SEC. 3. INFLUENCING, IMPEDING, OR RETALIATING AGAINST A FEDERAL OFFICIAL BY THREATENING OR INJURING A FAMILY MEMBER.

Section 115(b)(4) of title 18, United States Code, is amended—

(1) by striking ''five'' and inserting ''10''; and

(2) by striking ''three'' and inserting ''6''.

SEC. 4. MAILING THREATENING COMMUNICATIONS.

Section 876 of title 18, United States Code, is amended—

(1) by designating the first 4 undesignated paragraphs as subsections (a) through (d), respectively;

(2) in subsection (c), as redesignated by paragraph (1), by adding at the end the following: ''If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.''; and

(3) in subsection (d), as redesignated by paragraph (1), by adding at the end the following: ''If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.''.

SEC. 5. AMENDMENT OF THE SENTENCING GUIDELINES FOR ASSAULTS AND THREATS AGAINST FEDERAL JUDGES AND CERTAIN OTHER FEDERAL OFFICIALS AND EMPLOYEES.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the commission, if appropriate, to provide an appropriate sentencing enhancement for offenses involving influencing, assaulting, resisting, impeding, retaliating against, or threatening a Federal judge, magistrate judge, or any other official described in section 111 or 115 of title 18, United States Code.

(b) FACTORS FOR CONSIDERATION.—In carrying out this section, the United States Sentencing Commission shall consider, with respect to each offense described in subsection (a)—

(1) any expression of congressional intent regarding the appropriate penalties for the offense;

(2) the range of conduct covered by the offense;

(3) the existing sentences for the offense;

(4) the extent to which sentencing enhancements within the Federal sentencing guidelines and the authority of the court to impose a sentence in excess of the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offense;

(5) the extent to which the Federal sentencing guideline sentences for the offense have been constrained by statutory maximum penalties;

(6) the extent to which the Federal sentencing guidelines for the offense adequately achieve the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code;

(7) the relationship of the Federal sentencing guidelines for the offense to the Federal sentencing guidelines for other offenses of comparable seriousness; and

(8) any other factors that the Commission considers to be appropriate.

IMMIGRATION AND NATIONALITY ACT AMENDMENTS

Mr. REID. Mr. President, I ask unanimous consent that we move now to Calendar No. 292, H.R. 2278.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2278) to provide for work authorization for nonimmigrant spouses of intracompany transferees, and to reduce the period of time during which certain intracompany transferees have to be continuously employed before applying for admission to the United States.

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

Mr. REID. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid on the table with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, the several requests are granted.

The bill (H.R. 2278) was read the third time and passed.

WORK AUTHORIZATION FOR NONIMMIGRANT SPOUSES OF TREATY TRADERS AND TREATY INVESTORS

Mr. REID. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 291, H.R. 2277.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2277) to provide for work authorization for nonimmigrant spouses of treaty traders and treaty investors.

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

Mr. REID. I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid on the table with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, the several requests are granted.

The bill (H.R. 2277) was read the third time and passed.

SMALL BUSINESS LIABILITY RELIEF AND BROWNFIELDS REVITALIZATION ACT

Mr. REID. I ask unanimous consent the Senate proceed to H.R. 2869, just received from the House, now at the desk.

The PRESIDENT pro tempore. The clerk will state the title of the House bill.

The legislate clerk read as follows:

A bill (H.R. 2869) to provide certain relief for small business from liability under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, and to amend such Act to promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, and to enhance State response programs.

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

Mr. NICKLES. Mr. President, for the information of colleagues regarding H.R. 2869, I ask unanimous consent the following letter be printed in the RECORD:

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

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, December 20, 2001.

MEMORANDUM

Subject: Davis Bacon Act Applicability Under Brownfields Legislation.

From: Robert E. Fabricant, General Counsel.

To: Marianne Horinko, Assistant Administrator, Office of Solid Waste and Emergency Response.

As you know, the House of Representatives has passed a bill, H.R. 2869, which we are informed would amend CERCLA to add a new section 104(k), ''Brownfields Revitalization Funding.'' We have been asked whether CERCLA, if amended as proposed in H.R. 2869, would require that the Davis-Bacon Act apply to contracts under loans made from a Brownfields Revolving Loan Fund (BRLF) entirely with non-federal funds. We have concluded that H.R. 2869 does not change the legal applicability of the Davis-Bacon Act to the Brownfields program. We have also concluded that this bill neither requires nor prohibits the application of the Davis-Bacon Act to contracts under BRLF loans made entirely with non-grant funds, e.g., principal and interest loan payments. CERCLA would continue to require that the Davis-Bacon Act apply to contracts under BRLF loans made in whole or in part with federal grant funds. Finally, state cleanup programs that operate independently and are not funded under this bill are not affected by the bill, and will operate in accordance with applicable state law.

