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

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

IT WILL SHOW IN YOUR FACE

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

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

If you have gambled and won in the great game of life
If you feel you have conquered sorrow and strife;
If you played the game square and you stand on first base,
You won't have to tell it, it will show in your face.

Then if you dissipate nights till the day is most nigh,
There is only one teller, and one that won't lie;
Since your facial barometer is right in its place,
However you live, my friend, it will show in your face.

Well, if your life is unselfish and for others you live,
Not for what you can get but for what you can give,
And if you live close to God in his infinite grace,
You won't have to tell it, it will show in your face.

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

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

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

The legislative clerk read as follows:

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

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

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

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

Mr. REID. Would the Senator yield?

Mr. BYRD. Yes.

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

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

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

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

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 73

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

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

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

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

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

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

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

Resolved, That the United States Senate—

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

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

BROWNFIELDS REVITALIZATION AND ENVIRONMENTAL RESTORATION ACT OF 2001

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

The legislative clerk read as follows:

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

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

TITLE I—BROWNFIELDS REVITALIZATION FUNDING

SEC. 101. BROWNFIELDS REVITALIZATION FUNDING.

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

''(39) BROWNFIELD SITE.—

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

''(B) EXCLUSIONS.—The term 'brownfield site' does not include—

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

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

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

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

''(v) a facility that—

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

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

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

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

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

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

''(viii) a portion of a facility—

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

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

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

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

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

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

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

''(II) is mine-scarred land.''.

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

''SEC. 128. BROWNFIELDS REVITALIZATION FUNDING.

''(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

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

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

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

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

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

''(6) a State; or

''(7) an Indian Tribe.

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

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

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

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

''(2) ASSISTANCE FOR SITE CHARACTERIZATION AND ASSESSMENT.—

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

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

''(c) GRANTS AND LOANS FOR BROWNFIELD REMEDIATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

''(d) GENERAL PROVISIONS.—

''(1) MAXIMUM GRANT AMOUNT.—

''(A) BROWNFIELD SITE CHARACTERIZATION AND ASSESSMENT.—

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

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

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

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

''(B) BROWNFIELD REMEDIATION.—

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

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

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

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

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

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

''(2) PROHIBITION.—

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

''(i) a penalty or fine;

''(ii) a Federal cost-share requirement;

''(iii) an administrative cost;

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

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

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

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

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

''(iii) monitoring of a natural resource.

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

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

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

''(e) GRANT APPLICATIONS.—

''(1) SUBMISSION.—

''(A) IN GENERAL.—

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

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

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

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

''(2) APPROVAL.—The Administrator shall—

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

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

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

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

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

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

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

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

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

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

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

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

''(f) IMPLEMENTATION OF BROWNFIELDS PROGRAMS.—

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

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

''(g) AUDITS.—

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

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

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

''(A) terminate the grant or loan;

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

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

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

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

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

''(2) be subject to an agreement that—

''(A) requires the recipient to—

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

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

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

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

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

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

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

TITLE II—BROWNFIELDS LIABILITY CLARIFICATIONS

SEC. 201. CONTIGUOUS PROPERTIES.

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

''(o) CONTIGUOUS PROPERTIES.—

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

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

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

''(ii) the person is not—

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

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

''(iii) the person takes reasonable steps to—

''(I) stop any continuing release;

''(II) prevent any threatened future release; and

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

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

''(v) the person—

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

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

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

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

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

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

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

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

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

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

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

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

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

''(3) ASSURANCES.—The Administrator may—

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

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

SEC. 202. PROSPECTIVE PURCHASERS AND WINDFALL LIENS.

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

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

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

''(B) INQUIRIES.—

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

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

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

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

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

''(i) stop any continuing release;

''(ii) prevent any threatened future release; and

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

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

''(F) INSTITUTIONAL CONTROL.—The person—

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

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

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

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

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

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

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

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

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

''(p) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—

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

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

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

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

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

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

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

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

''(C) shall be subject to the requirements of subsection (l)(3); and

''(D) shall continue until the earlier of—

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

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

SEC. 203. INNOCENT LANDOWNERS.

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

(1) in subparagraph (A)—

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

(B) in the second sentence—

(i) by striking ''he'' and inserting ''the defendant''; and

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

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

''(B) REASON TO KNOW.—

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

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

''(II) the defendant took reasonable steps to—

''(aa) stop any continuing release;

''(bb) prevent any threatened future release; and

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

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

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

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

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

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

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

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

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

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

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

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

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

''(iv) INTERIM STANDARDS AND PRACTICES.—

''(I) PROPERTY PURCHASED BEFORE MAY 31, 1997.—With respect to property purchased before May 31, 1997, in making a determination with respect to a defendant described of clause (i), a court shall take into account—

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

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

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

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

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

''(II) PROPERTY PURCHASED ON OR AFTER MAY 31, 1997.—With respect to property purchased on or after May 31, 1997, and until the Administrator promulgates the regulations described in clause (ii), the procedures of the American Society for Testing and Materials, including the document known as 'Standard E1527–97', entitled 'Standard Practice for Environmental Site Assessment: Phase 1 Environmental Site Assessment Process', shall satisfy the requirements in clause (i).

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

TITLE III—STATE RESPONSE PROGRAMS

SEC. 301. STATE RESPONSE PROGRAMS.

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

''(41) ELIGIBLE RESPONSE SITE.—

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

''(B) INCLUSIONS.—The term 'eligible response site' includes—

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

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

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

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

''(C) EXCLUSIONS.—The term 'eligible response site' does not include—

''(i) a facility for which the President—

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

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

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

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

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

"SEC. 129. STATE RESPONSE PROGRAMS.

''(a) ASSISTANCE TO STATES.—

''(1) IN GENERAL.—

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

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

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

''(B) USE OF GRANTS BY STATES.—

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

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

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

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

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

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

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

''(i) a response action will—

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

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

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

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

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

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

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

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

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

''(1) ENFORCEMENT.—

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

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

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

the President may not use authority under this Act to take an administrative or judicial enforcement action under section 106(a) or to take a judicial enforcement action to recover response costs under section 107(a) against the person regarding the specific release that is addressed by the response action.

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

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

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

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

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

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

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

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

''(D) EPA NOTIFICATION.—

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

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

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

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

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

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

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

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

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

''(2) SAVINGS PROVISION.—

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

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

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

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

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

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

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

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

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

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

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

SEC. 302. ADDITIONS TO NATIONAL PRIORITIES LIST.

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

''(h) NPL DEFERRAL.—

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

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

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

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

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

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

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

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

''(A) the complexity of the site;

''(B) substantial progress made in negotiations; and

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Nevada is recognized.

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

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

Mr. INHOFE. Five minutes.

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

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

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

Mr. INHOFE. All right.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

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

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

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

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

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

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

According to the EPA's figures, there are 200,000 sites contaminated primarily from petroleum. This is roughly half the approximately 450,000 brownfields in the United States. During the markup, I had concerns that by failing to address RCRA, Congress was neglecting the 200,000-plus sites that are petroleum-contaminated brownfield sites in this country. By not addressing these sites in S. 350, Congress is preventing almost half the brownfields in this country from being cleaned up and developed.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from New Hampshire.

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

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

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

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

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

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

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

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

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

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

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

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

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

As former Governors, both President Bush and Administrator Whitman understand the importance of cleaning up the sites, and the President deserves credit for making this a top priority, as do my colleagues in the Senate. Without the support of the President, we would not see this legislation become law. To his credit, President Clinton, as well, was a supporter of the brownfields bill.

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

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

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

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

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

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

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

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

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

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

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

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

This is a strong bill. It deserves the support of the full Senate, not only the 68 cosponsors but the other 32 out there, as well.

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

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

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

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

Third, contamination may have migrated across a State line.

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

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

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

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

Individuals and towns and property owners will now invest in cleaning up these sites. Banks will lend money. There are millions and millions of dollars—tens of millions, if not hundreds of millions—that will be used now from the private sector to clean up these sites, far beyond the $200 million we are talking about in this bill.

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

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

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

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

NATIONAL CONFERENCE OF
STATE LEGISLATURES,
March 7, 2001.

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

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

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

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

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

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

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

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

Sincerely,

Representative JOE HACKNEY,
Chair, NCSL Environment Committee.

THE UNITED STATES
CONFERENCE OF MAYORS,
Washington, DC, February 14, 2001.

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

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

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

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

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

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

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

Sincerely,

H. BRENT COLES,
President,
Mayor of Boise.

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

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

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

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

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

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

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

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

Accordingly, we appreciate your vision in developing this legislation, and we look forward to working with your towards its enactment.

Sincerely,

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,

ROBERT D. EVANS.

AMERICAN INSTITUTE OF ARCHITECTS,
San Francisco, CA, March 2, 2001.

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

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

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

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

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

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

Sincerely,

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

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

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

DEAR SENATOR SMITH: The American Society of Civil Engineers (ASCE), which represents 126,000 civil engineers in private practice, academia and government service, respectfully requests your support for passage of S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001.

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

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

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

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

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

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

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

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

Sincerely yours,

ROBERT W. BEIN,
President.

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

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

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

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

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

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

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

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

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

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

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

Sincerely,

ALAN FRONT,
Senior Vice President.

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

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

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

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

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

Sincerely,

RICHARD D. BAIER,
President, BOMA International.

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

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

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

NAR supports this bill because it:

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

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

Recognizes the finality of successful state hazardous waste cleanup efforts.

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

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

Sincerely,

RICHARD MENDENHALL,
2001 President.

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

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

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

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

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

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

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

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

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

Sincerely,

ROBIN K. WIENER,
President.

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

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

Of course, there are many more who deserve thanks.

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

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

The Senator from Nevada.

Mr. REID. Mr. President, I join with my friend from New Hampshire in expressing appreciation to the people who have worked to get this bill to the point it is. He has certainly been gracious in extending appreciation to my staff. Lisa Haage, Barbara Rogers, and Eric Washburn have done excellent work. I also thank, as he has, the hard-working staff of the committee: David Conover, Chelsea Maxwell, Marty Hall, and Ted Michaels of Senator CHAFEE's office, who has done such an outstanding job working with Sandra Barth of Senator BOXER's office. Without this good staff, we would not be at the point we are.

I also want to take a minute to express my appreciation to the Senator from New Hampshire. I worked with the Senator from New Hampshire on the very volatile, difficult Select Committee On MIA/POWs. For one intense year we worked on that. That is where I first got to know the Senator from

New Hampshire. I recognize how strongly he feels about issues.

Then I had the good fortune of being able to work with him on the Ethics Committee. He was the lead Republican, I was the lead Democrat on the committee for I don't know how long—it was a long time—until he got his chairmanship of this committee.

I have found him to be a person who understands the institution and understands the importance of people being moral and living up to the ethical standards that are important for this institution. I may not always agree with him on issues, but I agree with him as a person. He is one of the finest people with whom I have ever dealt. So I have the utmost respect for him, how he has handled this committee.

For 17 days I was chairman of this committee. The treatment I received while chairman, and while ranking member, has been outstanding. Senator BOB SMITH is a good person and somebody of whom the citizens of the State of New Hampshire should be proud.

I have spoken on this bill for 3 days now, expressing my desire to have it considered. It is here now. I already said I appreciate Senator LOTT bringing it before the Senate.

I have been talking about Senator SMITH. I also want to talk about the ranking member of the subcommittee who has been responsible for bringing us to this point, and that is Senator BARBARA BOXER. Senator BOXER and I came to the House together in 1982. We have worked together for all these years. I have tremendous admiration for BARBARA BOXER. She is someone who believes strongly in the issues. I have to say, she has done great work for this country on exposing military fraud and military incompetence. But the best work she has done, in my opinion, has been in dealing with the environment. So as a member of this committee that I have worked on since I have been in the Senate, she has been an outstanding member. She has run the subcommittee very well.

An outstanding example is how she has been able to reach out to LINCOLN CHAFEE, who is a very able member of this committee. I had the good fortune of serving in my time in the Senate with his father. I can say John Chafee would be very proud of LINCOLN for the work he has done on this committee. This was John Chafee's committee. He was the chairman, he was the ranking member of it. I cannot say more than that John Chafee would be very proud of his son for the work he has done on this committee.

As Senator SMITH has indicated, this is an important piece of legislation. It has now 69 cosponsors. It was reported out of committee by a 15–3 vote. The staff has worked very hard to make sure the problems people had with the legislation were resolved prior to it coming to the floor—and most of those have been. That is the reason we are working now on a specific time agreement. We are going to vote on this matter around 2 o'clock this afternoon.

Members of the Environment and Public Works staff have worked hard. Members of this committee worked hard to get the legislation to this point. I have been extremely impressed with the new members of this committee. Senator CORZINE and Senator CLINTON have worked extremely hard, as has Senator CARPER, to get us where we are. They are going to come later today, as the unanimous consent agreement indicates, and speak on their own behalf.

As I have said for 3 days, there are 500,000 sites from Kentucky to Nevada, waiting to be cleaned up. About 600,000 people will be put to work on these projects.

This will create local revenues of almost $2.5 billion.

This is an important bill. It provides critically needed money to assess the cleanup of abandoned and underutilized brownfield sites. It will create jobs. It will increase tax revenues and create parks and open space. It will encourage cleanup and provide legal protection for parties. It provides funding for enhancement of cleanup programs.

The managers' amendment before us today does several additional things that were not in the reported bill. It further clarifies the coordination between the States and the EPA. This was an issue raised by Senator VOINOVICH. I told him before the full committee that we would work to resolve his problems. We did that.

The managers' amendment provides clarification for cities and others in purchasing insurance for brownfield sites. That is also an important addition to this legislation.

It also provides for an additional $50 million per year for abandoned sites which are contaminated by petroleum. There was some concern that this may not have been covered in the original legislation. That has been resolved.

Corner gas stations: A lot of times we find people simply stay away from them. These corner gas stations are located at very essential sites in downtown areas. We are trying to revitalize them. This addition in the managers' amendment will do a great deal to resolve that issue.

I am pleased we were able to work out the provisions so these numerous sites can also be addressed.

There was a provision requested by Senators INHOFE and CRAPO. They felt very strongly about this. I am pleased we were able to agree on that. It will be an important and critical part of this legislation.

This amendment also provides a provision for areas with a high incidence of cancer and disease. It will give special consideration in making grant decisions regarding children. This was pushed very strongly by Senator CLINTON. I am grateful for her input. These provisions grew out of the amendment discussed in the markup of the original bill sponsored by Senator CLINTON.

I also want to add Senators CORZINE and BOXER. But it is supported by a broad bipartisan group of Members.

This amendment also increases citizen participation by adding citizens' rights in requesting sites to be considered under State programs. This is intended to ensure the beginning of the process so that States can benefit from input from citizens who may be aware of additional sites needing attention and who can help identify additional reuse and redevelopment opportunities.

