only 2 percent in terms of the total cumulative waste—2 percent.

Now, I realize that some argue that EPA does give States flexibility with regard to landfill management, and I assume the managers might even say that they believe it has already been done. I also know, however, that my State's environment department has not experienced this purported flexibility on EPA's part.

Frankly, I believe we ought to make it clear that the Environmental Protection Agency shall give this authority to the States to draw up their own regulations with reference to small community landfills so long as the regulation adequately protects human health and the environment. That is very simple.

I have seen small communities attend meetings for 3 years in New Mexico. They are looking for a regional landfill, I say to Senator SMITH, and they are going to meetings for 3 years, trying to figure out how to have this big regional landfill and how this little small town can buy into that. And it is not getting done yet. The little towns are worried about it, and they are out telling their 100 citizens, or 300, what they might have to pay, what they might have to do. And many of them are not even cities, as the occupant of the chair knows. They are villages. They are less than municipalities, many of them.

So I believe common sense says as to those small, but very important, community landfills that we ought to make it mandatory that they can be operated pursuant to State regulations in terms of their adequacy.

With that I yield the floor. I hope I have not taken too much time. I hope the managers will accept this amendment, and I yield the floor.

AMENDMENT NO. 1092

(Purpose: To revise guidelines and criteria for the Resource Conservation and Recovery Act)

Mr. DOMENICI. 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 New Mexico [Mr. DOMENICI], for himself, Mr. KEMPTHORNE, and Mr. SMITH, proposes an amendment numbered 1092.

Mr. DOMENICI. 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 69, line 22, strike "..."

On page 69, between lines 22 and 23, insert the following new provision:

"(5) FURTHER REVISIONS OF GUIDELINES AND CRITERIA.—Not later than April 9, 1997, the Administrator shall promulgate revisions to the guidelines and criteria promulgated under this subchapter to allow states to promulgate alternate design, operating, landfill gas monitor, financial assurance, and closure requirements for landfills which receive 20 tons or less of municipal solid waste per day based on an annual average, provided that such alternate requirements are sufficient to protect human health and the environment."

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I would like to compliment the Senator from New Mexico. I think his amendment is helpful. I intend to support it. It provides additional flexibility for the States to more closely tailor their own individual problems. One-size-fits-all Federal regulations do not always work. Many times they do not work. I think the Senator has hit on an area here that improves the bill. It would be helpful, certainly, for very small communities in very remote areas, which we find everywhere in almost every State in the country.

One area the Senator did not mention which would have a positive impact on his amendment is many rural areas used to burn their garbage, a lot of it. Of course, when it is burned and not buried, we do not have the methane buildup. So this would give those communities great flexibility because you do not need to monitor where you did not bury and you did burn.

So I think that is another dimension which is really attractive and, frankly, the main reason I support this amendment.

So this Senator will be voting for the amendment, and I congratulate the Senator on his amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the Senator from New Mexico is attempting to address the concerns of small communities, a concern which we all share. Under the bill before us, and according to pursuant regulations, generally the State of New Mexico can already now do what this amendment asks EPA in to do. That is quite clear.

The Senator from New Mexico thinks there is some ambiguity, and I respect the Senator's view there might be some ambiguity, although we checked with the EPA and checked the regulations and today they can do already what New Mexico wants to do.

I am in a bit of an awkward position because the State of Montana, frankly, sent me a letter expressing their reservations about this amendment. Their reservations generally revolve around the following point; namely, that when the landfill regulations went into effect in 1991, States acted pursuant to these regulations. And under these regulations virtually all authority was

delegated to the States—43 States have approved plans, the State of Montana is one, the State of New Mexico is another—and they began to plan.

One of the goals under each of the State plans is to not only be sure small, local communities are able to develop their landfills in a common-sense way, but also to consolidate landfills where, in the opinion of the State, it makes sense.

So the State of Montana is saying this is probably not a great problem, this amendment. However it is changing horses in the middle of the stream. It has the effect of changing regulations after 1991. The State of Montana is doing fine with the 1991 regulations, and they are also working with some communities, small communities, to keep their landfills open but consolidating other landfills because you need volume to make landfills economically feasible. This amendment might have the effect of disrupting those States' efforts to try to get some consolidation.

It is not a major point. I do not mean to raise it in any serious degree, but it is a consideration I think all States have when they are adopting their plans. I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, on the Domenici amendment there appears to be no further debate. I support the amendment and also want to say the views of the Senator from Montana were certainly worthy of consideration. We are ready to go forward with this amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent Senator KEMPTHORNE and Senator SMITH be shown as original cosponsors of this amendment.

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

Mr. DOMENICI. I thank the floor managers. With regard to the ambiguity as to whether States are currently given adequate flexibility over their regulation of small landfills, I might say to my friend from Montana we received a call the day before yesterday from New Mexico's environmental department asking us to do this. They, and I, are still convinced that this amendment will help States with their small landfill problems. But I very much appreciate clarifying this, and I thank my friend for that.

I yield the floor.

The PRESIDING OFFICER. Is all time yielded back? All the time has been yielded back.

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1092) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STATES' AUTHORITY

Mr. KEMPTHORNE. Mr. President, I would like to take this opportunity to clarify the meaning of language contained in title I of S. 534, regarding the Governors' authority to ban interstate waste shipments. Section 4011(a)(4)(A) limits that authority when its exercise would "result in a violation of, or would otherwise be inconsistent with, the terms of a host community agreement or a permit issued from the State to receive out-of-State municipal solid waste."

During the committee markup on this title, the chairman of the committee and I engaged in a colloquy in the business meeting of the Environment and Public Works Committee on March 23, 1995, regarding the meaning of this provision in the case of a host community agreement that contains no tonnage limitation. The chairman agreed with me that where there is no specified tonnage amount in a host community agreement, a Governor's ban of interstate waste shipments to a facility covered by such an agreement would be in violation, or inconsistent with, the terms of the host community agreement.

Mr. President, I would like to ask the distinguished chairman of the committee whether this colloquy still reflects the committee's understanding about how the 4011(a)(4)(A) limitation should be interpreted when a host community agreement contains no specified tonnage amount?

Mr. CHAFEE. The Senator from Idaho is correct. Where a host community agreement contains no specified tonnage, a Governor's use of his authority to ban interstate waste shipments would be in violation of, or inconsistent with, the terms of the host community agreement.

Mr. KEMPTHORNE. If a Governor imposes a cap at 1993 tonnage levels on waste received, affecting a facility with a host community agreement that does not have a tonnage limitation, would the cap be considered to be inconsistent with the host community agreement?