The proposed legislation would add section 104(k) to CERCLA. New sections 104(k)(3)(A) and (B) authorize the President to make grants ''for capitalization of revolving loan funds'' for ''the remediation of brownfield sites.'' Under section 104(k)(9)(B)(iii), each recipient of a capitalization grant must provide a non-federal matching share of at least 20 percent (unless the Administrator makes a hardship determination). Section 104(k)(12), ''Funding,'' authorizes the appropriation of $200 million for each of fiscal years 2002 through 2006 to carry out section 104(k).

Under the Davis-Bacon Act, 40 U.S.C. 276a *et seq.*, most public building or public works construction contracts entered into by the United States must stipulate that the wages paid to laborers and mechanics will be comparable to the prevailing wages for similar work in the locality where the contract is to be performed. The Davis-Bacon Act does not apply by its own terms to contracts to which the United States is not a party, including contracts awarded by recipients of federal grants in performance of a grant project.

The proposed legislation is silent regarding the applicability of the Davis-Bacon Act to BRLFs. However, an existing provision of CERCLA section 104(g), extends the reach of the Davis-Bacon Act beyond direct federal procurement. That section applies Davis-Bacon Act prevailing wage rate requirements to contracts ''for construction, repair or alteration work funded in whole or in part under this section.'' Since the new BRLF provision would fall within section 104, it would be subject to the Davis-Bacon requirements of section 104(g). However, CERCLA does not define the precise meaning or scope of the quoted from section 104(g).

If a statute does not address the precise question at issue, an agency may adopt an interpretation that is reasonable and consistent with the statute and legislative history. Since CERCLA does not address the precise question at issue here, EPA may adopt a reasonable interpretation, which would be entitled to deference. *Chevron, USA* v. *NRDC*, 467 U.S. 837 (1984). If H.R. 2869 is enacted, one reasonable interpretation of CERCLA, as amended, would be that contracts under every loan made from a BRLF that received a capitalization grant pursuant to section 104(k) would be subject to Davis-Bacon. Under this interpretation, Davis-Bacon would apply to loans made entirely from payments of principal and interest. The phrase in section 104(g), ''funded in whole or in part under this section'' could be construed to encompass every contract indirectly supported by federal grant funds. This arguably would include all contracts awarded by a BRLF, which might not exist but for the EPA capitalization grant(s).

However, it would be at least equally reasonable to interpret CERCLA, as amended by H.R. 2869, to require that only contracts under BRLF loans made with the federal grant funds and the associated 20 percent matching funds are subject to Davis-Bacon. The phrase ''funded in whole or in part under this section'' may reasonably be construed to mean ''receiving funds authorized under this section.'' The funds authorized under section 104 for BRLFs are the $200 million authorized under section 104(k)(12). The phrase would also include the 20 percent matching funds because when a grant statute requires a non-federal match every expenditure of grant funds includes the federal and non-federal share.

Under H.R. 2869, as passed by the House, the Agency would have the discretion to decide whether to apply Davis-Bacon to contracts under BRLF loans that are made solely with funds other than the federal grant and match amount. However, any loan that includes both grant funds and loan payments would be subject to Davis-Bacon, because it would be funded in part with funds authorized under section 104(k). See 40 CFR 31.21(f).

If you have any questions about this matter, please contact me or John Valeri of this office.

Mr. JEFFORDS. Mr. President, today, we take a historic step toward bolstering economic development. The Small Business Liability Relief and Brownfields Revitalization Act, H.R. 2869, will protect our small businesses. This bill will revitalize once abandoned factory sites. This bill will give new life to our aging industrial sites. This bill will provide hope and prosperity to locations long ago forgotten.

Earlier this year, the U.S. Senate declared a mandate in the form of a 99–0 vote endorsing the Brownfields Revitalization and Environmental Restoration Act, S. 350. Unanimously, the Senate pledged its commitment to the redevelopment of potentially contaminated industrial sites. As Chairman of the Senate Environment and Public Works Committee, I have taken that mandate seriously. I am pleased that, today, the House followed suit.

The Brownfields Revitalization and Environmental Restoration Act authorizes $250 million a year over the next five years for assessment and cleanup grants, including petroleum sites, and State program enhancement. The bill would provide liability relief for three groups: contiguous property owners, prospective purchasers, and innocent landowners. Lastly, the bill outlines the parameters by which EPA may re-enter a site to protect human health and the environment.