All of these changes have been carefully considered for providing additional improvements to the bill. Moreover, they collectively represent the same delicate balance as the underlying bill. It also complements the needs of real estate communities, environmental areas, mayors, and other local government officials, land and conservation groups, and the communities that are most directly affected by these sites.

This bill is balanced. It is unique. It is bipartisan. It sets an example for the Senate in the months to come.

This brownfields legislation is not just an urban problem. It also is very important to rural communities throughout America. For example, brownfields money was granted to Mineral County to do a cleanup. It is a very rural site. It was damaged by the largest ammunition dump during the war. It is run now as an ammunition dump by the Army. But there are lots of problems there. We have a 240-acre brownfield site set for cleanup. After it is finished, we are confident that a golf course can be created for this very rural community which will add recreational activities.

An existing loan program in Las Vegas has already been used to fund the cleanup of an old armory site, which will create jobs. It will now be a home to a senior center, a small business incubator, a cultural center, and retail stores.

I want to see many more examples of reclaiming these abandoned, contaminated lands in Nevada and across the country. This bill provides funds to accomplish it.

The Presiding Officer is a valuable member of the committee.

I have already spoken on a number of occasions about Senator VOINOVICH's contribution to this legislation. It has been significant.

I reserve the remainder of my time for Senator TORRICELLI. I yield to my friend from Rhode Island who has done such a magnificent job working on this legislation.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, today I rise in strong support of S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001. This bill has won the support of the Bush administration, dozens of organizations, and 68 co-sponsors in the Senate. Today, the Senate has the opportunity to pass this bipartisan, pro-environment and pro-economic development bill.

Brownfields are the legacy of our nation's industrial heritage. A changing

industrialized economy, the migration of land use from urban to suburban and rural areas, and our nation's strict liability contamination laws have all contributed to the presence of abandoned industrial sites. With more than 450,000 brownfield sites nationwide, we must begin to reclaim those lands, clean up our communities, and discontinue the practice of placing new industrial facilities on open, green spaces.

As a former mayor, I understand the environmental, economic, and social benefits that can be realized in our communities from revitalizing brownfields. While the environmental and social benefits can seem obvious, only a mayor understands the continuing fiscal expense to our nation's municipalities of the hundreds of thousands of pieces of prime real estate that have dropped from the tax rolls.

Enactment of this legislation will provide a building block for the revitalization of our communities. Communities whose fortunes sank along with the decline of mills and factories will once again attract new residents and well-paying jobs. We will bring vibrant industry back to the brownfield sites that currently host crime, mischief and contamination. There will be parks at sites that now contain more rubble than grass. City tax rolls will burgeon; neighborhoods can be invigorated; new homes can be built, and community character will be restored.

S. 350 enjoys broad bipartisan support. Not only is it supported by the Bush administration, the bill's predecessor was supported by the Clinton administration last session. The bill is strongly supported by the nation's mayors, state elected officials, the real estate industry, open space advocates, business groups, and environmental organizations. Rarely do we see these organizations come together on the same side of an issue. This high level of support is testimony to the bipartisan nature of the legislation. It demonstrates that we can forge sound legislation, and balance the needs of the environment and the economy if we come to the table with open minds and good intentions.

I would like to thank the distinguished chairman of the Environment and Public Works Committee for his leadership on this issue, Senator SMITH. His tireless efforts over that time have certainly paved the way for this legislation. I also would like to extend my appreciation to Senator REID of Nevada and Senator BOXER for their commitment to this issue and the bipartisan process which has proven so successful. In addition, let me thank the staff that has worked so hard on this bill: David Conover, Chelsea Maxwell, and Marty Hall of Senator SMITH's staff, Lisa Haage of Senator REID's staff, Sara Barth of Senator BOXER's staff, and Ted Michaels of my staff.

The issue of brownfields has been discussed for nearly a decade. While I was mayor of Warwick, my fax machine constantly fed me alerts from the U.S. Conference of Mayors seeking my support for brownfields reform. With this legislation today, we have the opportunity to protect the environment, strengthen local economies, and revitalize our communities. I urge each of my colleagues to vote in favor of S. 350 and give each mayor across the country the benefit of the full potential of their real estate.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, if I could get the attention of the Senator from Rhode Island for a moment, I thank the Senator so much for his leadership on this issue. It has meant so much to us to have it and that of Senator SMITH. Senator REID and I are most grateful. I think we have a team that is very good for the environment. When we are together, it is a real winner because we can reach out to colleagues on both sides of the aisle from the entire spectrum. So I just want to say thank you.

I say to the Senator, as much as I miss your father, whom I adored, I must say that it is wonderful to have you here and following in his ''green'' footsteps.

Mr. CHAFEE. I thank the Senator very much.

Mrs. BOXER. Mr. President, I am here to say that this bill, S. 350, the Brownfields Revitalization and Environmental Restoration Act, is a tremendously important issue for this country and for my constituents.

I truly believe if we look around the country, it is an extremely important issue to everyone. Why? Because we have so many acres of land around the country that have been contaminated with low-level hazardous waste. They do not fit the definition of a Superfund site, but they are expensive to clean up, and local communities really do need our help.

I want to show you an example of a successful brownfields restoration. This photograph is of a site in Emeryville, CA, that hosted a steel manufacturing plant for over 100 years. In the early 1990s, it was shut down, the buildings were demolished, and the area was left empty and desolate. You can see from the photograph what a horrible eyesore it was to the community. And, by the way, this site is along a major freeway, so everyone saw it. It gave the impression of a community that was simply going downhill.

The next picture I will show you is what happened when the State got together with the IKEA company and worked together to clean up the site.

In 1997, the State came to this agreement with the original owners of the site and with IKEA to restore and redevelop the area. Now the site holds 280,000 square feet of commercial retail space. The project has created 300 new, permanent jobs for the community. Now the site generates roughly $70 million in annual sales.

There are not too many things in this Chamber that we can do that has such clear-cut benefit. Clean up the environment and you make an area much nicer to look at. And then you can develop it and bring jobs to the site.

So if anyone questions the need for this brownfields legislation, I would welcome them to, again, look at these before-and-after pictures. Here it is after; here it is before. It is a pretty clear picture.

I am so proud of the bipartisan cooperation that occurred in getting the bill through the Environment and Public Works Committee. The broad support, from a variety of diverse interests, as well as the cosponsorship of over 60 Senators, is a good indication that the time has come to pass this brownfields legislation.

I understand that even our colleagues who have problems with the bill are now supporting it. I think this is a tribute to them for being open minded about it, and a tribute to our chairman, Chairman SMITH, and our ranking member, HARRY REID, for working with our colleagues.

I want to talk a little bit about the brownfields in my home State of California, the largest State in the Union, with 34 million people. The economy of my State would be considered the sixth largest economy in the world. So it seems to me that whenever there are problems in the country, of course, we have more of those problems in my State. And when good things are happening, we have more of the good things.

This is one of the problems. So let's talk about it. There are estimated to be hundreds, if not thousands, of brownfield sites in California. We have heard nationwide estimates of 400,000 to 600,000 brownfield sites. We have thousands of sites in California because some industries have left the State with a dangerous legacy of contamination.

This bill will serve as a catalyst for cleanup because it provides funding for grants and revolving loan funds to assist our States, our local communities, and our tribal governments to do the assessments first. In other words, what is the problem? What is going on? What is it going to cost to clean it up? And how is the best way to clean it up?

This bill fills a gap. As I said before, Superfund covers our Nation's most hazardous sites. We really did not have a way to approach the less hazardous sites.

I want to talk about how happy I am that this bill includes my proposal to protect children. Under S. 350, funding will be prioritized for brownfields that disproportionately impact the health of children, pregnant women, or other vulnerable populations, such as the elderly. This is very important.

Why do I say that? Because children are not small adults. I have said this often. I am a small adult. But children are not small adults. They are more sensitive than adults to the health

threats posed by hazardous waste, even the kinds we call low level. Why? Because their bodies are changing, and they are developing. Healthy adults can tolerate higher levels of pollutants than children.

In recognition of this, the bill ensures that children, and others who are particularly vulnerable, will be given special priority for funding under this bill. So we are going to look at these sites. If it is a site where children play, where children go, where the elderly go, where people who are vulnerable go, those sites will be priority sites.

The bill also gives priority to cleanups in low-income and minority communities because, unfortunately, we have seen a lot of the environmental injustice in this country where brownfield sites are disproportionately located in low-income and minority communities, certainly in places such as Oakland, Los Angeles, and Sacramento.

So we have a situation where the brownfields are most prevalent in communities that are least able to deal with them. And the more brownfield sites that are in a community, the lower the chance that the community can improve its economic plight. It is a horrible cycle of poverty.

Let's take this site shown in the photograph. This site was in a very low-income community, and no one had the resources. And a company such as IKEA, who eventually came to this site, did not want to go to this site because there was no one to go to the store. You would have a situation where the site could sit vacant for years and years and years. It contributes to the cycle. You can never get out of the cycle.

So by saying this kind of a situation in a low-income community would be a priority, we will give an economic stimulus to those communities. I am very pleased about that.

The last issue that I believe very strongly about is the issue of sites that were contaminated because there was illegal manufacturing of a controlled substance there. This may sound very odd. So let me explain what I mean.

In California, we have a terrible problem from the production of methamphetamine. It turns out that this terribly dangerous drug is not only illegal, not only does it destroy people—destroy people—but the byproduct of methamphetamine production is a toxic stew of lye, hydriodic acid, and red phosphorus. These elements threaten the groundwater and agricultural lands of the Central Valley and elsewhere in California where these secret methamphetamine labs are sited.

I show you a picture of one abandoned lab where you can see these containers with all the chemicals that were left on the site.

This is another picture of an abandoned meth site. We can see what it looks like, what a disaster it is when these criminals leave and then suddenly the owners of the land who had no idea this was happening are left with this horrible contamination. We were able to include relief for these farmers. I will talk about that in a minute.

I will take a moment to talk more about these methamphetamine labs. In California alone, there were 277 secret drug labs that were raided in 1990. In 1998, there were over 1,000 of these clandestine drug labs. The State is doing its best to address the problem as well as the larger brownfields problem. They are trying to do it, but it is very hard to do it alone. We have to have everyone helping. This bill will provide invaluable assistance for the cleanup of meth sites and other brownfields, which is another reason I am such a strong supporter of the legislation.

This bill includes liability relief for innocent parties. These innocent parties are people who are interested in cleaning up the brownfield site, but they are afraid to get involved because they may become liable for somebody else's mess. Our bill makes it clear that innocent parties will not be held liable under Superfund for the work they do on a brownfield site. This provision alone should help reduce the fear of developers and real estate interests, and it should lead to more cleanups. This provision is certainly a strong reason that a variety of business and real estate interests are strong supporters of the bill. They want to come in; they want to clean up the sites; but they don't want to now become held liable for past problems and then be hauled into court on a Superfund case.

However, I do believe very strongly that the polluter must pay. Our bill does not protect people who are responsible for cleanup under Superfund or any other statute. If you make a mess, if you despoil the environment, you still will be held responsible for cleaning it up. We maintain ''the polluter pays'' principle that underpins many of our hazardous waste statutes.

The committee considered and rejected efforts to waive the application of other statutes, such as RCRA and TSCA, to these brownfield sites. It was too complicated to try to amend other statutes, and I appreciate the fact that our foursome stuck together during these amendments because it would have opened up a can of worms. What we did was we kept this narrow. We kept it on the issue of brownfields. We kept out extraneous issues. Again, I thank my colleagues on both sides of the aisle for their cooperation on that.

Our bill encourages States to take the lead on brownfield sites. It does set some limitations on EPA's enforcement authority under Superfund for sites covered by this bill. We believe this is important in gaining strong support. I am comfortable with this feature because there are a number of safeguards that ensure that a secure Federal safety net remains. These safeguards are an essential part of the compromise that is the heart of the bill. They ensure that EPA can apply its full Superfund enforcement authority under a variety of circumstances.

Most important to me—and it was a tough debate that we had—was the guarantee that EPA could intervene if a site threatens to cause immediate and substantial endangerment to the public's health or welfare or to the environment. I believe this language guarantees that if a State's oversight of a cleanup fails to protect our citizens or our environment, the Federal Government can intervene. We are clear that we want the State to be responsible, but if there is a problem which will result in an immediate threat to people's health, the EPA can enter. It was a careful balance that went into crafting that provision as well as the rest of the bill.

Together I believe we have produced a sensible and balanced bill that will help encourage the recycling of brownfield sites that now sit unused around the Nation.

In closing, one more time I will show our success story that happened in Emeryville. First, let's show the before picture again. This is what we are talking about, sites that look like this, sites that are harmful. People don't want to go on them. People are afraid of them. There is no economic development in the middle of our urban areas. Then when we work together, we can bring business interests to the site and we start to see people use the site again. The site will bring in revenues.

I thank my colleagues for all their hard work, and I yield the floor.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Missouri is recognized.

Mr. BOND. Mr. President, for too many years comprehensive Superfund reform has been blocked by partisan rhetoric and fear-mongering. Even though the general public, government agencies, and federal bureaucrats know that the Superfund program is broken, proposed changes were called stealth attacks, roll-backs, and letting polluters off the hook. Those characterizations were not accurate, but they were effective in protecting one of the most troubled and inefficient programs in the Federal Government from meaningful reform.

For more than 7 years we have been unable to reach agreement on Superfund reauthorization so the Environment and Public Works Committee decided to take a smaller, targeted approach. So today we are here considering S. 350, the Brownfield Revitalization and Environmental Restoration Act.

There is general agreement that we need to address the issue of Brownfields. Across the country, brownfields are blights on the landscape, but because of liability concerns, too often clean-up and redevelopment opportunities are lost. The loss of clean-up and redevelopment opportunities means the loss of jobs and tax revenues for communities and means these sites are not cleaned up.

However, even though I will support this bill today, more needs to be done.

Working with my friends and colleagues, specifically Senators INHOFE and CRAPO, we were able to reach an agreement with the managers of the bill to include in the manager's amendment a provision which will include petroleum only sites in the brownfields program. It is estimated that petroleum only sites make up almost half the brownfield sites in the country. How can we pass a brownfields bill that excludes half the brownfield sites in the country? Fortunately, agreement was reached on this issue.

I want to go on record that I still have concerns regarding liability issues. In my opinion the legislation does not protect developers from potential liability and administrative orders under the Toxic Substance Control Act. I joined with Senators INHOFE and CRAPO in offering an amendment during the committee's consideration, but unfortunately it was defeated. Opponents argued that EPA has not yet used TSCA or RCRA to deal with hazardous materials covered under Superfund so therefore it shouldn't be an issue. However, many believe that if the ''front door'' of Superfund is closed, EPA will use TSCA or RCRA as a ''back door'' to pursue legal action against a developer.