Mr. CHAFEE. The Senator is correct, a cap would be inconsistent with such an agreement.

Mr. KEMPTHORNE. Does the provision, as interpreted, apply only prospectively, or is it intended to cover host community agreements entered into, or permits issued by a State, both before and after enactment of section 4011?

Mr. CHAFEE. The provision applies both retroactively and prospectively to those host community agreements that were in effect before and after the date of enactment.

Mr. KEMPTHORNE. Has anything happened during the course of this floor debate on the bill to change this understanding as to the interpretation of this provision, section 4011(a)(4)(A)?

Mr. CHAFEE. No. But it is this Senator's view that this colloquy confirming our understanding of section 4011(a)(4)(A), as previously set forth in

the committee business meeting, does not apply to amendment 1077, an amendment that was offered by Senator COATS and only affects the State of Indiana.

Mr. KEMPTHORNE. Thank you, Mr. President.

Mr. SIMPSON. We are once again trying to pass legislation dealing with the export of solid waste from one State to another. This issue has become a concern because some of the large Northeastern States have been shipping large amounts of garbage to States such as Indiana, Pennsylvania, and Virginia for disposal. This waste is being exported in part because the cost of disposing of this waste in another State, even after figuring in shipping costs, is less than the cost of disposal in the home State.

We find that high population States such as New Jersey and New York have been running short of landfill capacity. That has been caused by a shortage of usable land and more importantly because State and local governments have not been building new landfill capacity or new incinerators. Local citizens in these areas have opposed such efforts. This is a classic example of the "not in my back yard" or "NIMBY" principle. The citizens in States generating the waste oppose the construction of new incinerators. With proper environmental controls incinerators may be one of the best methods of disposal. Heat energy can be recovered from burning trash and we do not end up with the huge volume that must be buried in a landfill. Without local disposal options the next option becomes shipping trash somewhere else and disposing of it in a neighbors back yard. Now the folks who have been receiving trash from out of State are finding their landfill capacity being used up by citizens who live hundreds of miles away. They are saying "not in my backyard either" and I can understand their frustration.

The people of Wyoming do not want trash being brought in from other States in large quantities because others will not make the tough political decisions needed to expand landfill capacity or to build incinerators. Wyoming is the largest coal producing State in the Nation. We have large open pit coal mines. We had a proposal floating around in my State at one time to bring empty coal train cars back into the State loaded with garbage to be dumped in the old open pit mines. Someone thought that was a marvelous idea. The people of Wyoming did not think it was a marvelous idea though. There was a hue and cry across the land when that trial balloon was floated. The opposition to this proposal was vocal and near unanimous. So I am pleased that we are granting Governors authority to limit the importation of waste from out of State. I understand the issue with the commerce clause. But we do need to ensure

that some States will not just take the easy way out and send their problems down the road to someone else. This is not about interstate commerce—this is about States and counties failing to face up to their own problems and responsibilities.

We see some of the same issue when dealing with low level nuclear waste. We have set up a system of compacts where States join together and make group decisions about where to locate low level waste disposal sites. Every State generates low level waste and it must be disposed of in a thoughtful manner. But the State compact system does not work well for interstate trash because there are just a few States with huge volumes of waste and no place to put it. So we are letting individual States limit or accept out of State waste as they see fit.

I trust that this legislation will ensure that the exporting States will take a more constructive approach to this problem in the future. Citizens of every State must recognize that as consumers they are responsible for the waste they generate and they must bite the bullet and deal with it locally.

I trust we can get this bill through conference and to the President in a timely fashion. We came very close last year to getting it done but the bill died the last day of the session. Senator CHAFEE and Senator SMITH have done yeoman work on this bill and I commend them for their efforts and I look forward to the passage of this important legislation.

Ms. SNOWE. Mr. President, I rise in support of the bill, S. 534, as amended.

Let me first thank Senator CHAFEE, the chairman of the full Environment and Public Works Committee, and Senator SMITH, the chairman of the subcommittee, for their assistance to Senator COHEN and me on several amendments of great importance to the people of Maine. We offered three amendments to this bill, and all of them have been accepted, for which I am very grateful. The amendments relate to put-or-pay contracts, the term "original facility" on page 58 of the bill, and to the "substantial construction" requirement on page 56.

I would also like to thank the ranking members of the full committee and the subcommittee, Senator BAUCUS and Senator LAUTENBERG, for their cooperation and acceptance of our amendments.

And finally, I would like to thank my colleague from Maine, Senator COHEN, for working with me on these amendments on behalf of the State of Maine.

Mr. President, Maine has had a keen interest in the issue of flow control since the U.S. Supreme Court issued its ruling in *C&A Carbone, Inc. versus Town of Clarkstown*, New York almost 1 year ago today, on May 15, 1994. That ruling, which invalidated municipal solid waste flow control ordinances across the country, threatened to unravel the painstakingly crafted waste management systems of local govern-

ments in Maine and many other States. Over 200 municipalities in my State made expensive investments in modern waste-to-energy facilities based on the assumption that flow control authority would be available to them. As a result of the *Carbone* decision, they now fear for their future financial well-being.

S. 534 focuses primarily on municipalities that issued bonds to pay for the construction and operation of designated waste management facilities like waste-to-energy plants. These municipalities relied on flow control ordinances to meet their financial obligations and to repay the bonds. The bill contains a grandfather provision that allows these communities to continue using flow control as long as they enacted their original flow control ordinances and designated their waste management facilities before May 15, 1994.

At first glance, the bill's grandfather provision would appear to protect the communities associated with the Regional Waste Systems waste-to-energy plant in Portland, ME, and the Mid-Maine Waste Action Corp. plant in Auburn, ME. These municipalities banded together in the 1980's to construct the facilities, and they issued bonds to pay for that construction. Flow control ordinances were enacted to guarantee delivery of sufficient amounts of waste to the facilities. But separate provisions in the bill would unintentionally and unfairly exclude many of these communities, and Senator COHEN and I offered amendments to rectify these problems.

The first problem relates to the bill's use of the term "original facility" when it defines the duration of the flow control authority available to qualified political subdivisions in the future. Title II, subsection (b)(4)(C) allows qualified municipalities to continue using flow control through the end of the remaining useful life of the original waste management facilities that had been designated. The problem with the term "original facility" is that it could be interpreted to exclude facilities that had been the subject of the original designation by a group of municipalities, but that had also been overhauled prior to the *Carbone* decision.