We also have fulfilled another mandate today. Earlier this year, the Small Business Liability Protection Act passed the House of Representatives 419–0; today, the Senate followed suit. This legislation is a victory for small businesses, on which the foundation of our nation's economy stands. The Small Business Liability Protection Act provides Superfund liability relief for small businesses and others who disposed of, or arranged disposal of, small amounts of hazardous waste. The legislation also allows expedited settlements for a lesser amount if a business can show financial hardship.

There are many who share in this victory. It was truly a bipartisan and bicameral effort. In particular, I would like to recognize the efforts of Senators SMITH, CHAFEE, BAUCUS and BOXER. I also thank all the Leadership offices, on both sides and in both Chambers, for their dedication to the passage of H.R. 2869.

I am very proud of this legislation. I am pleased to have played an integral role in these efforts to encourage development of our urban cores, reduce development demands in greenfields, and promote our economic base by supporting our small businesses. This new year's resolution has been many years in the making. I am gratified that our communities will reap the rewards of further tools to redevelop brownfields and sustain small businesses in 2002 and beyond.

Mr. REID. Mr. President, I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD with no intervening action or debate.

The PRESIDENT pro tempore. Without objection, it is so ordered. The several requests are granted.

The bill (H.R. 2869) was read the third time and passed.

FAMILY SPONSOR IMMIGRATION ACT OF 2001

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to Calendar No. 289, H.R. 1892.

The PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1892) to amend the Immigration and Nationality Act to provide for the acceptance of an affidavit of support from another eligible sponsor if the original sponsor has died and the Attorney General has determined for humanitarian reasons that the original sponsor's classification petition should not be revoked.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment.

[Matter to be added is printed in italic.]

H.R. 1892

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 ''Family Sponsor Immigration Act of 2001''.

SEC. 2. SUBSTITUTION OF ALTERNATIVE SPONSOR IF ORIGINAL SPONSOR HAS DIED.

(a) PERMITTING SUBSTITUTION OF ALTERNATIVE CLOSE FAMILY SPONSOR IN CASE OF DEATH OF PETITIONER.—

(1) RECOGNITION OF ALTERNATIVE SPONSOR.—Section 213A(f)(5) of the Immigration and Nationality Act (8 U.S.C. 1183a(f)(5)) is amended to read as follows:

''(5) NON-PETITIONING CASES.—Such term also includes an individual who does not meet the requirement of paragraph (1)(D) but who—

''(A) accepts joint and several liability with a petitioning sponsor under paragraph (2) or relative of an employment-based immigrant under paragraph (4) and who demonstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line; or

''(B) is a spouse, parent, mother-in-law, father-in-law, sibling, child (if at least 18 years of age), son, daughter, son-in-law, daughter-in-law, *sister-in-law, brother-in-law,* grandparent, or grandchild of a sponsored alien or a legal guardian of a sponsored alien, meets the requirements of paragraph (1) (other than subparagraph (D)), and executes an affidavit of support with respect to such alien in a case in which—

''(i) the individual petitioning under section 204 for the classification of such alien died after the approval of such petition; and

''(ii) the Attorney General has determined for humanitarian reasons that revocation of such petition under section 205 would be inappropriate.''.

(2) CONFORMING AMENDMENT PERMITTING SUBSTITUTION.—Section 212(a)(4)(C)(ii) of such Act (8 U.S.C. 1182(a)(4)(C)(ii)) is amended by striking ''(including any additional sponsor required under section 213A(f))'' and inserting ''(and any additional sponsor required under section 213A(f) or any alternative sponsor permitted under paragraph (5)(B) of such section)''.

(3) ADDITIONAL CONFORMING AMENDMENTS.—Section 213A(f) of such Act (8 U.S.C. 1183a(f)) is amended, in each of paragraphs (2) and (4)(B)(ii), by striking ''(5).'' and inserting ''(5)(A).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to deaths occurring before, on, or after the date of the enactment of this Act, except that, in the case of a death occurring before such date, such amendments shall apply only if—

(1) the sponsored alien—

(A) requests the Attorney General to reinstate the classification petition that was filed with respect to the alien by the deceased and approved under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) before such death; and

(B) demonstrates that he or she is able to satisfy the requirement of section 212(a)(4)(C)(ii) of such Act (8 U.S.C. 1182(a)(4)(C)(ii)) by reason of such amendments; and

(2) the Attorney General reinstates such petition after making the determination described in section 213A(f)(5)(B)(ii) of such Act (as amended by subsection (a)(1) of this Act).

Mr. REID. Mr. President, I ask unanimous consent that the committee