In addition, it is my opinion that the bill still gives too much authority to the EPA over State programs. If we are going to give the responsibility to the State, EPA must step back and let the States run the programs and EPA must first work with the State before overstepping and taking enforcement actions.

S. 350 is a step in the right direction. However, we must continue our efforts to address the liability issues that still remain and we must continue efforts to make the overall Superfund program more reasonable and workable.

As we all know, the great environmental progress in this country has been made with bi-partisan support, when honest concern for the environment and the people outweighed political opportunism. I hope that the progress made on brownfields will translate into positive movement on the remaining issues.

Mr. LIEBERMAN. Mr. President, I am grateful for the opportunity today to speak about an important piece of environmental legislation, the Brownfields Revitalization and Environmental Restoration Act. This bill enjoys the bipartisan support of 15 of the 18 members of the Environment and Public Works Committee, and with the additions made in the manager's amendment, I hope it will receive widespread support on the floor.

This bill aims to return abandoned, contaminated lots that plague nearly every city and town in this country to their past vitality. Once upon a time, these 450,000 ''brownfields'' were home to our neighborhood gas station, a flourishing textile mill, or a manufacturing plant. They were central to the economic well being of their communities. Unfortunately, now they lay idle and unproductive, spoiling the quality of life in thousands of communities across the country. Brownfields lower a community's tax base, encourage urban sprawl and loss of open space, and worst of all, threaten to pollute local streams and drinking water, endangering human health and environmental quality.

While everyone wishes to see brownfields reintegrated into the community, they often remain untouched urban eyesores. Developers fear the potential liability risks involved in developing a site laden with unknown chemicals. Communities lack the funds to initiate their own clean up plans.

This bill could change all of that. First, it provides much-needed funding for brownfields' restoration programs. Second, it offers important legal protections that will give developers, private and public, the confidence to cleanup these toxic sites. All across the country, we see examples of communities successfully restoring brownfields sites into vibrant and prosperous enterprises, including in my home state of Connecticut.

With the help of small federal grants and loans, more than two dozen cities and towns throughout Connecticut have been able to jump-start their plans for environmental remediation and economic development of brownfields sites.

Just last month, I joined in the Grand Opening of a new Harley Davidson dealership on a former brownfields site in Stamford, one of EPAs Brownfields Showcase Communities. Prior to cleanup, the area was a chemical cesspool of abandoned lots contaminated with PCBs, lead, arsenic and several other metals. During cleanup, close to 3,000 tons of contaminated soil were removed from the site, reducing the risk of groundwater contamination and exposure to neighborhood residents. Now this enterprise brings new life, a cleaner environment, and new jobs to the industrial South End of Stamford.

The promise of this approach may seem obvious, but the language in this bill was not easily agreed. It is the product of over eight years of negotiations, debate and finally compromise. So it is with pride that I join more than two thirds of my colleagues, Democrat and Republican, and dozens of organizations representing a wide range of interests, including those of mayors, developers, realtors, insurance companies and environmental groups, in supporting this legislation, I believe we should all feel a sense of accomplishment and pride—this was battle hard won.

This is a good day for America's communities, especially in the inner cities which regrettably are home to many of these urban wastelands. But it doesn't have to stay that way. This legislation is a shot in the economic arm for towns like Stamford seeking to revitalize their neighborhoods for future generations to enjoy. I strongly urge my colleagues to support it.

Mrs. CARNAHAN. Mr. President, today I am pleased to support S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001. This bill will help communities throughout the country identify and clean up brownfields, sites where low level contamination has kept the land from being developed.

This bill would help communities in several different ways. By providing liability protection and economic incentives to clean up contaminated and abandoned industrial sites, this legislation will make our communities healthier and reduce environmental threats. By returning these sites to productive use, we encourage redevelopment and help curb sprawl. This legislation means both new jobs and a cleaner environment for Missouri. It shows that a clean environment and a strong economy are not in competition, they go hand in hand.

In Missouri, we have 11 brownfield projects financed in part with federal funds, and another 29 projects that are State-financed.

One example of a successful brownfield project is Martin Luther King Business Park in St. Louis, Missouri. The site, which is across the street from two schools, was contaminated from a century of metal plating and junkyards. Asbestos and high levels of lead were found close to the surface. As a result of federally-funded assessments and the State's Voluntary Cleanup and Brownfield Redevelopment Programs, a developer stepped forward to purchase and cleanup the property. Due to these cleanup efforts, a much-needed warehouse/light manufacturing facility in the heart of St. Louis opened in 2000, bringing more than 60 jobs to the area. Construction of an even larger facility is scheduled to begin this year after cleanup is complete. This development will help to rejuvenate the entire surrounding area. This progress was made possible by the federal brownfield grant which allowed the City to perform initial environmental assessments. Without those assessments, developers are reluctant to even consider such properties.

We have made considerable progress toward making our urban centers into places where people want to work and live. Yet we still have more than 12,000 abandoned and tax-default properties in St. Louis alone. Obviously our work is not done.

Brownfields are not just an urban problem. A century of lead mining has left towns like Bonne Terre, Missouri with contamination from mining waste. In Bonne Terre, developers are reluctant to purchase land near the mine waste properties being addressed by Superfund because of possible contamination. Using federal pilot funds, Bonne Terre is working on cleaning up these sites and developing them into a

122-acre commercial zone and industrial park. The clean up and development will bring more jobs to this rural community as well as address environmental concerns.

I anticipate a strong vote in favor of the Brownfields Revitalization and Environmental Restoration Act of 2001. I hope that this vote will provide momentum for this legislation as it proceeds to the House of Representatives and that it will eventually be signed into law by the President.

Mr. BAUCUS. Mr. President, I rise today in support of S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001. I compliment the efforts of Senators SMITH, REID, CHAFEE, and BOXER. They have done a great job in moving this legislation forward.

I was very disappointed that this bill was not enacted last year, it represents a lot of hard work and compromise. I think this bill is a win-win for the environment, for local communities and for local economies. More hazardous waste sites will be cleaned up, and we'll have more parks and open space, more economic redevelopment, and more jobs. This bill will make cleaning up polluted sites easier by reducing the many legal and regulatory barriers to brownfields redevelopment while providing much needed cleanup funds.

The brownfields bill is important for rural areas, not just big cities. In Montana, we have hundreds of sites that have been polluted by mining, timber processing, railroad work, and other industrial activities that were part of our economic development.

I worked hard on a very similar bill last year, together with many of my colleagues. Last year, it was the first bipartisan brownfields bill ever introduced in the Senate. I was thrilled to cosponsor the bill again this year, under the leadership of Senator SMITH and Senator REID. This bill has been endorsed by a wide range of groups, including the National Association of Realtors, the Conference of Mayors, and the Trust for Public Lands. It represents a hard-won, delicately balanced compromise.

Superfund critics have long argued that the possibility that EPA could second-guess state-approved cleanups has discouraged brownfields remediation. At the same time, I and others have argued that we need to preserve the federal government's ability to use Superfund authorities to deal with dangerous situations at sites cleaned up under state programs in the rare case in which the cleanup is inadequate and there is a threat to human health or the environment.

The tension between these two views has been one of the major obstacles to moving brownfields legislation in the past. This bill forges a new compromise on this issue, and it is a good compromise. Both sides came to the table and made some important concessions. The bill is not perfect, it is not everything I wanted. It is not everything some of my colleagues across the aisle wanted, either. But, as I have often said, let us not let the perfect be the enemy of the good. And this is a good bill that will do good things for the environment, for communities, for businesses and for the Nation. These sites need to be cleaned up, for the health and well-being of our citizens and our environment, and doing nothing is no longer an option.

Hopefully, two other bills will come to the floor that would expand the abilities of the Economic Development Administration and the Department of Housing and Urban Development to help local communities physically develop and restore brownfields sites to productive use. Taken together, S. 350 and these two bills would make up a complete brownfields redevelopment package. They will provide critical economic and technical assistance to communities during all stages of brownfields redevelopment—from an initial site assessment to putting the finishing touches on a new apartment building or city park.

I am happy to hear that the administration has expressed its support for S. 350. The brownfields bill is an outstanding example of a bipartisan effort to help communities across the nation. I hope we can all work together to make sure it is signed into law this year.

Mr. LEVIN. Mr. President, I am pleased that the Senate is taking up and will pass S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001. I am a strong supporter and advocate of this legislation. I commend Senators SMITH of New Hampshire, REID, CHAFEE and BOXER for their tremendous effort to craft strong bi-partisan legislation to help our nation's communities. Brownfields are abandoned, idled, or under-used commercial or industrial properties where development or expansion is hindered by real or perceived environmental contamination. Businesses located on brownfields were once the economic foundations of communities. Today, brownfields lie abandoned—the legacy of our industrial past. These properties taint our urban landscape. Contamination, or the perception of contamination, impedes brownfields redevelopment, stifles community development and threatens the health of our citizens and the environment. Redeveloped, brownfields can be engines for economic development. They represent new opportunities in our cities, older suburbs and rural areas for housing, jobs and recreation.

As Co-Chair of the Senate Smart Growth Task Force, I believe brownfields redevelopment is one of the most important ways to revitalize cities and implement growth management. The redevelopment of brownfields, is a fiscally-sound way to bring investment back to neglected neighborhoods, cleanup the environment, use infrastructure that is already paid for and relieve development pressure on our urban fringe and farmlands.

The State of Michigan is a leader in brownfields redevelopment, offering technical assistance and grant and loan programs to help communities redevelop brownfields. This legislation will compliment state and local efforts to successfully redevelop brownfields. The bill provides much needed funding to state and local jurisdictions for the assessment, characterization, and remediation of brownfield sites. Importantly, the bill removes the threat of lawsuits for contiguous landowners, prospective purchasers, and innocent landowners. Communities must often overcome serious financial and environmental barriers to redevelop brownfields. Greenfields availability, liability concerns, the time and cost of cleanup, and a reluctance to invest in older urban areas deters private investment. This bill will help communities address these barriers to redevelopment. Finally, the bill provides greater certainty to developers and parties conducting the cleanup, ensuring that decisions under state programs will not be second-guessed. Public investment and greater governmental certainty combined with private investment can provide incentives for redeveloping brownfield properties and level the economic playing field between greenfields and brownfields.

I believe the Brownfields Revitalization and Environmental Restoration Act of 2001 will do much to encourage commercial, residential and recreational development in our nation's communities where existing infrastructure, access to public transit, and close proximity to cultural facilities currently exist. America's emerging markets and future potential for economic growth lies in our cities and older suburbs. This potential is reflected in locally unmet consumer demand, underutilized labor resources and developable land that is rich in infrastructure. In Detroit, the Department of Housing and Urban Development estimates that there is a $1.4 billion retail gap, the purchasing power of residents minus retail sales. In Flint, HUD estimates the retail gap to be $186 million and in East Lansing, $160 million. The redevelopment of brownfields will help communities realize the development potential of our urban communities. It is a critical tool for metropolitan areas to grow smarter allowing us to recycle our Nation's land to promote continued economic growth while curtailing urban sprawl and cleaning up our environment.

Mr. SMITH of New Hampshire. Mr. President, on March 12, 2001, the Committee on Environment and Public Works filed Senate Report 107–2, to accompany S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001. When the report was filed, the cost estimate from the Congressional Budget Office was not available. Therefore, I ask unanimous consent that the cost estimate be printed

in the RECORD to comply with Section 403 of the Congressional Budget and Impoundment Act.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 20, 2001.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001. If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Kathleen Gramp (for Federal costs), who can be reached at 226–2860; Victoria Heid Hall (for the State and local impact), who can be reached at 225–3220; and Lauren Marks (for the private-sector impact), who can be reached at 226–2940.

Sincerely,

DAN L. CRIPPEN.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 350 Brownfields Revitalization and Environmental Restoration Act of 2001, as reported by the Senate Committee on Environment and Public Works on March 12, 2001

SUMMARY

S. 350 would expand and modify certain programs governed by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA, commonly known as the Superfund Act). The bill would provide a statutory framework for Environmental Protection Agency (EPA) policies and programs related to brownfield sites and the liability of certain entities under CERCLA. (Brownfields are properties where the presence, or potential presence, of a hazardous substance complicates the expansion or redevelopment of the property.) The bill would authorize the appropriation of $750 million over the next 5 years for grants to States and other governmental entities for various brownfield initiatives. Another $250 million would be authorized over the same period for grants to States and Indian tribes for implementing voluntary cleanup programs. Finally, the bill would exempt some property owners from liability under CERCLA under certain terms and conditions.

Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 350 would cost $680 million over the 2002–2006 period. CBO estimates that provisions affecting the liability of certain property owners would reduce net offsetting receipts (a form of direct spending) by $2 million a year beginning in 2002, or a total of $20 million over the next 10 years. In addition, the Joint Committee on Taxation (JCT) estimates that enacting this bill would reduce revenues by a total of $24 million over the 2002–2006 period and by $110 million over the 2002–2011 period. Because S. 350 would affect direct spending and receipts, pay-as-you-go procedures would apply.

S. 350 would impose no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 350 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and the environment).

[By fiscal year, in millions of dollars]

	2001	2002	2003	2004	2005	2006
SPENDING SUBJECT TO APPROPRIATION						
Brownfields Spending Under Current Law:						
Budget Authority [1]	92	0	0	0	0	0
Estimated Outlays	89	87	41	14	5	0
Proposed Changes:						
Authorization Level	0	200	200	200	200	200
Estimated Outlays	0	10	110	170	190	200
Brownfields Spending Under S. 350:						
Authorization Level [1]	92	200	200	200	200	200
Estimated Outlays	89	97	151	184	195	200
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority	0	2	2	2	2	2
Estimated Outlays	0	2	2	2	2	2
CHANGES IN REVENUES						
Estimated Revenues [2]	0	0	1	4	8	11

[1] The 2001 level is the amount appropriated for that year for EPA grants for brownfields initiatives, including grants to States for voluntary programs.
[2] Source: Joint Committee on Taxation.

BASIS OF ESTIMATE

For purposes of this estimate, CBO assumes that S. 350 will be enacted by the end of fiscal year 2001, and that all funds authorized by the bill will be appropriated. Estimated outlays are based on the historical spending patterns for similar activities in the Superfund program.

Spending subject to appropriation

S. 350 would authorize the appropriation of $1 billion over the next 5 years for two grant programs: for brownfield revitalization and for enhancing State programs related to brownfields and other voluntary initiatives. In recent years, the Congress has allocated some of the money appropriated for EPA's Superfund program for such grants; this legislation would provide an explicit statutory authorization for these activities and would authorize specific amounts for fiscal years 2002 through 2006. Provisions limiting the liability of certain property owners could increase the use of appropriated funds to clean up Superfund sites, but CBO estimates that any change in discretionary spending would not be significant in the next 5 years.