The MMWAC facility in Auburn, ME, is one facility that could have been unintentionally excluded from S. 534's grandfather provisions by this language. Due to significant deficiencies, the MMWAC plant, which had been constructed in 1988, was temporarily shut down in 1990, and subsequently overhauled. The plant resumed operations in 1992, and it has functioned well since that time. Under the original language of the bill, a party could have argued that because of the renovations, MMWAC could not be considered an original facility, and therefore flow control would not be available to its member municipalities through the plant's remaining useful life.

The amendment that I offered with Senator COHEN, and which has been ac-

cepted, deletes the word "original," and ensures that municipalities whose designated waste management facilities were in operation as of May 15, 1994, will be able to continue using flow control through the remaining useful life of the facility.

Another problem in S. 534 relates to the "substantial construction" requirement found in title II, subsection (b)(1)(B). This provision States that qualified municipalities would only be able to use flow control if the ordinance or legally binding provision in existence before *Carbone* had been enacted or signed before "substantial construction" of the designated facility had been completed. Unfortunately, more than 61 municipalities in Maine had enacted flow control ordinances or legally binding provisions after the substantial construction of their designated facilities had been completed.

Even more problematic, this provision requires the "substantial construction" to have been completed after the "effective date" of the ordinance or provision, rather than the date of enactment. As a result of this language, most of the municipalities in Maine that would otherwise qualify for S. 534's grandfather provision would be denied the bill's protection. Municipalities in Tennessee, Michigan, and other States would be similarly affected.

In recognition of the unintentional problems that this language poses for so many otherwise qualified municipalities, I joined Senators COHEN, SMITH, and THOMPSON in offering an amendment to strike this language. As I noted earlier, that amendment has been accepted by the managers of the bill.

The last amendment that Senator COHEN and I offered relates to put-or-pay contracts. Municipalities that signed put-or-pay contracts with designated facilities prior to *Carbone*, but that did not enact flow control ordinances before that date, do not qualify for flow control authority in S. 534 as written. Under a put-or-pay contract, a municipality agrees to deliver a specified amount of waste to the designated waste management facility every month. If the municipality cannot deliver the required amount of waste, then it must pay the facility for the waste that was not delivered.

In Maine, 160 communities in the sparsely populated central, eastern, and northern parts of the State determined that the put-or-pay approach was the best one for them, and they signed contracts with the Penobscot Energy Recovery Corp. [PERC] in Orrington, a \$100 million waste-to-energy plant.

These cities and towns signed long-term contracts with PERC in response to the same policy signals from the Federal and State governments as communities that actually issued bonds to pay for municipally-owned facilities. The difference is that the PERC towns chose a somewhat different route. They

decided to sign put-or-pay contracts with a privately owned waste-to-energy plant that was created in response to a request for proposals from these communities.

The original contracts, which were 30-years long and set a tipping fee at \$10 a ton, were signed in 1988. Due to financial difficulties that threatened the plant in 1989, however, the contracts were renegotiated.

The new contracts increased the tipping fee fourfold, to \$42 a ton. The municipalities agreed to sacrifice in the short-term and pay such a large fee increase for two reasons: to finance essential capital improvements to the plant to help it run more efficiently; and to ensure a stable tipping fee over the life of the contract.

In addition, the new contracts not only required each municipality to deliver a specified amount of waste, but they included a kind of aggregate put-or-pay provision which allows the PERC facility to void the existing contracts if the total amount of waste from all member communities declines below a specified minimum tonnage. Finally, the new contracts provided that the cities and towns that signed would receive 50 percent of any distributable profits earned by the plant.

After signing the contracts, some of the larger cities in this region of Maine like Waterville, and Bangor—cities that have a council form of government—enacted flow control ordinances to ensure that they could deliver the minimum amount of waste specified in the contract. But most of the 160 towns are very small, and they rely on town meetings for public decisionmaking. As anyone familiar with the town meeting form of government knows, the meetings are held infrequently, and the towns generally do not vote on measures unless they must be addressed at that particular time.

Consequently, after signing the put-or-pay contracts, a lot of the Maine towns deferred passage of flow control ordinances in the hope that they could deliver the required amount of waste without having to go through the process of formally enacting a flow control ordinance. But these towns always believed that, if necessary, they could resort to flow control to guarantee delivery of the amount of waste specified in their contracts. If they had known that flow control would not be an option, most, if not all, of them would not have signed these contracts. The Carbone decision eliminated the flow control option, changing the rules in the middle of the game, and leaving these communities vulnerable to significant financial hardship if they being to have trouble delivering the amount of waste required in their contracts.

Without flow control, these towns may not only find it more difficult to meet their individual contractual obligations, however. They could fail to meet their aggregate tonnage requirements as well, giving PERC's owners

the right to void all 160 of the contracts and to initiate a new round of negotiations.

The current contract provide stable tipping fees and terms for the member municipalities. And it allows them to receive half the profits generated by the facility—which is only reasonable since the communities have paid for necessary capital improvements through the higher tipping fees negotiated in 1989 and 1990.

These cities and towns cannot afford to lose this arrangement. Because they are dispersed across a large, rural region, and because nearly all of the local landfills have had to close due to Federal and State mandates, the PERC waste-to-energy plant is the only real waste disposal option for most of the 160 towns. Under a renegotiation, these towns, tucked away in the far northeastern corner of the United States, will find themselves facing what amounts to a waste disposal monopoly.

Needless to say, in such a weak negotiating position, the towns could see their waste disposal costs rise sharply, despite having already invested so much money to make the plant viable. And they could lose the opportunity to get a return on the substantial investment that they made in this facility through the higher tipping fees negotiated in 1990.

Mr. President, this elaborate but workable waste disposal system for central, northern, and eastern Maine was predicated on the understanding that flow control would be available to all participating communities. Since flow control was overturned by Carbone, the communities of the region have been placed in a very vulnerable position, one which they would not have placed themselves in had flow control not been an option.

In order to avoid substantial financial hardship in the future, put-or-pay communities that signed contracts before Carbone must retain the authority to enact flow control ordinances if they need to. The net effect of the Carbone decision on these communities is not dramatically different from the decision's effect on other communities that actually issued bonds for their own facilities. In both cases, a court decision leaves the communities dangerously exposed to financial hardship. In both cases, the communities designed new waste systems in response to Federal and State policies that encouraged them to do so. And in both cases, the systems were predicated on access to flow control. Considering these similarities, the put-or-pay communities do not deserve to be treated differently and excluded from the flow control grandfather in S. 534.

The amendment offered by Senator COHEN and I simply clarifies that the term "legally binding provision" in title II, subsection (b) of the bill, includes put-or-pay agreements of the kind negotiated in Maine. As a result of this clarification, the municipalities that have contracted with the PERC

facility will continue to have access to flow control, and their intricate but successful waste management system will remain intact. I am very pleased that the managers of the bill agreed to accept this important amendment.

Mr. President, with these amendments, S. 534 treats all deserving municipalities equitably, without creating loopholes for other municipalities that did not rely on flow control before the Carbone decision. The bill as amended restores fairness for local governments that acted and invested in good faith, according to the rules that existed before May 15, 1994.

Senators CHAFEE, SMITH, BAUCUS, and LAUTENBERG deserve credit for crafting a reasonable and balanced compromise bill, and I am happy to announce my support for it.

Mr. DOLE. Mr. President, over the past several years the Senate has discussed the issue of interstate trash and has passed two interstate trash bills. The provisions contained within those bills were the result of significant efforts and provided authorization for an integrated approach to interstate trash control. The bill before us today accomplishes similar goals, but also addresses flow control and reinstates the ground water monitoring exemption for small landfills.

I commend the efforts of Senator COATS who has worked so hard for the past several years to pass such a bill. Senator CHAFEE, Senator SMITH, and others have all worked extensively on this legislation. I believe the authority granted to Governors provides the right flexibility, with local community participation being an important part of this legislation. While I remain concerned about long term implications of the flow control provisions, I believe the committee sought to achieve a balance that provides security for existing flow control authorities while providing for a competitive marketplace in the future.

Public and private authorities need to work together in a free market system to address waste management concerns. Congress should only work to assist these decisions, not impede sound environment practices, by providing flexibility to State and local governments to their waste management needs.

Mr. GLENN. Mr. President, I rise today in support of passage of the Interstate Transportation of Municipal Solid Waste Act of 1995. Although I support more stringent restrictions on waste imports, I believe that this legislation is a necessary tool for Ohio and other importing States for implementation of their solid waste management plans.

The accumulation of solid waste in municipal landfills is one of the most urgent and fundamental environmental problems facing Federal, State, and local officials today. According to the Ohio Environmental Protection Agency [OEPA], all the landfills in Ohio

could be full by the year 2000. For several years, I have supported and voted for measures to stem the tide of interstate waste, and I commend my colleague, Senator COATS, for his perseverance on this important issue. In 1992, I voted for the Interstate Transportation of Municipal Waste Act which passed the Senate on a vote of 89-2. In 1993, I was an original cosponsor of legislation to restrict imported waste. I am pleased that the Senate is again acting to address this issue, and it is my hope that this year these restrictions will be enacted into law.

Mr. President, Ohio currently receives about 1.7 million tons of municipal solid waste annually from other States. As old landfills are closed or reach capacity, Ohio has reached the point where 28 of the 88 counties have no landfill, and 35 have 5 years or less capacity remaining. Clearly, my State cannot implement its environmental objectives and deal with thousands of tons of imported trash at the same time.

The increasing flood of waste imports from out-of-State is a serious threat to the health and safety of Ohioans and to the environment in my State and the other States that receive vast quantities of imported waste. Ohio has taken strong and effective actions to reduce its waste generation and to recycle waste. However, my State's efforts are being overwhelmed by trash from other States.

Mr. President, this bill takes several steps that will reduce the amount of out-of-State waste coming into Ohio and other States. The bill will allow Governors to immediately freeze out-of-State waste at 1993 levels at facilities that received imported waste in 1993. In addition, the bill contains strengthened authority to impose an import control, or ratchet, on out-of-State waste. I worked with my colleagues from the other largest importing States—Michigan, Pennsylvania, and Indiana—to make this ratchet more effective by placing tougher limitations on waste exports.

This legislation also contains provisions to restore local authority to control the flow of municipal solid waste. Many county commissioners and solid waste district managers have expressed concerns to me about the need for flow control authority to enforce solid waste planning goals as well as recycling mandates. Although this bill does not accommodate each individual situation in Ohio, it is a strong statement about the necessity of local flow control authority, and I will continue to work through the House-Senate Conference to ensure that Ohio's specific needs are met.

Mr. President, a national solution to the problem of interstate waste is long overdue. We must act decisively, and we must act now to avert a national crisis in solid waste disposal. I urge my colleagues to join me in supporting this legislation.

Mr. LEVIN. Mr. President, the Senate is about to pass S. 534, the Interstate Transportation of Municipal Solid Waste Act of 1995. I am pleased that the Senate is moving early in this session toward resolving this important matter.

This bill is a positive step in the right direction. It has been much improved during the amendment process on the floor, particularly with respect to the provisions on flow control authority. The bill now more clearly provides counties in Michigan with the ability to protect investments they have made in recycling and waste reduction programs, or disposal facilities, using their previously existing authority to control the out-flow of municipal solid waste and recyclables from their jurisdiction.

Several amendments, in particular, should alleviate local government concerns about the effects of the Supreme Court's Carbone decision. These amendments provide the Grand Traverse, Clinton, and other Michigan counties, should be able to continue to use flow control to generate revenue to fund waste management programs, including recycling. And, Kent County, MI, is more clearly grandfathered to continue to exercise its flow control authority.

The bill also provides States and local governments with the ability to control the importation of municipal solid waste into their jurisdiction. At the request of local governments, Governors would be able to half the shipment of waste to disposal facilities in their States that did not receive out-of-State waste in 1993. Governors will be able to freeze shipments of waste to landfills and incinerators at 1993 levels. And, Governors would also be authorized to gradually limit imports of waste from States that did not reduce the amounts of waste they exported.

I offered an amendment to clarify that the definition of "out-of-State municipal solid waste" should include out-of-country waste, because of Michigan's experience with Canadian waste. I also supported another amendment that authorized the EPA to conduct a study of solid waste management issues associated with increased border movement of waste due to NAFTA.

Mr. President, I would prefer that the Senate's bill include a requirement that halted all waste imports until such time as a host community agreement could be negotiated between a local government and a waste exporter. Such an agreement would specify the quantities out-of-State municipal solid waste that would be acceptable to the local government for disposal in their jurisdiction.

Also, construction and demolition debris has been a problem at Michigan disposal facilities for some time. I would hope that the conferees could find a way to include this waste in the definition of municipal solid waste or otherwise provide local governments with some measure of control over its

disposal. I cosponsored Senator DEWINE's amendment to do this, but the amendment was ultimately not offered because of the threat of a filibuster for States that export large quantities of this waste.

Michigan is a net importer of municipal solid waste [MSW]. We receive MSW from sources all over the country and Canada. For many years, Michigan had a model comprehensive solid waste management and planning system that provided for long-term local waste disposal needs. Starting with the Fort Gratiot Sanitary Landfill case in 1992 and subsequent Supreme Court decisions, this system was thrown into disarray. These decisions jeopardized good-faith investments made by State and local governments in programs and facilities to manage municipal waste in an environmentally sound, cost-effective manner.