Grant Programs. Title I would authorize the appropriation of $150 million annually for grants to States and other governmental entities to characterize, assess, or cleanup brownfield sites. Remediation grants could be used to capitalize revolving funds or to pay for cleaning up sites owned by public or nonprofit entities. Grants used for remediation would be subject to a matching requirement and could be used to leverage funding from other sources. In addition, title III would authorize $50 million a year for grants to States and Indian tribes to develop or enhance programs pertaining to brownfields or voluntary response programs. These funds also could be used to capitalize revolving funds for brownfield remediation activities.

Cleanup Costs. Under CERCLA, property owners may be responsible for cleanup activities, even if they did not contribute to the contamination of a Superfund site. Title II would amend CERCLA to limit the liability of certain prospective purchasers of contaminated property after the date of enactment. By reducing the pool of potentially responsible parties, the ''prospective purchaser'' provisions in section 202 could reduce the number of Superfund sites that can be cleaned up in a timely fashion by private entities. This could, in turn, increase the number of sites needing full or partial Federal funding for cleanup activities.

For this estimate, CBO assumes that the bill's prospective purchaser provisions would not affect discretionary spending for several years because only properties purchased after the date of enactment would be exempt from liability. The cost eventually could be significant, however, because cleanup costs average $20 million per site.

Direct spending

CBO estimates that provisions limiting the liability of certain property owners would reduce net offsetting receipts by about $2 million a year. EPA currently negotiates liability settlements with 20 to 25 prospective purchasers of contaminated property. As part of these agreements, purchasers make both monetary and in-kind payments in consideration of the government's covenant not to sue. While the cash payments vary significantly among properties, the agency typically collects an average of $100,000 per settlement. EPA would forgo such payments under S. 350, because prospective purchasers would no longer need these agreements to be relieved of liability for cleaning up a site.

The other limitations on liability in title II also could affect EPA's ability to recover costs that the agency incurs at cleanup projects that are the responsibility of private parties. Liability for cleanup is retroactive, strict, and joint and several, so changing the liability of one party generally has the effect of shifting liability among the other private parties. On the other hand, there may be some circumstances in which this legislation would exempt the only party likely to pay cleanup costs. We estimate that the loss of offsetting receipts from these changes is likely to be insignificant, however, because most of the provisions are similar to current EPA practice.

Revenues

This bill would affect revenues by authorizing States and local governments to use Federal grants for brownfields remediation to capitalize revolving funds. JCT expects that the ability to leverage these revolving funds would result in an increase in the issuance of tax-exempt bonds by State and local governments. JCT estimates that the Federal Government would forgo tax revenues of $110 million over the 2002–2011 period as a result of these provisions.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding 4 years are counted.

[By fiscal year, in millions of dollars]

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Changes in outlays	0	2	2	2	2	2	2	2	2	2	2
Changes in receipts	0	0	1	4	8	11	15	17	18	18	18

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 350 would impose no mandates on State, local, or tribal governments. The bill would authorize $200 million annually from 2002 through 2006 for grants to State and local governments for inventorying, characterizing, assessing and remediating brownfield sites and for establishing or enhancing response programs. Implementing S. 350 would benefit State, local, and tribal governments if the Congress appropriates funds for the grants and loans authorized in the bill. Any costs incurred to participate in those grants and loan programs would be voluntary.

S. 350 would make several changes to current law concerning liabilities under CERCLA of certain property owners, which may include State, local, or tribal governments. These changes in liability, while not preemptions of State law, could make it more difficult for any States that currently rely on CERCLA to recover costs and damages under their own cleanup programs from parties whose liability now would be eliminated or limited by the bill. On the other hand, these changes could benefit State, local, and tribal governments as landowners if their liability would be reduced or eliminated. Enacting S. 350 could also benefit State and local governments with contaminated sites in their jurisdictions by clarifying the liability for certain property owners under Federal law and thereby encouraging remediation and redevelopment of those sites.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

This bill contains no new private-sector mandates as defined in UMRA.

Estimate Prepared by: Federal Costs: Kathleen Gramp (226–2860); Impact on State, Local, and Tribal Governments: Victoria Heid Hall (225–3220); Impact on the Private Sector: Lauren Marks (226–2940); Revenues: Thomas Holtmann (226–7575).

Estimate Approved by: Peter H. Fontaine Deputy Assistant Director for Budget Analysis.

Mr. SMITH of New Hamsphire. Mr. President, I also ask to have printed in the RECORD a letter dated April 12, 2001 to Mr. Dan Crippen of the Congressional Budget Office signed by myself, Senator REID, Senator CHAFEE, and Senator BOXER. The letter illustrates areas in CBO's cost estimate that the authors of S. 350 believe to be inaccurate or misleading. It is our intent, and our belief, that S. 350 will bring increased private resources to brownfield sites, which will in turn limit future expenditure of public resources.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, U.S. SENATE,
Washington, DC, April 12, 2001.

Mr. DAN L. CRIPPEN,
Director, Congressional Budget Office, Ford House Office Building, Washington, DC.

DEAR MR. CRIPPEN: We are writing with regard to the Congressional Budget Office's cost estimate for S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001. It is important that the cost estimate prepared by your office accurately reflect the provisions of the bill. As the lead authors of the legislation, we are concerned that the cost estimate for S. 350 is inaccurate in several respects and is unintentionally misleading with regard to the intent and application of the legislation.

The cost estimate indicates that section 202 of S. 350 would ''reduce the number of Superfund sites that can be cleaned up in a timely fashion by private entities.'' We disagree with this assumption because the effect of section 202 will be to encourage private entities to perform cleanups. Although the bill may limit future potential liability of parties not currently liable under the Superfund statute, it does not affect the liability of parties who are already liable under the statute at sites already underway. For even those new prospective purchasers receiving protection under section 202, the bill provides for a ''windfall lien,'' which would further reduce any need for Federal funding at these sites. Moreover, the ''prospective purchaser'' exemption is designed to, and should result in, a significant increase in cleanups by private parties, particularly at non-National Priorities List sites. The net effect of these factors would be an increase in the availability of private cleanup funds. The overall number of sites at which Federal response authority applies under the Superfund statute, and which will be cleaned up by private entities, will increase as a result of enactment of the ''prospective purchaser'' provisions.

In addition, the cost estimate asserts that the eventual cost of the bill will be significant because cleanup costs average $20 million per site. In fact, although cleanup costs at National Priorities List sites may average approximately $20 million per site, the cleanup costs at a brownfield site averages approximately $500,000 per site. Indeed, since this section applies to both NPL and non-NPL sites, and there are many more brownfield sites addressed annually than there are NPL sites, the average cost of the sites covered by this provision would be dramatically less than that indicated. Therefore, as currently drafted, the estimate would lead one to believe that S. 350 could shift responsibility to the Federal Government for as much as $20 million in cleanup costs per site. This simply is not the case.

While we do not dispute the numbers provided by the cost estimate, it is equally important that the narrative section of the cost estimate accurately track the provisions of the legislation as closely as possible. We respectfully request that the Congressional Budget Office reissue the cost estimate for S. 350 to address the types of concerns we have raised. Please do not hesitate to contact us to discuss these issues further.

Sincerely,

BOB SMITH,
LINCOLN CHAFEE,
HARRY REID,
BARBARA BOXER,
U.S. Senators.

AMENDMENT NO. 352

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent to call up the managers' amendment to S. 350 which is at the desk.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH], for himself, Mr. REID, Mr. CHAFEE, and Mrs. BOXER, proposes an amendment numbered 352.

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

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

The amendment is as follows:

Beginning on page 57, strike line 24 and all that follows through page 58, line 3, and insert the following:

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

''(II)(aa) is contaminated by petroleum or a petroleum product excluded from the definition of 'hazardous substance' under section 101; and

''(bb) is a site determined by the Administrator or the State, as appropriate, to be—

''(AA) of relatively low risk, as compared with other petroleum-only sites in the State; and

''(BB) a site for which there is no viable responsible party and which will be assessed, investigated, or cleaned up by a person that is not potentially liable for cleaning up the site; and

''(cc) is not subject to any order issued under section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)); or

''(III) is mine-scarred land.''.

On page 65, between lines 11 and 12, insert the following:

''(4) INSURANCE.—A recipient of a grant or loan awarded under subsection (b) or (c) that performs a characterization, assessment, or remediation of a brownfield site may use a portion of the grant or loan to purchase insurance for the characterization, assessment, or remediation of that site.

On page 67, line 16, before the period, insert the following: '', including threats in areas in which there is a greater-than-normal incidence of diseases or conditions (including cancer, asthma, or birth defects) that may be associated with exposure to hazardous substances, pollutants, or contaminants''.

On page 68, between lines 16 and 17, insert the following:

''(J) The extent to which a grant would address or facilitate the identification and reduction of threats to the health or welfare of children, pregnant women, minority or low-income communities, or other sensitive populations.

On page 70, between lines 2 and 3, insert the following:

''(4) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this section, the Inspector General of the Environmental Protection Agency shall submit to Congress a report that provides a description of the management of the program (including a description of the allocation of funds under this section).

On page 71, strike lines 15 through 17 and insert the following:

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

''(1) this Act (including the last sentence of section 101(14));

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

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

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

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

''(l) FUNDING.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $200,000,000 for each of fiscal years 2002 through 2006.

''(2) USE OF CERTAIN FUNDS.—Of the amount made available under paragraph (1), $50,000,000, or, if the amount made available is less than $200,000,000, 25 percent of the amount made available, shall be used for site characterization, assessment, and remediation of facilities described in section 101(39)(D)(ii)(II).''.

On page 93, line 4, before ''develop'', insert ''purchase insurance or''.

On page 94, line 11, strike ''and''.

On page 94, line 14, strike the period at the end and insert ''; and''.

On page 94, between lines 14 and 15, insert the following:

''(iii) a mechanism by which—

''(I) a person that is or may be affected by a release or threatened release of a hazardous substance, pollutant, or contaminant at a brownfield site located in the community in which the person works or resides may request the conduct of a site assessment; and

''(II) an appropriate State official shall consider and appropriately respond to a request under subclause (I).

On page 97, line 7, after ''Administrator'', insert '', after consultation with the State,''.

On page 97, line 18, after the period, insert the following: ''Consultation with the State shall not limit the ability of the Administrator to make this determination.''.

The PRESIDING OFFICER. The Senator from Idaho has 15 minutes.

Mr. CRAPO. Mr. President, I appreciate the opportunity to speak today on S. 350, the Senate's Superfund brownfields legislation.

As most of those working on this issue know, I have been working on comprehensive Superfund reform essentially ever since I was elected to Congress, about 8½ years ago. This was a very difficult issue.

In my opinion, we would have been best served if we had comprehensive Superfund reform of the entire Superfund statute, but given the political dynamics we face in the country and the Congress today, it was evident that we would not be able to achieve a comprehensive bill at this point in time, and the decision was made to move ahead with brownfields legislation this year. That was a decision I fought against last year but agreed to support this year, to see if we couldn't move ahead and achieve some of the objectives that have already been so well explained with regard to this legislation.

Brownfields legislation is badly needed in this country, as we try to reform and clean up some of the areas that have been discussed by other Senators. One of the concerns many of us had, however, was that if we do a brownfields bill, we need to do one that truly works and not simply create another approach to the issue that runs into the same problems we have dealt with under the Superfund statute for so many years. In other words, we need to craft it so the effort to reclaim these areas and make them green again is not a failure and we don't simply pass legislation that creates another set of difficult, burdensome approaches to the issue.

To effectively encourage more brownfields redevelopment programs, we have to provide the necessary resources, give the States the management and oversight responsibility within their borders, and ensure that developers are confident that their involvement will be truly welcomed and they will not simply pick up the liabilities already facing those who own the brownfields and work on the properties.

All this has to be done in conjunction with the assurance that public health and the environment are being adequately protected. In that context, as the Senate Environment and Public Works Committee handled this issue, a number of us had concerns that we hadn't yet achieved those objectives as well as we could. I commend the managers of this bill for working so well with us to address those issues in the interim since the bill was sent out of committee and is now being considered in the Senate. We have a managers' amendment that addresses a number of those concerns and that makes it possible for those of us who had problems with the way the bill was originally drafted to work with and support the bill at this point.

The Senate has held many hearings on this legislation. A number of us have worked on this measure for many years. I will discuss some of the elements of progress that have been made since the bill was sent out of committee and as we now move forward with the managers' amendment. I am very pleased that we were successful in making these improvements.

The first issue relates to State finality. For those who are not concerned with the issue, what we are talking about is a policy decision that says that State governments should be the ones that handle the management of the brownfields legislation. Instead of having a national, federally led and, many of us believe, dictate-driven decisionmaking process, we wanted to put together a system in which each individual State had the ability to interpret and implement the brownfields legislation with decisions going on in their own States.

Many of us felt that State management and control would result in much better decisionmaking, as we would see it at the State and local level, than we would have if the decisionmaking were driven from the Federal level. It is a case of the State and local people having a much better understanding of the needs in their communities than those who are distant decisionmakers, not having the ability and understanding to truly address the issues as best they could.

We needed to achieve that by still making sure the environmental objectives were in place. I believe the managers' amendment gives us an important stride forward in this effort.

As the Senator from California, who just spoke, indicated, one of the protections built into this bill was the provision that if, as the State moves forward, an imminent and substantial endangerment is found to the environment or public health, then the Federal Government, through the EPA, can step in and take some remedial actions. Short of that imminent and substantial endangerment, it is the State's responsibility for action.

One of the concerns that was debated in committee was whether we had adequately clarified it enough to make it clear that the EPA or the Federal administrators could not simply use any excuse they wanted in order to claim an imminent and substantial endangerment, and had to truly work with the States and step in at the Federal level only in those extreme cases in which it was clear that the State either did not have the resources or was not willing to implement the law.

I believe that is where we have reached the compromise. The language included in the bill says imminent and substantial endangerment must be found by the Federal Government before it can step in and supersede a State's actions, which is the intent of all of us who have worked on this legislation. That gives the States truly an opportunity to have finality to their decisions about how to implement this law.

Second, I am pleased that our efforts working with the managers of the bill were successful in nearly doubling the number of eligible brownfield sites under the program by expanding the bill's coverage. This improvement alone will help make this program a reality for many more communities around the country.

In appreciation for the managers' efforts to improve the original bill, I intend to support the amendment today, and the bill with the amendment in place. I know there is still a lot of debate about whether we have made enough improvement in the legislation or whether we have made the bill good enough. The other body is going to be working on its proposals, and there will still be an effort to work with the administration, as the President, the House, and the Senate all work together to craft a brownfields bill that will ultimately be signed into law.