Congress should act quickly and explicitly to put municipal solid waste disposal decisions back into the hands of the people most directly affected by them and best suited to make them—the taxpayers of the municipalities that generate the waste and the States.

Mr. McCONNELL. Mr. President, I rise today in support for the passage of S. 534, the Interstate Transportation of Solid Waste Act of 1995. This legislation is long overdue. For too long States like Kentucky have been forced to deal with the uncontrollable flows of out-of-State waste. I do not need to remind my colleagues of the garbage barge in 1987 that sailed up and down the east coast looking for a place to deposit its foul load. It came to symbolize our Nation's burgeoning solid waste problem.

Since then, States and communities have attempted to manage their own waste flows, but were helpless to stop the flow of out-of-State waste. For the past 6 years, I have worked to provide States the authority to control the waste being sent to their State. Finally, we have a bill that allows States to say no to out-of-State trash.

It is particularly troubling to think that there are States and localities that have either been unwilling or unable to dispose of their own garbage in a responsible manner, forcing it on States like Kentucky. The disposal of garbage is truly a local concern and should be handled that way. I do not believe States should be forced to share valuable landfill space with out-of-State waste they do not want.

Gone are the days of open dumps and multitudes of cheap landfills. In 1996, new landfill standards will be implemented mandating liners, leachate collection and treatment and ground water monitoring. The EPA has estimated that nearly half of the Nation's 6,000 landfills will be closed. This will obviously force many States to rethink their disposal needs. Therefore, it is critical that States are provided the authority to control out-of-State garbage.

Last week, I offered an amendment that was accepted to protect the authority of States and regional authorities to develop and implement comprehensive waste reduction strategies in an effort to conserve costly landfill space.

For the past 6 years, I have worked hard to ensure that States and localities are given the discretion to manage their own waste and to protect themselves from becoming a dumping ground for those States that take the position of "out of State, out of mind." I refuse to allow Kentucky to become a garbage colony.

In 1990, I introduced S. 2691, a bill to give States the ability to fight long-haul dumping by charging higher fees for disposal of waste coming from other States. This bill passed the Senate with 68 votes.

During the 102d Congress, I introduced S. 197 to once again provide States the authority to impose a fee differential for out-of-State waste. In 1992, Senator COATS and I joined forces and produced comprehensive legislation to provide States the authority to regulate waste. That same year, the Senate passed an interstate waste bill by an overwhelming vote of 88-2. Unfortunately, the bill died in the House.

During the 103d Congress, I joined with Senators COATS and Boren in introducing S. 439. Although the Senate didn't act until late in the session, Congress came extremely close to passing an interstate waste bill. Again, the House stalled long enough to effectively kill the bill on the last day of the session.

I am encouraged by the quick action taken by the committee under the leadership of Senator SMITH and the chairman, Senator CHAFFEE to address the problem of interstate waste. I am hopeful that the House will work expeditiously to pass their own interstate waste bill so that we can finally give States the authority to control out-of-State waste and protect their own landfill space.

I urge my colleagues to join me in support of this legislation.

Mr. BRADLEY. Mr. President, today, for the third time, the Senate is attempting to resolve the many difficult issues that are involved with municipal solid waste flows. For the third time in the last 6 years, I have worked with my colleague on the Environment Committee, Senator LAUTENBERG, to defend our home State of New Jersey and the many ways in which we handle, recycle, or dispose of the tons of municipal solid waste produced every year.

Last Congress, we were within a single vote of resolving this issue. All of the relevant parties hammered out a bill that was as fair as it could be to those States that are called waste exporters and those States that are waste importers—actually, most states are both. It responded to the needs of States that tried to manage solid waste flows within their boundaries. It tried to balance the contradictory impulses

to create a more competitive waste market or to impose more restrictions on waste flow.

It was not a great bill. But it was a pretty fair bill. And it was at least reasonably consistent. When the bill now before us was first reported to the Senate floor, it was a poor facsimile of last year's effort. Yet, fortunately, the bill's managers were willing to work with Senator LAUTENBERG, State officials, and myself to guarantee New Jersey the security we needed to move forward on this most contentious issue.

Mr. President, this is not the easiest bill to support. Title I of this bill will be restrictive of interstate trade. It will give Governors and citizens the real ability to slow and ultimately stop the flow of municipal solid waste from State to State. Fundamentally, these actions are anticompetitive. They will result in more expensive waste disposal for many Americans and American businesses.

Title II, however, has quite a different purpose. Title II responds to recent legal decisions that, if left standing, would greatly reduce the ability of a State to manage waste flows within its own borders. Because of this title II, as modified on the Senate floor, New Jersey will be able to continue its efforts to control and reduce the municipal waste flow.

For years, many States have anticipated the need to manage internally waste flows, exactly because of the pressures for and against exports, as well as environmental concerns. In my State, we started very early to close inadequate landfills and waste facilities. Early on, we realized that to do the job of waste disposal right was neither cheap nor easy. New Jersey responded with State law setting up a broad program of environmentally progressive waste facilities.

These facilities were not and are not cheap. Many counties in my State were essentially compelled to build facilities that they probably—or certainly—would not have built otherwise. Now these counties depend on mandated trash flows for revenue. Unfortunately, without some legislative redress, these revenues are at risk for many facilities. Additionally, the potential financial collapse of authorized waste facilities would certainly make it far less likely—perhaps exceedingly unlikely—that my State ever develops a truly comprehensive waste management plan again.

I have heard the arguments that, in a world of competition, we do not need to allow States flow-control authority. Trash would end up in the lowest cost facilities that meet the appropriate environmental requirements. Consumers and businesses would save money and the environment could be protected in this world. But title I obliterates any hope of truly competitive markets in solid waste. Once title I is adopted, trash is transformed from an issue of commerce to an issue of bald-faced politics. In such a world, my State has to

have effective flow-control authority and that authority is provided in title II of this bill.

In the best of all worlds, frankly, we probably would not be passing any bill. We would simply recognize that trash represents goods in commerce; that a bag of potato chips which moves freely from State to State is not mysteriously transformed once the chips are eaten. But all of my experience dealing with the interstate waste issue confirms to me that we are not living in that world now. I have seen political commercials run attacking my State. I have seen demagoguery. And I have seen efforts that were far more restrictive of interstate waste flows pass this body with overwhelming support.

Mr. President, I have come to conclude that this bill does protect my State and will give us the flexibility we need to resolve these waste flow issues. To be truthful, I am not wild about this bill. However, it can be the basis for a resolution of this matter and it is a compromise that I will support, notwithstanding my obvious reservations.

FLOW CONTROL AND INTERSTATE WASTE

Mrs. BOXER. I voted against final passage of S. 534, which amends the Solid Waste Disposal Act, because the final bill does not adequately address the needs of many California cities and counties which have incurred debt to achieve California's ambitious integrated waste management requirements.

From the beginning, I have had concerns about the impact of this bill on California. California requires its communities to meet stringent recycling and waste reduction goals—a 25-percent reduction by the beginning of this year and 50 percent by the turn of the century. To meet these goals, California communities must aggressively manage their municipal solid waste.

However, California communities do not use statutory flow control authority, as do communities in many other States. Instead, California communities rely on contracts with private companies to ensure that their waste goes to a designated recycling plant or other facility. Consequently, the California League of Cities and the California State Association of Counties asked me to try to amend the bill to ensure that it would not restrict their ability to employ these contractual agreements.

I worked with my colleagues on the Environment and Public Works Committee, and with Senator FEINSTEIN in the full Senate, to try to amend the bill to address the needs of California cities and counties. Unfortunately, our efforts failed. I understand that the bill moving through the House of Representatives may be more favorable to interests of California cities and counties. If that is the case, and this bill is amended in conference to address some of my concerns, I will reconsider my position when the Senate votes on a conference report.

Mr. DODD. Mr. President, I would like to offer my support for S. 534, as amended, and to discuss the importance of flow control to the State of Connecticut.

I want to thank the chairman, Senator CHAFEE, and ranking member, Senator BAUCUS, of the Environment and Public Works Committee for moving forward with this important legislation.

The bill, as crafted by Senators SMITH and CHAFEE, was much narrower than the compromise legislation agreed to at the end of the 103d Congress. The bill before us today, S. 534, seeks to protect only public debt incurred by municipalities to construct waste disposal facilities. Flow control authority would apply to those communities that were operating or constructing their own disposal facilities, or had contracted for such disposal prior to the May 1994, Carbone decision. There is to be absolutely no prospective flow control—flow control authority would cease 30 years after enactment of the legislation.

Unfortunately not all Connecticut municipalities and public service authorities were protected by the original language in S. 534. Therefore, Senator LIEBERMAN and I offered amendments at the committee markup and on the floor of this body. The Senate agreed to our amendments which contained technical changes and small provisions intended to address situations unique to Connecticut.

It is my belief that State and local governments and State-created entities have a vested interest in how solid waste produced within their borders is transported and disposed. Flow control is the backbone of Connecticut's integrated waste management plan. Localities made significant capital investments to construct waste disposal facilities. Approximately 86 percent of Connecticut's waste is disposed of in these state-of-the-art facilities. The State, and ultimately the taxpayers, are backing nearly \$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. Without the ability to direct waste to appropriate facilities, these revenue bonds would be in jeopardy.

Again, I thank the managers of this bill for working with staff to understand and incorporate the needs of individual States. If this legislation passes today, I am confident that Connecticut municipalities and localities around the Nation will be able to administer their solid waste management systems in environmentally sound and fiscally responsible manners. Therefore, I hope my fellow Senators will support this bill and I urge the House of Representatives to take up this measure in a timely manner.

The PRESIDING OFFICER. The question is on agreeing to the committee substitute.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I might inquire of the Chair as to what vote it would be proper to request the yeas and nays on. At what stage in what vote?

The PRESIDING OFFICER. On final passage.

Mr. BAUCUS. I thank the Chair.

The PRESIDING OFFICER. Without objection, the committee substitute is agreed to.

So the committee substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the junior Senator from Indiana will be here in a few minutes and would like to make a statement on the bill. That would be the only business in connection with this legislation.

So I ask unanimous consent that at the hour of 2:15 today, the Senate proceed to a vote on final passage of S. 534, as amended.

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

Mr. CHAFEE. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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, I would like to take this opportunity to thank the staff on both sides of the aisle for their work on this bill. The Senate has been grappling with these issues for several years. They are very contentious. They are very arcane. They are hard to understand and in many respects they are totally confusing.

But, nonetheless, I believe we came out with a bill that is balanced on the interstate portion of the bill. The bill in effect is divided into three sections, the first being the interstate part. It is very difficult balancing the views of the importing States, those who have garbage shipped into them, and those who are the exporting States who do not want to be cut from exporting their trash. We tried to wrestle with that. I hope and I believe we have been successful.

I hope that the package we put together will resolve many of the differences that have prevented a solution to the interstate waste.

The flow control dilemma has been a separate one. We have had several votes in connection with that, not leaving everybody happy, but hopefully this will resolve itself in the months and years to come.

I want to thank the staffs of Senator D'AMATO and Senator COATS who labored hard to develop the compromise on title I, the interstate portion of the bill. I would like to thank Jim McCarthy of the Congressional Research Service, George Hall of the EPA, and Tim Trushel of the Senate Legislative Counsel's office for their work in facilitating passage.

On our side of the aisle, the staff, I want to thank John Grzebian and Steve Shimberg, and Jeff Merrifield who worked so hard on this.

Senator D'AMATO's office, Peter Phipps; Senator COATS' office, Sharon Soderstrom and Melissa Murrell.

Of course, we are deeply indebted for the splendid work of the ranking member of the committee, the senior Senator from Montana who has always been helpful and knowledgeable on these difficult issues. I want to pay my respects to him for the splendid work he has done, and to Cliff Rothenstein and Tom Sliter and Scott Slesinger also.

So, Mr. President, we are winding up a long and contentious period. If all goes well, this will be approved at 2:15 this afternoon.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I will be brief because we have been so long on this bill—it has been 6 years—so that we do not prolong the agony and get it passed, and very much hope the House also passes a similar bill so that we can deal with this in this Congress finally.

To follow up on the points of the Senator from Rhode Island, the chairman of the committee, JOHN CHAFEE, it is the staff around here that does the work. All Senators know that. They work very, very hard, long, long hours, know the details, know the substance, and are not frankly sufficiently complimented I think for all the work they do.

Mr. President, I think that the most noble human endeavor is service. It is service to friends, it is service to families, to the church, to the community, to the State, and the Nation—service.

Some of us who spend our lives in public service get all of the attention and the thanks for a lot of what we do. I must say we get a lot of a contention and criticism for what we allegedly do and do not do as well. But it is the staff, it is the people around here who do the work who get no attention, who do not get thanked who really deserve it for all the work they do. And to again give the names because these are the people who did most of the work on

the majority side, John Grzebian, who was very, very diligent, very helpful. We had many late-night meetings back in the cloakrooms trying to work this out, and John is particularly helpful. Steve Shimberg, staff director for the committee, we have known Steve for many years, those of us who have been on the committee. He is very knowledgeable, very gracious, very helpful; and also Jeff Merrifield who is a bit new to this but nevertheless very, very competent, very diligent, as everyone on the staff working.