I look forward to working with all of them to make sure that even further improvements and changes to the legislation can be made as we move through the legislative process.

This effort today is a very strong effort, and I think a very good effort, to move forward on meaningful brownfields legislation. With the managers' amendment, as I said, enough improvements have been made that those of us who had concerns at the committee level, I think most, if not all of us, will be able to support the bill today. We will continue to work with the House and the President and with the managers of the bill in the Senate to see that we can make even additional improvements to the legislation as it moves forward in the legislative process. I think it is an important first step we are taking today, but it should be recognized as such—as an important but first step.

With that, I conclude my remarks and yield back my remaining time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. VOINOVICH. Mr. President, I rise today in support of S. 350, the Brownfields Revitalization and Restoration Act.

The PRESIDING OFFICER. It is my understanding that the Senator from Ohio is using the time of Senator BOND; is that true?

Mr. VOINOVICH. Yes, it is.

The PRESIDING OFFICER. The Senator may proceed.

Mr. VOINOVICH. Mr. President, this legislation will provide incentives to clean up abandoned industrial sites, or brownfields, across the country and put them back into productive use and preserve our green spaces.

I want to congratulate the chairman of the committee, Senator SMITH, the ranking member of the committee, Senator REID, the subcommittee chairman, Senator CHAFEE, and all the other members of the committee who have worked to put this piece of legislation together.

Revitalizing our urban areas has been an issue I have been passionate about for many years. As former mayor of Cleveland, I experienced first-hand the difficulties that cities face in redeveloping these sites.

I have been working on brownfields issues at the national level since I became Governor of Ohio in 1990 and through my involvement with the National Governors' Association and the Republican Governors' Association. For more than a decade, I have worked closely with congressional leaders, such as MIKE OXLEY of Ohio and the late Senator John Chafee, to develop legislation that would do many of the same things this bill does.

When the Environment and Public Works Committee considered this legislation in March, I voted to report the bill out of committee after getting a commitment from the Presiding Officer today, Senator REID, that he would be willing to work with me on some concerns I had regarding specific bill language.

During the committee markup of S. 350, I offered an amendment seeking to strengthen the State finality provisions in the legislation. Based on the commitment I received from Senator REID, I ultimately withdrew my amendment.

In my view, we need to create more certainty in the brownfields cleanup process. Parties that clean up non-Superfund sites under State cleanup laws need certainty about the rules that apply to them, particularly that their actions terminate the risk of future liability under the Federal Superfund Program.

Last Congress, I introduced legislation supported by the National Governors' Association and the National Council of State Legislatures which would create more certainty by allowing States to release parties that cleaned up sites under State laws and programs from Federal liability.

I believe it is important that we build upon the success of State programs by providing even more incentives to clean up brownfield sites in order to provide better protection for the health and safety of our citizens and substantially improve the environment.

What we do not need are delays caused by the U.S. EPA's second-guessing of State decisions. A good example of second-guessing occurred in my own State. One company, TRW, completed a cleanup at its site in Minerva, OH, under Ohio's enforcement program in 1986. Despite these cleanup efforts, the U.S. EPA placed the site on the NPL list in 1989. However, after listing the site, the EPA took no aggressive steps for additional cleanup, and it has remained untouched for years.

To enhance and encourage further cleanup efforts, my State has implemented a private-sector-based program to clean up brownfield sites. When I was Governor, the Ohio EPA, Republicans and Democrats in the General Assembly and I worked hard to implement a program that we believe works for Ohio. Our program is already successful in improving Ohio's environment and our economy, recycling acres and acres of wasteland, particularly in our urban areas.

In almost 20 years under the Federal Superfund Program, the U.S. EPA has only cleaned up 18 sites in Ohio. In contrast, 78 sites have been cleaned up under Ohio's voluntary program in the last 6 years, and many more cleanups are underway.

States clearly have been the innovators in developing voluntary cleanup programs, and Ohio's program has been very successful in getting cleanups done more quickly and cost effectively. For example, the first cleanup conducted under our program—the Kessler Products facility near Canton, OH—was estimated to cost $2 million and to take 3 to 5 years to complete if it had been cleaned up under Superfund. However, under Ohio's voluntary program, the cost was $600,000 and took 6 months to complete. These cleanups are good for the environment and they are good for the economy.

States are leading the way in cleaning up sites more efficiently and cost effectively. According to State solid waste management officials, States average more than 1,400 cleanups per year, and they are addressing approximately 4,700 sites all over the United States of America at any given time.

I am pleased the bill we are considering today does not require the U.S. Environmental Protection Agency to pre-approve State laws and programs. State brownfield programs address sites that are not on the national priorities list and where the Federal Government has played little or no role.

Ohio and other States have very successful programs that clean up sites more efficiently and cost effectively. I worked closely with Senator SMITH and Senator REID and other Members to protect these State's programs. The managers' amendment is a result of that hard work.

While I would still like to see more protection and certainty for State programs, I do not believe we should delay the improvements to the current programs that are in this bill. What our States are doing is helping to recycle our urban wastelands, prevent urban sprawl, and preserve our farmland and green spaces. So often people forget about the fact we have these acres of wastelands in many urban, and even rural, areas around the nation. Unless these sites are cleaned up, they will force a greater loss of green space in our respective States.

These programs are cleaning up industrial eyesores in our cities and making them more desirable places to live and work. That is another aspect of this legislation to which the Senator from California, Senator BOXER, eloquently spoke.

Because these programs are putting abandoned sites back into productive use, they are a key element in providing economic rebirth to many urban areas and good paying jobs to local residents. That is another side we do not think about. We have all sorts of assistance programs, training programs, and so forth, helping people become self-sufficient and productive citizens. In far too many cases in the United States, because we have not recycled urban industrial sites, businesses and jobs are developed in the outlying areas where many urban residents simply cannot get to, and are, therefore, unable to take advantage of those jobs.

Mr. President, this is a wonderful bill in so many respects. It makes sense for our environment and it makes sense for our economy. Therefore, I am pleased the Senate is considering this bill today and I urge the House and Senate to come to a prompt agreement on a final version of this legislation so we can provide a cleaner environment for cities across America.

I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. CLINTON. Mr. President, I am pleased to support this important legislation to provide States and local communities with the tools and the resources they need to clean up and reuse polluted industrial properties, turning them from eyesores into opportunities and leveraging literally billions of dollars in economic benefits.

The legislation we are voting on today, S. 350, the Brownfields Revitalization and Environmental Restoration

Act of 2001, represents the ultimate form of recycling. It is the recycling of one of our most precious and scarce natural resources; namely, our land. Our environmental resources, as our financial resources, are not limitless. The cleanup and reuse of brownfield sites allows businesses and developers to use existing infrastructure so we can reduce sprawl and preserve our precious green space and farmland and, at the same time, it provides an opportunity to energize local economies and create new jobs.

I am pleased to be an original cosponsor of S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001, an act which, as the President knows so well, enjoys broad bipartisan support of a majority of the Senate, as well as of the administration, a diversity of State and local government organizations, business interests, and environmental advocacy groups.

This bill, S. 350, is an important step in building on the proven success of existing brownfields efforts. The bill authorizes the establishment of a flexible program to provide grants and loans to State, tribal, and local governments and nonprofit organizations to assess, safely clean up, and reuse brownfields. It includes important provisions that promote assistance for small, low-income communities, as well as supporting efforts to create or preserve open space and furthering participation by the public in cleanup decisions.

The bill provides appropriate liability relief for innocent parties who want to clean up and reuse brownfield sites, while maintaining the necessary Federal safety net to address serious cleanup issues.

Last week, I was delighted to learn that the EPA was making grants for additional brownfields funding for Utica, NY. I remember the first time I visited downtown Utica and saw all of the old mill and factory buildings, which already were tied in with existing utilities, providing an excellent opportunity for remediation that could be then followed by immediate redevelopment, only to be told because they were built on old industrial sites, because the manufacturing processes that occurred in the 19th and 20th centuries involved dangerous chemicals and other contaminants, these brownfield sites in the middle of downtown Utica were too expensive for private developers and the local community to clean up. I am delighted that Utica and other such places around New York, including Albany and Chautauqua Counties and a village of Haverstram in Rockland County also received brownfields funding.

We have seen the benefits of brownfields cleanup and revitalization throughout New York, from Buffalo to Glen Cove, and all the places in between. I stood on the shore at Glen Cove, one of the most beautiful communities on the north shore of Long Island, and could see the effects of the cleanup of brownfields that are going to turn what had been a contaminated waste area into a place that can be part of waterfront redevelopment.

To date, over 20 communities across New York have received assistance through EPA's existing brownfields program. It is my hope and belief that there will be many more when we finish this legislation, which will more than double the resources currently available for brownfields cleanup across our country.

This bill strikes a delicate balance. There are compromises and tradeoffs. I appreciate the hard work of the committee in a bipartisan fashion to move this legislation forward. I take this opportunity to thank the leadership of the Environment and Public Works Committee on which I am honored to serve, particularly our chairman, Senator SMITH, and our ranking member, Senator REID, and the two Senators who pushed this legislation forward because of their respective chairing and ranking positions on a subcommittee; namely, Senators CHAFEE and BOXER. I also thank the staffs, including my staff, the committee staff, and the individual staffs of the Senators who worked so quickly and diligently to move this legislation to the floor today.

The managers' amendment includes a number of significant provisions. Again, I applaud and thank everyone who was part of this process. I am grateful; two of the managers' amendments I personally sponsored will be part of this legislation. One provision will help focus the delivery of brownfields assistance to communities that experience a higher than normal incidence of diseases such as cancer, asthma, or birth defects.

Two weeks ago, I was very fortunate and honored to go with my friend, the Senator from Nevada, HARRY REID, to Fallon, NV, where we held a hearing on a cancer cluster. It is a lovely community, 50, 60 miles from Reno. It is a small community, maybe 30,000 people at most, in a sparsely populated county. They have had 12 cases of leukemia among children in the last 2 years. Clearly, it is a cancer cluster. We don't know what is causing it. Many believe, and much of the testimony we heard certainly suggests, this rate of cancer in this kind of a cluster could be linked with exposure to hazardous substances.

The important provision we have added to the bill will offer assistance to communities already burdened with severe health programs, to help them clean up the polluted sites that may contribute to these problems. We will have to do a lot more, and I will be working with Senator REID under his leadership to think about what else we can do to address environmental health issues.

We certainly have more than our share in New York. I am hoping that in the future we will have a hearing in New York, perhaps on Long Island, to talk about the cancer clusters. We have asthma clusters; we have diabetes clusters. We need to figure out what we are doing or what we could stop doing or how we can clean up whatever might be associated.

Under S. 350, States that receive brownfields funding must survey and inventory sites in the State. I was concerned there might be sites that would be overlooked in communities that are small or sparsely populated such as Fallon, or low-income or minority such as those in New York City.

I am pleased that with this provision in the managers' amendment we will be able to include public participation so individuals can request a nearby brownfield site be assessed under a State program. States would maintain discretion and flexibility to set up this process however they best see fit, but concerned citizens would not be shut out of the process. They could participate and ask their particular brownfield site be given some attention and perhaps even expedited cleanup because of the impact on their local community.

In every corner of our country there are abandoned, blighted areas that used to be the engines of the industrial economy or served in our national defense. We were privileged to hear testimony from the admiral who runs the naval airbase that trains the top gun pilots outside of Fallon. They use a lot of jet fuel. They have to occasionally burn it. They sometimes have to drop it in their flight. They were very willing to come forward and talk about what the defense industry can do to help in this area.

Many of the places suffering from brownfields were in the forefront of creating the strong economy and the strong national defense system we enjoy today. I think we have to pay attention to the needs of these communities.

I thank all who have made it possible for us to consider this bill today. I urge my colleagues to join in passing this important piece of environmental and economic and health care legislation. I hope our colleagues in the House will work to move their own brownfields bill so we can finally get about the business of revitalizing these sites so they can realize their economic potential and preserve our country's beautiful, open spaces, and revitalize our downtown areas.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, before the Senator from New York leaves the floor, I want to publicly express my appreciation for her traveling to Nevada as part of a committee to deal with a most serious problem. As the Senator indicated, we do not know what the problem is in Churchill County. Is it problems with the base? It could be from fuel. We understand there have been alleged large leakages of fuel. Is it from the dumping of the fuel, as she indicated? There is a theory by some academics out of England that maybe it is

a virus caused by the huge influx of people coming to the base from various parts of the world to this previously very stable community. Maybe it is from the agricultural activity. The first Bureau of Reclamation project in the history of this country took place there, the Newlands project. For years they have been dumping hundreds of tons of pesticides and herbicides on those crops. Could that be the cause? Could it be the arsenic in the water there, which is 100 parts per billion? We are trying to lower it to 10 parts per billion. We simply do not know the cause.

With the Senator from New York coming there—I do not mean to embarrass her, but with her national following, she focused attention on Fallon, NV, that would have never been accomplished had she not shown up there.

I indicated to the Senator earlier today I am going to send to her the series of positive editorials that were written about her coming to the State of Nevada, trying to help us with this most difficult problem.

Finally, I want to say, as I have already said earlier, outside her presence but on this floor, what a valuable member of this committee is the Senator from New York. For the not quite 100 days we have been functioning as this new Congress, she has been a member of this committee and she has been very valuable. She attends the meetings, stays through the meetings, and, as I indicated, she has been of valuable assistance making this legislation better. I am happy to have her as a member of the committee and of the Senate. The people from New York should feel very good about the person they brought to Washington as a Senator representing that State.

Mrs. CLINTON. I thank my friend from Nevada.

Mr. REID. I yield to the Senator from New Jersey the time that is left over from my having spoken. I believe there may be some other time in there. I think the only speakers we have still to come are Senator CORZINE and Senator CARPER—I think that is all who wish to speak. We are going to 2 o'clock, so I yield whatever time up to 10 or 12 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. I thank the Senator from Nevada for yielding the time. Before I begin my own remarks on brownfields, I want to join him in commenting that HILLARY RODHAM CLINTON had potentially one of the most difficult transformations ever, maybe, becoming a Member of the Senate. It is also fair to say after only 100 days she has probably had one of the most remarkably successful transformations ever made to the Senate.

Rarely has someone come to the Senate and devoted themselves so diligently to the details of their work, meeting their responsibilities to their State with such bipartisan acclaim by her colleagues.

I think the people of New York should be very proud, under difficult circumstances and the changing of public responsibilities, of how well she accomplished the feat and now how proudly she represents the State of New York.

Since the fortunes of New Jersey are so closely tied to those of our modest neighbor across the river, we are grateful that New York is so well represented. I congratulate her on her introduction to the Senate.

As my friend and colleague from New York, I wish to address my colleagues on the question of the brownfields legislation. We have now completed an unprecedented decade of extraordinary national prosperity. But it is a cruel irony that many of those communities which, a generation ago, laid the foundation for America's industrial might and the prosperity of our generation have not participated in every aspect of this new prosperity.

Critical to the goal of ensuring that all communities do, indeed, benefit from this prosperity is creating sound economic development in these traditional economic centers. Although often more graphic in central cities because of their limited space, brownfields redevelopment is not just an issue of these old centers. It has also become a question of small towns. The problem is, whether it is these older industrial centers upon which our Nation built its future or it is small towns or rural areas, the Senate now in considering again changes to brownfields legislation must deal with the reality that brownfields redevelopment projects must overcome several difficult but critical barriers. These barriers historically have included: No. 1, a lack of process certainty; No. 2, liability concerns; No. 3, added expenses of environmental cleanup and the lack of redevelopment financing.

S. 350 is a bipartisan effort to address these very issues and to make our brownfields program of the last few years everything that it can, should, and must be.

Since 1993, when the Brownfields Pilot Program was implemented, hundreds of communities across the Nation have been successful in their efforts to assess, clean up, and redevelop vacant or underused contaminated sites. In my State of New Jersey, brownfields revitalization represents the potential rebirth of many distressed cities. Indeed, in many respects brownfields and HOPE VI grants have entirely changed the landscape of some of the most distressed urban areas in the State of New Jersey.

In Trenton, an old steel plant has been transformed to a minor league baseball field. Now a center of recreation, attention, and life of the city of Trenton, only years ago it was abandoned, contaminated property.

A railroad yard on the Camden waterfront in front of a enormously wonderful view of the city of Philadelphia, what should have been some of the most productive land in the Nation, was abandoned. It has now become a major entertainment center for the bistate area.

The city of Elizabeth is taking a former landfill and constructing a shopping mall.

For all of these reasons, brownfields legislation is critical, irreplaceable, in the economic revitalization of the cities of New Jersey. It is not a theory. It is not a potential. It has been proven. It is real in every one of these communities. But it does need to be improved. I support the enhancements contained in S. 350 because, No. 1, they reduce the legal and regulatory barriers that prevent brownfields redevelopment and provide funds to States for cleanup programs. No. 2, they address the needs to address potential liabilities faced by prospective purchasers and adjoining landowners. Finally, they provide funds to assess and clean up abandoned and underutilized brownfields sites. This has not been the province of private funding sources.

This bill goes a long way to remove many of the uncertainties that have made the financing of a brownfield project such a formidable task. While this legislation is a major step in the right direction, there is more that must be done to enhance the public-private partnerships to complete the picture of brownfields revitalization. The strengthening of the public-private partnership utilizes tax incentives to help attract affordable private investment.

In August of 1997, this body approved a potentially significant brownfields tax incentive. This tax incentive, referred to as the ''expensing provision,'' allowed new owners of these contaminated sites to write cleanup costs off their taxes in the year they were deducted. This allows for increased cashflow for redevelopment projects. Surprisingly, despite the potential advantage of this expensing provision, there have been relatively few takers.

A GAO study reported in December of 2000 that in New Jersey there had been only three development projects which had even applied for this tax benefit. Developers told me they are discouraged from using the provision because of the provision's indefinite future and the exclusion of brownfield sites containing petroleum. There is simply no incentive for real estate developers to complete projects and market them quickly if the tax benefit they have derived is going to be taxed as ordinary income at 39.6 percent rather than capital gains at 20 percent.

The financial impact of that reality is very significant.

I intend to propose legislation which I believe is a very positive enhancement.

My legislation will tax this ''recapture'' or reclaiming of this previously earned benefit as capital gain at a rate of 20 percent rather than as ordinary income.

Using tax incentives to overcome capital shortages, in the market place, to achieve greater public benefits, is a proven formula for success.

This is exactly what I intend to do. This can be done to reverse negative trends and start new, constructive initiatives.

In 1962, the Regional Plan Association of New Jersey-New York-Connecticut in its publication ''Spread City'' stated that the region was drifting into a costly spread-out pattern of suburban development versus dormant central cities.

This publication noted that this pattern would produce suburbs with ''neither the benefits of the city nor the pleasures of the countryside.''

Four decades later this vision of ''Spread City'' has, in fact, materialized.

Today, brownfields redevelopment should be viewed as a method of controlling urban sprawl and ultimately preserving greenfields.

A recent study of nine New Jersey cities posed conservative estimates that redevelopment of identified sites across the state could house nearly a quarter of 225,000 new residents expected by 2005.

It is, therefore, good economic policy. It is good social policy. It is good housing and job creation policy.

Finally, it is good environmental land use policy to enact brownfields legislation, and to enhance it and improve it with the necessary tax incentives to stimulate growth based on this exciting concept.

I strongly identify myself with this initiative hoping the Senate will consider my changes when indeed it is time to vote on brownfields.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. SMITH of New Hampshire. Mr. President, I ask unanimous consent that Senator WELLSTONE be added as a cosponsor to S. 350.

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

Mr. SMITH of New Hampshire. I point out, Mr. President, that with the addition of Senator WELLSTONE, that makes 70 cosponsors to this legislation. That runs the entire political spectrum, from HELMS to WELLSTONE. I think it is a great tribute to the type of legislation it is that we could forge this kind of bipartisanship.

As I mentioned earlier in my remarks, there are a number of stakeholders who have written to express their support for S. 350. I did enter those letters in the RECORD and obviously will not read them all, but I would like to highlight just three or four.

One of those letters was from the U.S. Conference of Mayors. The quote from that letter is:

> The mayors believe that this legislation can dramatically improve the nation's efforts to recycle abandoned or other underutilized brownfields sites, providing new incentives and statutory reforms to speed the assessment, cleanup and redevelopment of these properties.

I think that is a very dramatic statement. As the Presiding Officer knows, the mayors are a bipartisan group from both political parties all across the country and are across the political spectrum as well.

Another letter we received was from the Trust for Public Land. One paragraph of that letter states:

> Brownfields afford some of the most promising revitalization opportunities from our cities to more rural locales. This legislation will serve to help meet the pronounced needs in under-served communities to reclaim abandoned sites and create open spaces. . .reclamation of brownfields properties brings new life to local economies and to the spirit of neighborhoods.

Also from the National Conference of State Legislatures:

> I . . . commend you for your continued commitment to the issue of brownfields revitalization. Without the necessary reforms to CERCLA, [the Superfund law] clean up and redevelopment opportunities are lost, as well as new jobs, new tax revenues, and the opportunity to manage growth . . . NCSL has made this a top priority and we applaud the committee's leadership. . . .

Finally, from the Building Owners & Managers Association, International:

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

Mr. President, as I have stated many times indeed—and the distinguished Presiding Officer also mentioned some of this in his remarks—this bill is going to encourage redevelopment and revitalization all across our country.

I would like to highlight one particular redevelopment option that would benefit from this bill. It is called ECO industrial development. It is similar to that of the Londonderry, NH, industrial park.

By reducing the waste and pollution from industry, industrial land users become better neighbors in residential areas. Developers and communities can target the kind of development they want rather than being at odds with each other.

I think that is the beauty of this legislation.

Eco-industrial development helps break down the notion that enhanced environmental management can only be done at a greater cost to businesses. It is not true. The two go hand in hand. You can have an enhanced environment, and you can enhance industry. That is why this concept is so appropriate.

I am hopeful this legislation will, in fact, encourage responsible redevelopment and revitalization similar to the Londonderry eco-Industrial park.

Let me talk about eco-industrial development for just a second. It creates efficiencies in the use of materials and energy through planned, voluntary networks among businesses and their industrial-manufacturing processes. This increased efficiency not only drives down pollution and waste generated by these industrial processes, but it increases the profitability and competitiveness of the businesses at the same time. With these reinforcing benefits, eco-industrial development is a market-based, incentive-driven means for preventing pollution rather than relying on the fragmented, end-of-the-pipe regulations we have done for so many years.

So our current measures of productivity are based almost entirely on measuring industrial output per unit of labor. But a handful of companies—Dow Chemical, Monsanto, 3M, Ford Motor, and others—have been focusing on ways to increase or maintain their current level of output while using fewer resources. This resource productivity can increase a company's return on its assets significantly. And overall, an industrial and manufacturing sector in the U.S. that uses materials and energy more efficiently will become more productive, more profitable, and will remain competitive in global markets.

I think the moral of the story is that when you take an abandoned site that has been polluted and you convert it into whatever—either a green space or a true park or playground, or a baseball field, as the Presiding Officer mentioned, in Trenton—whatever you do with it, if you turn it into something productive, you have, No. 1, created jobs in doing so, and, No. 2, you have taken all the pressure off additional green space—a lot of pressure off additional green space—that now will not be developed because this will be redeveloped, and also you help to beautify your community.

I think it is also important to point out it is not just the large cities such as Trenton, NJ, or Manchester, NH, or any other large city—it is not just large cities—there are many small towns all across America where some 400,000 to 500,000 of these sites lie. A lot of them are on the eastern seaboard in the early developed areas of our country, along the rivers and railroad tracks, and these are the areas that need help.

For so many years, under the current Superfund law, they have not been able to develop these sites because industry and contractors simply would not take the risk, knowing the possible liability. So that is why this legislation is so exciting. It is also why we have 70 cosponsors and why we probably will have a close to unanimous, if not unanimous, vote in the Senate. And we look

forward to seeing this bill move forward to the House, and to get it out of the House or out of conference, whatever the case may be, and get it to the President's desk.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CORZINE. Mr. President, I rise in strong support of S. 350, the Brownfields Revitalization and Environmental Restoration Act of 2001. I am proud to be a cosponsor of this important legislation.

This bill proves that environmental protection and economic development can go hand in hand, that we can take depressed, blighted areas, such as those in New Jersey with which we have worked, and make them vibrant and productive, and that we can do so in a cooperative, bipartisan manner.

Hundreds of thousands of contaminated industrial sites lie underutilized or even abandoned across the country, largely because of the potential risk and expense of cleaning them up. New Jersey has more than 8,000 of these brownfields.

When developers now look at these sites, they see a hornet's nest of problems. But when I look at them, I see opportunities. Many of these brownfields are located in economically depressed urban areas. Cleaning them up can spur economic development, create jobs, and bring in additional tax revenue.

Of course, cleaning up brownfields does more than help the economy. It also protects the public health. In addition, by cleaning up sites in our urban areas, we redirect development away from our remaining open space and reduce many of the problems associated with sprawl.

Unfortunately, despite the broad benefits of cleaning up brownfields, the private sector often finds it unattractive or unrealistic to take on the task. Nor is it always easy for States and local governments. That's why this legislation is so important. By providing needed funding and placing reasonable limits on developers' liability, it should encourage the development of many brownfields and the revitalization of depressed areas around our Nation and across the State of New Jersey.

This legislation also represents an important compromise of Federal and State interests. It provides funding for grants to States to help them enhance and develop their own brownfields programs. It recognizes the important lead role that States play in dealing with brownfields, but it also retains the right of the Federal Government to intervene under certain circumstances to address serious threats that may arise. In general, I see this as a sound balance.

We should be proud that we have been able to work this in a way that leads to a positive long-term result.

I do point out, however, that this bill merely provides an authorization for funding in the future. It doesn't provide the funding itself. Often we talk about authorizations and take victory laps, but the appropriations process is important. That will be up to those in the appropriations process later on, and we'll all have to work hard to make sure that we can find real dollars to be placed against this real need.

Along these lines, I was very disappointed that the Bush budget included only $98 million for brownfields redevelopment. That's far short of the $250 million authorized in this bill for fiscal year 2002. The Bush administration has said that it would support the bill, but their budget doesn't have the money to show this support. Congress will have to do better.

Finally, I acknowledge the leadership of my predecessor, Senator Frank Lautenberg, who took the lead in the last Congress to develop this legislation. Senator Lautenberg for years has been a strong advocate of addressing brownfields. I am pleased that his efforts—and the efforts of staffer Lisa Haage, who now works for the Environment Committee—soon should bear fruit.

I also want to thank Senators SMITH, REID, CHAFEE, and BOXER for their leadership and hard work in crafting and advancing this bipartisan legislation this year. This bill proves that bipartisanship can and will lead to positive results, particularly with regard to environmental legislation. I am hopeful that that spirit of cooperation will operate here in the Chamber.

With that, I conclude my remarks and again urge my colleagues to support this legislation.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. CARPER. Mr. President, I want to take a few minutes this afternoon to express my support for S. 350, the Brownfields Revitalization and Restoration Act. It is a bill which I hope we will vote to pass today and, hopefully, it will be enacted in the House as well. The bill before us this afternoon represents years of discussion, countless hearings and a genuine compromise. Some people in this Chamber have been part of those discussions and have worked hard to achieve this compromise.

We have heard from others today who talked about the balance this bill represents and some of the compromises it contains. I want to focus in my remarks on what this bill means to our States, including the State I am privileged to represent, Delaware, where this legislation can make and will make a real and significant impact.

This morning, I came to work by train, as I do most mornings. I caught the train in Wilmington and headed down to Washington. I looked out, as I often do, the left side of the train as we pulled out of the Amtrak station in Wilmington, and I looked over to an area that during World War II was a prime area for building ships, along the magnificent Christina River. Between roughly 1941 and 1945, some 10,000 men and women worked along the banks of the Christina River in Wilmington. They built all kinds of ships, destroyer escorts, troop landing ships, Liberty ships, and other vessels that really helped to win World War II.

When the war was over in 1945, not surprisingly, all of those people were no longer needed. Eventually, within a few years after the end of the war, that vibrant shipbuilding community along the Christina folded up and all of those jobs, for the most part, went away. What had been a vibrant area with manufacturing vitality began to go to seed, and over the years it eventually turned into an abandoned wasteland.

To be honest, as Delaware's Congressman during the late 1980s, as I rode that same Amtrak train to work, I looked out that window and said to myself, boy, this looks awful. And it did. Today it doesn't. Today, we have a river walk, we have a beautiful park, we have buildings that have been restored or are being restored, we have museums, restaurants, and places to shop. We have a stadium where one of the greatest minor league baseball teams in America plays, the Wilmington Blue Rocks.

A couple years ago, as Delaware's Governor, I signed legislation that enabled us to go in and turn that industrial wasteland into the riverfront jewel that it is becoming today for the State of Delaware. We returned to productive use some land that had been forgotten and that in a way, served as a buffer to keep people away from the river.

I want to thank several people, certainly our subcommittee chairman, the ranking Democrat, and Senator CHAFEE, who headed the subcommittee to develop this bill and nurtured it over the years. I thank Senator SMITH, chairman of the committee, for his good work, and Senator REID of Nevada, who has spent a fair amount of time in these vineyards in the last couple of years.