On the minority side, Tom Sliter, who is the minority staff director, very gracious, and knowledgeable. I have worked with Tom for many years. I know no one who is more competent. Tom is very effective and very knowledgeable and substantive; that is, not acrimonious, not bitter, and not nasty but very, very solid and very gracious.

The same with Cliff Rothenstein. I frankly do not know anybody not only on Capitol Hill but in this town who knows more about this subject than Cliff. That is because Cliff has been working on it for 6 years. Cliff is bound to know this subject very well, and does, and frankly when we got to a lot of the parts of the amendments we were trying to work out, it was Cliff who was able to provide the solution or the idea of bringing it together.

Mike Evans, who is the minority chief counsel, has also worked on this issue for several years. Mike's knowledge of the issue and his advice was very helpful throughout the course of this bill.

Scott Slesinger works for Senator LAUTENBERG, the ranking minority member of the relevant subcommittee. Scott, too, has added a lot of advice all along every stage of this bill.

We compliment the Senators here on the floor very often. I will not at this point again compliment all the Senators. I have done so many times on this bill. But I want to at this time highlight the staff, and those are the key staff that have worked very diligently. I think all should pause for a moment and reflect to thank them for all of their effort.

Thank you, Mr. President.

Mr. CHAFEE. Mr. President, the senior Senator from New Hampshire is the chairman of the subcommittee that dealt with this legislation and has done wonderful service here on the floor despite demands on his time with very difficult matters that came up simultaneously.

So I want to pay tribute to Senator SMITH for his very, very helpful support on this entire legislation, for his knowledge of it, and the fact that he moved along so swiftly in the subcommittee. We would not be here but for Senator SMITH taking charge of that subcommittee and determining that this bill was going to come to the floor in due order and in short order.

So we are very grateful to Senator SMITH for what he has done and appreciate it and look forward to continued working with Senator SMITH as his

committee has a series of other bills that will be coming, including the great big Superfund bill, which is a real challenge.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I would like to thank Senator CHAFEE first of all for his very fine remarks. It has been a delight to work with the chairman of the Environment and Public Works Committee on this legislation. He several months ago said we want to try to get the flow control bill and the interstate waste matter brought up. And I took it seriously. We were able to do that. It has been a delight to work with him and his staff as we brought this bill here to the floor for a close, hopefully. It has been a long haul.

We tried to accommodate a number of Senators. I had a long list of some 27 or 28 Senators I think that we were able to accommodate that had specific concerns. I know there were some who we were not able to accommodate because we felt it would essentially violate the spirit and intent of the legislation that we brought forth.

But particularly the majority staff, John Grzebian, Steve Shimberg, and Jeff Merrifield who were really right there doing a lot of work, most of the work I guess behind the scenes to work on these amendments and get the compromise language agreed to. Certainly, Cliff Rothenstein and Tom Sliter and Scott Slesinger on the minority staff; and Peter Phipps of Senator D'AMATO's staff and Melissa Murrell of Senator COATS' staff were all particularly helpful, and as were others.

I think we ended up with essentially a good bill. There are some things I would not have put in it, and Senator CHAFEE would not have put in it. There are certain things we wish we had put in. But the bottom line is that this legislation is a compromise. We tried to accommodate those who brought up concerns that you had not thought of or maybe did not realize that needed to be put in there. And they come up with these ideas, and we tried to work them out.

I think it deals essentially with the issue of flow control. It takes care of those people who made investments, who stood a grave risk had we not passed this legislation. It does grandfather the flow control authority so that it is not a permanent anticompetitive piece of legislation. It does grandfather it. So we went to great lengths to reach a compromise.

Again, I want to thank Senator CHAFEE for his leadership. It has really been a pleasure to work with him in the position of subcommittee chairman. He has been 100 percent cooperative every step of the way personally and at the staff level. As the Senator said, last week I had a number of conflicts. I had three separate subcommittees to chair at the same time, two on Superfund, which is another priority item in our subcommittee, and Senator

CHAFEE was willing to step in and participate almost fulltime on the floor debate and the management of the bill, for which I am very grateful.

Mr. President, at this point, I will yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, Yogi Berra said, "It ain't over 'til it's over." We are not through yet, but it is awful close; we are in the bottom of the ninth on this issue I have been working on for 6 years.

I thank the Senator from Rhode Island [Mr. CHAFEE] and the Senator from New Hampshire [Mr. SMITH] and Senator BAUCUS, who is not in the Chamber right now, and others who have joined with me in this effort that started out as a lonely vigil and now has turned into nearly a consensus effort.

Senator D'AMATO was willing to sit down at the table and negotiate a very difficult problem for his State with those of us who had difficult problems for our States. I believe we reached, last Friday afternoon, a satisfactory resolution of that concern.

We have every reason to believe there will be favorable treatment of this in the House. It has been stopped there before. I believe we are as close to success there as we have ever been and we can resolve whatever differences may exist between the House and Senate and put this on the President's desk, and finally give the States and communities we represent a basis for dealing with their own environmental problems but not having to solve everybody else's environmental problems—the ability to say that is all we can take, or we cannot take anymore, or you are going to have to find a way to dispose of that in your own State. We are doing our share; you do your share.

We are that far away, and I am optimistic we are going to finally complete this effort. A lot of people have participated in it, and I thank them for their efforts. I am looking forward to finally putting this issue to rest and then moving on to other concerns before the Senate.

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

HARRISBURG, PA, FLOW CONTROL ISSUE

Mr. SPECTER. Mr. President, I wish to enter into a brief discussion with the distinguished chairman of the subcommittee, the sponsor of this legislation. The city of Harrisburg owns and operates a municipally financed resource recovery facility that was originally constructed in 1972. Harrisburg has issued \$40 million in outstanding revenue bonds and has had a flow control ordinance in place for several years. The facility is required, however, to undergo a substantial retrofit pursuant to the Clean Air Act, which will necessitate the issuance of an additional \$150 million in bonds and a

new waste stream from nearby counties which have not previously flow controlled to the Harrisburg facility. It would appear to me that the existence of outstanding bonds and the unfunded mandate on Harrisburg under the Clean Air Act would justify the extension of flow control authority to the counties that would want to send waste to the Harrisburg facility in the future.

Would the distinguished chairman be willing to look closely at this issue as this legislation goes forward?