As a freshman Senator who joined this important debate a little late, they were kind enough to work with me and teach me a thing or two about these issues and listen to my concerns and to reflect some of them in the final bill. I don't see my friend from Ohio on the floor, but I want to say a word about Senator VOINOVICH, who chaired

the National Governors' Association during the time when I was its vice-chairman, and who has worked on this bill with me. We had the opportunity to work a little together on this legislation and he was instrumental in making a good bill even better. I am pleased to say to colleagues today and fellow Governors across the country that included in this bill is a provision that will go some distance toward ensuring that State certification of brownfields cleanup will actually result in the revitalization of thousands of underutilized sites in States across the country.

I thank Senator VOINOVICH for his work on this, as well as the other members of our committee who have worked very hard and patiently over the last several months and years, and who didn't pass up the opportunity this year to make this bill the best it could be. I believe what we have today is a brownfields bill that moves EPA's existing program a significant step forward.

This bill protects our environment and encourages businesses to reuse these sites. In my opinion, it just makes good sense. I urge my colleagues to vote in support of this bill.

Before I yield, I want to say, in reflecting on my first roughly 3 months here as a Senator, I have had the opportunity to work in a bipartisan manner in the Chamber on a couple of major initiatives, such as bankruptcy reform, along with the Presiding Officer, who was instrumental in it; but the bill passed with 85 votes, with broad bipartisan support. There was also campaign finance reform, which enjoyed a lot of Democratic and Republican support as well. We had the budget resolution, which ended up enjoying a fair amount of Democratic support as well as Republican support, and today we have the brownfields legislation, which I believe will pass this Chamber with broad bipartisan support. I am encouraged at this degree of bipartisan support we have seen on these issues. Maybe we will somehow set the stage today for debate which is to begin maybe tomorrow or next week, and that is to bring up the education issues, to try to redefine the Federal role regarding the education of our children.

Thank you, Mr. President. I surrender my time and I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH of New Hampshire. Mr. President, I want to take a couple of minutes to explain to my colleagues the managers' amendment, which will be part of the entire vote. We did expand the bill. At the end of the markup in committee, there were a number of concerns raised by Senators on both sides, which we attempted to address and finally were able to address. I wanted to highlight three or four of them on both sides of the aisle.

Senator INHOFE raised a concern, and Senator BOND as well, about innocent parties cleaning up relatively low-risk brownfield sites contaminated by petroleum or a petroleum product. We were able to allow for the application for brownfields revitalization funding for those purposes as requested by Senators INHOFE and BOND.

Also, in authorizing $200 million annually for the brownfields revitalization program, we added another $50 million, or 25 percent of the total for the cleanup of petroleum sites. This was included in the managers' amendment. We have unanimous committee support for it today. Those are two contributions to the overall legislation by Senators INHOFE and BOND.

In addition, Senator CHAFEE asked for a clarification that a grant or loan recipient may use a portion of that grant or loan to purchase insurance for the characterization assessment or remediation of the prospective brownfields site. We were able to take care of that.

Senator CLINTON asked for conditions to the rank and criteria used to award moneys under this bill to address sites with a disproportionate impact on the health of children, minorities, and other sensitive subpopulations in communities with a higher than average incidence of cancer and other diseases and conditions. We were able to include that. Another concern of Senator CLINTON was an element to a State response program whereby a citizen can request a State official to conduct a site assessment and the State official considers and responds appropriately to that request. Those issues of concern were added to the managers' amendment.

In addition, Senator VOINOVICH asked for a requirement that the Administrator consult with States in determining when new information regarding a facility presents a threat to human health or the environment, while preserving EPA's authority to take appropriate action.

Mr. President, I also received a moment ago a statement from the administration. I will quote from part of it:

> The administration supports Senate passage of S. 350 which would authorize appropriations to assess and clean up certain abandoned industrial sites known as brownfields and provide protection from liability for certain landowners. By removing barriers to brownfield cleanup and redevelopment, S. 350 would allow communities to reduce environmental and health risks, capitalize on existing infrastructure, attract new businesses and jobs, and improve their tax base.

We are pleased to have that statement of support.

Before I yield to Senator REID for final remarks before the vote, I thank Senator REID again and all of the members of the committee, Senator CHAFEE, Senator BOXER, and all those who worked with me to bring this to closure. It has been a pleasure. I have enjoyed it. It was a long ride, but we finally got to the end. We are glad we did. The country will be the beneficiary of our actions.

It is nice to know that a piece of legislation, once it passes, will have immediate results for almost any community in America. There are so many sites. There are probably very few communities that do not have a brownfield site, which is an abandoned industrial site.

I will be pleased when the bill is signed and when the dollars start to flow, not just from the few dollars we have in the Federal process but from the investments that will be made by the private sector because these folks will now be able to go onsite and clean them up.

I am excited about the bill. I am glad we are at the end. I am happy to hand it over to the House now and wait for them, and hopefully, if there is a conference, it will be an easy one.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I want to take a minute to express my appreciation to the Senator from Delaware for being a member of the committee. Senator CARPER and I came to Washington together, along with the Presiding Officer, in 1982. When he was elected to the Senate, I was very happy. He was a great Member of the House of Representatives and a tremendous Governor.

I was happy to visit the State of Delaware on a number of occasions and work with the Governor of Delaware. The people of Delaware are very fortunate to have someone of the caliber of TOM CARPER representing them in the Senate. He is a great addition to JOE BIDEN. They are good Senators. I do not know how you can do better than the two Senators from the State of Delaware.

Senator CARPER's work on the committee and on this bill has been exemplary. He reached out on a bipartisan basis to Senators CRAPO and VOINOVICH. He and Senator VOINOVICH were fellow Governors. As a result of his advocacy, he worked very hard with Senator VOINOVICH to satisfy the problems he had with this bill. I express my appreciation to the Senator from Delaware.

I was very happy to hear from Senator SMITH that we do now have a statement from the administration on this legislation. This is, in effect, icing on the cake. This legislation has been long in coming. The prior administration tried very hard to get it before the Congress. For various procedural reasons, we were unable to do so for 2 years. On a bipartisan basis, the committee was able to report this important legislation for consideration by the Senate.

This legislation is representative of how we should operate in the Senate. It is a bill we recognize was controversial. It is a bill about which we recognize there were disparate views in the committee, and we also realize the Senate was divided 50/50, just as the Environment and Public Works Committee was divided 50/50. Republicans reached

Democrats, Democrats reached Republicans, and we came up with this legislation.

This is very good legislation; 500,000 sites in America will benefit from this legislation. Billions of dollars will go to local communities. Hundreds of thousands of jobs, in fact 600,000 jobs, will be required to clean up these sites. This is important because, as we indicated earlier this morning, there are corner service stations in urban areas upon which nothing can be built. People will not touch them because they are an old service station and there may be Superfund liability. This legislation takes care of that.

Corner service stations all over America will be cleaned up and something built which will contribute to the local community.

There are dry cleaning establishments all over America. We do not have big dry cleaners. They are all small. All over America we have old dry cleaning establishments. New businesses will not touch them because of possible Superfund liability. This legislation takes care of all that.

This is what the American people want in sending us an equally divided Senate. This is what the people deserve. This legislation will go a long way toward making people feel good about Government.

It has been a pleasure working with the Senator from New Hampshire, as I have already stated. This is a joint effort. I commend and applaud the chairman of the subcommittee, Senator CHAFEE, and the ranking member of the subcommittee, Senator BOXER, for their outstanding work.

Mr. President, have the yeas and nays been ordered on this matter?

The PRESIDING OFFICER. They have not.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, amendment No. 352 is agreed to.

The amendment (No. 352) was agreed to.

The PRESIDING OFFICER. The committee amendment in the nature of a substitute, as amended, is agreed to.

REGARDING CONSULTATION WITH THE STATES ON NEW INFORMATION

Mr. VOINOVICH. Mr. President, I would like to take this opportunity to clarify some issues related to the Brownfields Revitalization and Environmental Restoration Act. Is it the Chairman's understanding that the exception under which the President may bring an enforcement action following new information becoming available is to occur after the Administrator has consulted with the State?

Mr. SMITH of New Hampshire. My colleague from Ohio is correct. The managers' amendment clarifies the role of the State when new information has become available. Specifically, the Administrator must consult with the State before an enforcement action can be taken. Additionally, the State's records must be consulted to determine whether the new information was known by the State as defined in the legislation.

Mr. VOINOVICH. Is it also correct that this provision does not limit the Administrator of the EPA from making a determination, based on new information, that the conditions at the facility present a threat that requires further remediation?

Mrs. BOXER. Yes, The managers' amendment states that consultation with the State shall not limit the ability of the Administrator in making a determination, as the result of new information, that contamination or conditions at a facility present a threat requiring further remediation to protect public health or welfare or the environment. Consultation with the State is important and is addressed in this section and other portions of the bill. It is not intended, however, to be an open-ended process. Consultation should not delay or prohibit the Administrator's ability to determine that a site presents a threat that requires further remediation.

Mr. REID. I am very pleased that we were able to resolve the concerns raised by my colleague Mr. VOINOVICH at the Committee markup, and wish to thank him for working with us to reach this resolution.

Mr. VOINOVICH. I thank my colleagues for clarifying the role of the States in making these determinations.

REGARDING PETROLEUM SITES

Mr. INHOFE. Mr. President, I would like to ask the chairman and ranking member if they agree with my interpretation of the Inhofe amendment adopted as part of the managers' package.

This amendment ensures that certain sites that have been contaminated by petroleum or petroleum products, ''petroleum contaminated'', will be eligible for funding under title I of this bill, by expressly adding these sites to the definition of ''brownfield sites,'' and specifically authorizing funding for the characterization, assessment and remediation of these sites. These petroleum-contaminated sites must meet several conditions to be eligible for funding under this new provision.

First, the site must be relatively low risk, as compared with other petroleum-only sites in the State. This provision does not presuppose that each State has conducted a ranking of its petroleum sites, or require that it do so. Rather, we are aware that most States already have experience in making determinations as to which petroleum contaminated sites pose the greatest risk, under section 9003(h)(3) of the Solid Waste Disposal Act (SWDA), States are directed to prioritize sites for corrective action based on ''which pose the greatest threat to human health and the environment.'' The Committee contemplates that States will be able to use similar approaches to those used under section 9003(h)(3) to identify sites that are appropriately covered by this provision, those that are relatively low risk.

Section 9003(h)(3) of the Solid Waste Disposal Act directs states, who are authorized under section 9003(h)(7), to prioritize underground storage tank, ''UST'', sites. Under 9003(h)(3), a priority for remediation is given to UST sites which pose the greatest threat to human health and the environment, as determined by those States. The new section 128(a)(D)(ii)(II) of S. 350 addresses sites that meet all of the following conditions: there are no viable responsible parties, otherwise known as abandoned sites; the petroleum site is not subject to an order under section 9003(h) of SWDA; and the petroleum contamination is relatively low risk. Relatively low risk should be determined by comparing the relative risk of a given site to UST and other petroleum contaminated sites in that State. The determination as to whether a particular site meets the ''relatively low risk'' criterion will be made by the entity that is awarding the grant or loan to the person doing the work.

Funds authorized under the new section 128(l)(2) shall be used for site remediation, characterization, or assessment. If a site uses funds authorized by section 128(l)(2) to assess a site, and it is later determined (after the assessment) that the site is eligible for other applicable Federal and State funding, funds from those other applicable Federal or State programs shall be used first. This will preserve funds authorized under this bill for sites that do not have access to another source of funding.

Neither this nor any other provision of S. 350, in any way, alters the exclusion of petroleum or petroleum products from the definition of ''hazardous substance'' under section 101 of CERCLA.

Mr. CRAPO. I commend the Senator from Oklahoma for this amendment and am also interested in knowing if this interpretation is consistent with the intent of the chairman and the ranking member of the Environment and Public Works Committee.

Mr. SMITH. The Senator from Oklahoma's interpretation of the amendment is consistent with my interpretation of the provisions and I am pleased we were able to include it in the manager's amendment.

Mr. REID. I agree with the chairman. I hope that this section will provide an additional tool for addressing abandoned petroleum sites. The bill includes mechanisms to allow us to evaluate how this and other provisions of the bill are working, and whether the funding levels are sufficient.

Mr. BOND. I'd like to thank the chairman and ranking member for

their cooperation on this amendment and commend the Senator from Oklahoma for his leadership on this important initiative, which will provide a vital tool for brownfields cleanups.

REGARDING ''CONTRACT CARRIAGE'' AND ''SPUR TRACK'' ISSUES

Mr. INHOFE. Mr. President, as we have discussed here today, I hope there will be additional opportunities for the committee to consider needed legislative changes to sections of Superfund that are not related to brownfields.

There are two such changes which clarify liability for common carriers and rail spur track owners I would like to bring to your attention which this committee has favorably considered in past Superfund bills.

The first provision would conform the existing law to the industry's current practice of using contract carriage agreements by clarifying that a railroad would not be liable for the transportation of hazardous substances under the terms of a contract with a shipper who later mishandles the commodity. This is a technical amendment which is necessary to reflect the fact that most rail shipments today move under the terms of transportation contracts, not tariffs, as was the case when CERCLA was first enacted in 1980.

The second issue addresses contamination on or around spur tracks, which run to and through shipper facilities. The current law states that railroads can be potentially liable as landowners for such contamination even when it is caused by a shipper. This change would hold the railroad liable only if the railroad caused or contributed to the release of the hazardous substance.

Both these issues recognize that a railroad, as a common carrier, should not be liable when it cannot control its customer's handling of hazardous substances, and the customer's actions result in the release of a hazardous substance that creates CERCLA liability.

These noncontroversial changes are simple and needed reforms to the Superfund law, and I would hope you could support including these provisions in later Superfund legislation or even, if the opportunity presents itself as part of this brownfields bill.

Mr. SMITH of New Hampshire. I would say to my good friend that I agree with these provisions and have, in fact, supported them in the past. I will continue to support them, but as we have discussed it will be difficult to include them in the brownfields bill. I would certainly support the inclusion of these provisions in any Superfund legislation that the committee acts on later this year.

Mr. INHOFE. I thank the chairman for his support on these two provisions.

REGARDING ENVIRONMENTAL INSURANCE

Mr. REID. Mr. President, I appreciate the work of the subcommittee chairman and ranking minority member and the Environment and Public Works Committee chairman in helping craft this brownfields bill. I would like to clarify one matter in the managers' amendment regarding the use of funding under this bill to purchase certain environmental insurance at brownfield sites.