Mr. SMITH. Mr. President, as the Senator from Pennsylvania knows, this legislation provides flow control authority which is predicated on meeting debt obligations. The issuance of new debt at a facility that has operated since 1972 and that would require expanded flow control authority is not one that the committee has had the opportunity to examine in any detail at this time. I would be glad to work with the Senator from Pennsylvania as the bill goes forward and to determine whether the Harrisburg facility is or should be covered by this legislation.

Mr. SPECTER. I thank my colleague from New Hampshire.

Mr. CHAFEE. Mr. President, I share all of the views set forth by the distinguished Senator from Indiana. We have all been struggling with this issue for many years, nobody as hard as he has and with more tenacity. As he indicated, we are this close. I think he said we are in the bottom of the ninth. I hope we complete the game, and I know we will. Then, of course, comes what the House does and then the conference with the House. But all of that we will pursue with great vigor.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15.

Thereupon, the Senate, at 12:34 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GRAMS).

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the bill having been read the third, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 94, nays 6, as follows:

[Rollcall Vote No. 169 Leg.]

YEAS—94

Abraham	Bingaman	Burns
Akaka	Bond	Byrd
Ashcroft	Bradley	Campbell
Baucus	Breaux	Chafee
Bennett	Bryan	Coats
Biden	Bumpers	Cochran

Cohen	Helms	Nickles
Conrad	Hollings	Nunn
Coverdell	Hutchison	Packwood
Craig	Inhofe	Pell
D'Amato	Inouye	Pressler
Daschle	Jeffords	Pryor
DeWine	Johnston	Reid
Dodd	Kassebaum	Robb
Dole	Kempthorne	Rockefeller
Domenici	Kennedy	Roth
Dorgan	Kerrey	Santorum
Exon	Kerry	Sarbanes
Faircloth	Kohl	Shelby
Feingold	Lautenberg	Simon
Ford	Leahy	Simpson
Frist	Levin	Smith
Glenn	Lieberman	Snowe
Graham	Lott	Specter
Gramm	Lugar	Stevens
Grams	Mack	Thomas
Grassley	McCaain	Thompson
Gregg	McConnell	Thurmond
Harkin	Mikulski	Warner
Hatch	Moseley-Braun	Wellstone
Hatfield	Moynihan	
Heflin	Murkowski	

NAYS—6

Boxer	Feinstein	Kyl
Brown	Gorton	Murray

So the bill (S. 534), as amended, was passed, as follows:

S. 534

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 "Interstate Transportation of Municipal Solid Waste Act of 1995".

TITLE I—INTERSTATE WASTE

SEC. 101. INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.

(a) AMENDMENT.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"SEC. 4011. INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.

"(a) AUTHORITY TO RESTRICT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) Except as provided in paragraph (4), immediately upon the date of enactment of this section if requested in writing by an affected local government, a Governor may prohibit the disposal of out-of-State municipal solid waste in any landfill or incinerator that is not covered by the exceptions provided in subsection (b) and that is subject to the jurisdiction of the Governor and the affected local government.

"(2) Except as provided in paragraph (4), immediately upon the date of publication of the list required in paragraph (6)(C) and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (5), may limit the quantity of out-of-State municipal solid waste received for disposal at each landfill or incinerator covered by the exceptions provided in subsection (b) that is subject to the jurisdiction of the Governor, to an annual amount equal to or greater than the quantity of out-of-State municipal solid waste received for disposal at such landfill or incinerator during calendar year 1993.

"(3)(A) Except as provided in paragraph (4), any State that imported more than 750,000 tons of out-of-State municipal solid waste in 1993 may establish a limit under this paragraph on the amount of out-of-State municipal solid waste received for disposal at landfills and incinerators in the importing State as follows:

"(i) In calendar year 1996, 95 percent of the amount exported to the State in calendar year 1993.

"(ii) In calendar years 1997 through 2002, 95 percent of the amount exported to the State in the previous year.

"(iii) In calendar year 2003, and each succeeding year, the limit shall be 65 percent of the amount exported in 1993.

"(iv) No exporting State shall be required under this subparagraph to reduce its exports to any importing State below the proportionate amount established herein.

"(B)(i) No State may export to landfills or incinerators in any 1 State that are not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste more than the following amounts of municipal solid waste:

"(I) In calendar year 1996, the greater of 1,400,000 tons or 90 percent of the amount exported to the State in calendar year 1993.

"(II) In calendar year 1997, the greater of 1,300,000 tons or 90 percent of the amount exported to the State in calendar year 1996.

"(III) In calendar year 1998, the greater of 1,200,000 tons or 90 percent of the amount exported to the State in calendar year 1997.

"(IV) In calendar year 1999, the greater of 1,100,000 tons or 90 percent of the amount exported to the State in calendar year 1998.

"(V) In calendar year 2000, 1,000,000 tons.

"(VI) In calendar year 2001, 750,000 tons.

"(VII) In calendar year 2002 or any calendar year thereafter, 550,000 tons.

"(ii) The Governor of an importing State may take action to restrict levels of imports to reflect the appropriate level of out-of-State municipal solid waste imports if—

"(I) the Governor of the importing State has notified the Governor of the exporting State and the Administrator, 12 months prior to taking any such action, of the importing State's intention to impose the requirements of this section;

"(II) the Governor of the importing State has notified the Governor of the exporting State and the Administrator of the violation by the exporting State of this section at least 90 days prior to taking any such action; and

"(III) the restrictions imposed by the Governor of the importing State are uniform at all facilities and the Governor of the importing State may only apply subparagraph (A) or (B) but not both.

"(C) The authority provided by subparagraphs (A) and (B) shall apply for as long as a State exceeds the permissible levels as determined by the Administrator under paragraph (6)(C).

"(4)(A) A Governor may not exercise the authority granted under this section if such action would result in the violation of, or would otherwise be inconsistent with, the terms of a host community agreement or a permit issued from the State to receive out-of-State municipal solid waste.

"(B) Except as provided in paragraph (3), a Governor may not exercise the authority granted under this section in a manner that would require any owner or operator of a landfill or incinerator covered by the exceptions provided in subsection (b) to reduce the amount of out-of-State municipal solid waste received from any State for disposal at such landfill or incinerator to an annual quantity less than the amount received from such State for disposal at such landfill or incinerator during calendar year 1993.

"(5) Any limitation imposed by a Governor under paragraph (2) or (3)—

"(A) shall be applicable throughout the State;

"(B) shall not directly or indirectly discriminate against any particular landfill or incinerator within the State; and

"(C) shall not directly or indirectly discriminate against any shipments of out-of-State municipal solid waste on the basis of place of origin and all such limitations shall