S. 350 clarifies that a person who receives federal funds for characterization, assessment and cleanup of a brownfield site, and is performing that work, will be able to use a portion of that money to purchase insurance for the characterization, assessment or remediation of that site. While I believe this can be a valuable tool, I would like to ensure that the limited brownfield funding is maximized to facilitate cleanup and reuse of as many sites as possible.

I would like to confirm with the chairman of the Subcommittee on Superfund, Waste Control, and Risk Assessment that the language is limited to the purchase of environmental insurance by persons performing the actions, that the purchase of environmental insurance is intended to be a relatively minor percentage of the overall costs at a site, and that its primary purpose is to insure against costs of assessment, characterization and cleanup being higher than anticipated.

Mr. CHAFEE. Mr. President, the Senator from Nevada is correct. This provision is intended only to clarify that a person performing the characterization, assessment, or cleanup can use federal assistance to purchase environmental insurance such as cost-cap insurance, which is one of the most frequently used policies at brownfield sites. Such a policy would cover the costs of cleanup if the actual costs exceeded estimated costs. It is my understanding that this clarifies EPA's current practice. This protection can give a developer the necessary comfort to invest in a site. In addition, the purchase of such environmental insurance with federal assistance is not intended to be a significant portion of the overall assessment, characterization, or cleanup costs at a site. The Senator from Nevada also is correct regarding the purpose of these policies: no portion of the funding under this bill would be available for other types of insurance.

Mr. REID. Mr. President, I appreciate the chairman's clarification of this matter.

REGARDING A MECHANISM FOR CITIZENS TO REQUEST STATE OFFICIALS TO ASSESS A POTENTIAL BROWNFIELDS SITE

Mrs. CLINTON. Mr. President, I thank Chairmen SMITH and CHAFEE and Senators REID and BOXER for agreeing to further enhance opportunities for public participation in state brownfields programs under S. 350. Specifically, the bill as amended would provide an opportunity for individuals to request that a nearby brownfields site be assessed under a state program, and for such requests to be considered and responded to in an appropriate manner by the State. Although states complying with the other state program elements in the bill must survey and inventory sites in the state, there may be rare instances when sites are inadvertently overlooked. I am particularly concerned about this happening in communities that may be small or sparsely populated, low-income, minority, or otherwise socially or politically disenfranchised.

This new provision will help to ensure that in those rare circumstances that a site is overlooked in a State's survey process, someone who lives or works in the community can bring a potential brownfields site to the attention of the State and request that the site be assessed under the state's brownfields program. The intent is to provide states with the flexibility to set up this element of their state brownfields program as they best see fit, and the provision does not create an appeals process. Is that your understanding of the provision?

Mr. SMITH of New Hampshire. Yes, that is my understanding of the provision.

Mr. REID. That is my understanding as well.

Mr. VOINOVICH. I agree that it is important for States to be responsive to the concerns of their citizens. As a former Governor of Ohio, I have the unique first-hand experience of dealing with such issues and the role of the state. In fact, Ohio law already requires the state to respond to environmental complaints.

The Ohio Environmental Protection Agency, OEPA, responds under the verified complaint procedure required under State law. Under this statute, the Director of OEPA must take action by expeditiously investigating claims and following up within a specified period of time. If enforcement action is warranted, then the Director must contact the State Attorney General to initiate proper proceedings.

Mr. SMITH of New Hampshire. It is important for a State to be responsive to concerns brought up by its citizens. For example, under the New Hampshire program, if a citizen contacts the Department of Environmental Services, DES, regarding a site, the first and foremost consideration is to carefully assess the potential risk to human health and the environment. Both written and telephone communications are assigned to DES's Special Investigations Section in the Waste Management Division. There are four individuals who are involved in this work and provide round-the-clock coverage.

DES first checks the data base to verify that the inquiry is indeed a new matter and decides, based upon the information offered, the level of risk and hence the immediacy of response required. Departmental protocol governs this practice. An essential element of this approach is based upon the intuitive, knowledgeable sense of the staff person receiving the call. An attempt is made to identify matters that require immediate response from others of a less immediate nature. In the event of a grave emergency, DES or the

on-scene commander, may request assistance from EPA's emergency responders.

In the case where a site warrants an emergency response, the citizen inquirer would be given information as soon as the site was in control and the responders or other Division staff could be made available to provide details. If the case is determined to be a new site, the citizen would be responded to when an initial site drive by or on the ground investigation had been made. In this case an inquirer would be told what to expect for a response time, if a response were necessary.

An inquiry related to a known site which was not an emergency situation would be addressed by the assigned Project Manager, who could comment on planned or on-going work at the site and the nature or degree of risk. DES also would seek to determine whether the inquirer had new information that might be relevant. Most often, DES would make an initial response to an individual within 2–3 days.

As you can see, Senator CLINTON, the State of New Hampshire has a very responsive brownfields program that takes seriously all requests and inquires made by its citizens.

Mrs. CLINTON. Thank you, Senator SMITH and Senator VOINOVICH. I think everyone would agree with you that it is important for states to be responsive to citizens' concerns, and that many states are doing just that.

REGARDING INFORMATION

Mr. INHOFE. Mr. President, the ''information'' referred to in new section 129(b)(1)(B)(iv) of S. 350 pertains to information that indicates that a site presents a threat requiring further remediation to protect public health or welfare or the environment. The committee expects that the Administrator shall use her discretion in determining whether this information is both credible and relevant to the site.

''Information'' consists of information not known by the State on the earlier of the date on which cleanup was either approved or completed. The ''information'' need not be specific to this site; however, it must be relevant to the site in question. After careful consideration of the quality, objectivity and weight of the ''information'' regarding the site, the Administrator shall decide whether this information is adequate to determine there is a threat to public health or welfare or the environment.

This ''information'' triggers this section only if the Administrator determines that it indicates that such contamination or conditions at the facility present a threat requiring further remediation to protect public health or welfare or the environment. Do the chairman and ranking member agree with this interpretation of ''information?''

Mr. REID. Yes, that is correct. This provision is intended to ensure that the public health and the environment are protected from such threats.

Mr. SMITH of New Hampshire. I share my colleagues' interpretation of this provision.

REGARDING CATTLE DIPPING VATS

Mr. GRAHAM. Mr. President, I would like to confirm with the chairman and ranking Democratic member of the Environment and Public Works Committee that certain sites in my State would be eligible for the benefits of this important brownfields legislation. In several States, including my State of Florida, there are a number of sites that were contaminated in the early to mid-1900's by chemicals used for tick-prevention measures required by the United States Department of Agriculture. So-called cattle dipping vats were used to eliminate ticks that threatened our Nation's cattle. It is my understanding that these sites would be eligible for the benefits of this important brownfields legislation. Is that your understanding?

Mr. REID. I agree with the Senator from Florida that sites contaminated by the historic practice of dipping cattle to eliminate ticks are eligible for benefits under this bill, so long as any particular site meets the definitions and conditions in the bill.

Under the bill funding is available for assessment and cleanup of ''brownfield sites,'' which are ''real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.'' It is my understanding that the sites the Senator describes would meet this portion of the definition of eligible brownfield sites under the bill.

The bill goes on to exclude certain categories of sites, such as those that are listed or proposed for listing on the Superfund National Priorities List, and those that are subject to orders or cleanup requirements under other Federal environmental laws. So long as the sites the Senator refers to are not within any of the exclusions they would be eligible.

Mr. SMITH of New Hampshire. I can appreciate the concerns raised by the Senator from Florida. I agree with Senator REID that sites contaminated as a result of former cattle dipping practices and which meet the definitions and conditions for sites to obtain funding and liability relief under this bill will be eligible for the benefits of this bill.

Mr. GRAHAM. I thank the chairman and ranking Democratic member for that clarification. I believe that since the federal government required these dipping vats to be constructed, the individuals who complied with that federal requirement should be excluded from all liability under Superfund. However, I also believe that the brownfields legislation we are considering today is a critical step forward in our ability to clean-up sites around the country. I look forward to working with both of you and our colleagues on the Environment and Public Works Committee to take additional steps forward in the months to come.

ALASKA NATIVE CORPORATIONS ELIGIBILITY

Mr. STEVENS. Mr. President, I congratulate the Chairman and Ranking Member of the Environment and Public Works Committee for developing a bill that has secured enormous bipartisan support in this Congress. This is an important program for many states.

I have considered cosponsoring the measure. However I withhold sponsorship at this time because there is a problem relative to which native entities in Alaska are eligible for such funding.

Alaska native corporations have no government powers but manage, as private landowners, twelve percent of our state.

The federal government has recognized 229 tribes in Alaska most of which do not have governmental power over land.

The bill is ambiguous as to whether Alaska native corporations, are eligible entities as ''Indian Tribes.''

I have not raised this with the committee, but do request assurance that the conference will address this matter.

Mr. SMITH of New Hampshire. I would like to work with the Senator on that issue.

EDA AND HUD DEVELOPMENTAL FUNDING

Mr. LEVIN. Mr. President, I would like to engage my colleagues, Senators JEFFORDS, REID, and SMITH from New Hampshire in a colloquy on the Brownfields Revitalization and Environmental Restoration Act of 2001, S. 350. I am a co-sponsor and strong supporter of this brownfields revitalization bill. I commend Senators SMITH, REID, CHAFEE and BOXER for their hard work on crafting bipartisan brownfields legislation which will help communities return these former commercial and industrial properties back to productive use. The financial incentives and statutory reforms provided in S. 350 will dramatically improve our communities' efforts to redevelop brownfields.

As cochairmen of the Senate Smart Growth Task Force, Senator JEFFORDS and I will introduce bills to complement S. 350 by providing communities with economic resources to redevelop brownfield sites. Our first proposal would expand efforts of the Department of Commerce's Economic Development Administration, or EDA, to assist distressed communities. The bill will provide EDA with a dedicated source of funding for brownfields redevelopment and increased funding flexibility to help States, local communities and nonprofit organizations restore these sites to productive use. Our second proposal would permit the Department of Housing and Urban Development to make brownfields economic development initiative grants independent of economic development loan guarantees, and set-aside a portion of the funding for smaller communities. I hope that Senators SMITH and REID will work with us to get our proposed legislation enacted.

These proposals would be very complementary to S. 350. Economic development funding through EDA and HUD along with the financial resources and liability clarifications contained in S. 350 would provide communities with the help they need to return brownfields to productive uses. Together, our proposals and S. 350, would provide communities with the financial assistance needed to leverage private investment in brownfields and accelerate reuse.

A number of national economic development organizations support this proposal, including the US Conference of Mayors, National League of Cities, National Association of Counties, National Association of Development Organizations, National Association of Regional Councils, National Association of Towns and Townships, Enterprise Foundation, National Congress for Community Economic Development, Smart Growth America, Council for Urban Economic Development, National Association of Installation Developers, and the National Business Incubator Association.

Mr. JEFFORDS. Mr. President I join my colleague, Mr. LEVIN, in commending Senators SMITH of New Hampshire, CHAFEE, REID, and BOXER for their efforts to promote brownfield revitalization. I am a co-sponsor and strong supporter of S. 350, and believe this legislation is long overdue.

Senator LEVIN and I have been working on complementary legislation. The proposal would provide the Economic Development Administration (EDA) with a formal channel of funding to help communities turn brownfields environmental liabilities into economic assets. This legislation would provide targeted assistance to projects that redevelop brownfields. EDA funding for brownfields will help communities get the financial assistance needed to leverage private investment in brownfields. With over 450,000 brownfields sites nationwide, it is imperative that the federal government assist local cleanup efforts that in turn will stimulate economic revitalization.

The second legislative proposal addresses requirements on the Department of Housing and Urban Development's (HUD) Brownfields Economic Development Initiative (BEDI) grant program that are hampering small city brownfields revitalization efforts. BEDI's required link to Section 108 serves as a deterrent to many small towns in Vermont and throughout the nation, who do not have the resources to commit to brownfields. Our bill would permit HUD to make grants available independent of economic development loan guarantees.

I am very hopeful that the Chairman and Ranking Member of Committee on Environment and Public Works will work with us to advance this important legislative initiatives.

Mr. REID. Mr. President, I would like to thank my colleague from Michigan, Mr. LEVIN, and my colleague from Vermont, Mr. JEFFORDS, for their strong support of S. 350 and commend them for their efforts to provide communities with economic development resources to redevelop brownfields. I commit to my colleagues, Mr. LEVIN and Mr. JEFFORDS, that I will work with Senator SMITH to have a hearing on their Economic Development Administration brownfield proposal. I look forward to working with them to explore options to further address the reuse of brownfields and look forward to working with them to protect our communities.

Mr. SMITH of New Hampshire. I thank Mr. JEFFORDS and Mr. LEVIN for their support and co-sponsorship of S. 350. I appreciate their efforts to craft legislation complementary to S. 350. As such, I will look closely at their proposals and work with them to further advance the issue of brownfield redevelopment.

INDIAN TRIBES

Mr. BINGAMAN. Will the Senator from Nevada yield for a question?

Mr. REID. I yield.

Mr. BINGAMAN. I thank the Senator. Mr. President, I believe that this is a good piece of legislation that will promote the cleanup and reuse of business and industrial sites that now stand essentially abandoned. I would just like to clarify one point. I note that throughout much of the Bill any reference to 'States' is accompanied by a reference to 'Indian Tribes'. However, this is not the case in section 129(b)(1)(B)(ii), as added by section 301 of the Bill, regarding federal enforcement actions in the event of contamination migrating across a State line. Could the Senator confirm that it is the intention of the legislation that references in that section to 'States' should extend to 'Indian Tribes'?

Mr. REID. Yes Senator, that is the intention.

Mr. BINGAMAN. I thank the Senator.

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

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

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

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arkansas (Mr. HUTCHINSON) is necessarily absent.

The PRESIDING OFFICER (Mrs. CARNAHAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 87 Leg.]

YEAS—99

Akaka	Bayh	Bond
Allard	Bennett	Boxer
Allen	Biden	Breaux
Baucus	Bingaman	Brownback
Bunning	Frist	Miller
Burns	Graham	Murkowski
Byrd	Gramm	Murray
Campbell	Grassley	Nelson (FL)
Cantwell	Gregg	Nelson (NE)
Carnahan	Hagel	Nickles
Carper	Harkin	Reed
Chafee	Hatch	Reid
Cleland	Helms	Roberts
Clinton	Hollings	Rockefeller
Cochran	Hutchison	Santorum
Collins	Inhofe	Sarbanes
Conrad	Inouye	Schumer
Corzine	Jeffords	Sessions
Craig	Johnson	Shelby
Crapo	Kennedy	Smith (NH)
Daschle	Kerry	Smith (OR)
Dayton	Kohl	Snowe
DeWine	Kyl	Specter
Dodd	Landrieu	Stabenow
Domenici	Leahy	Stevens
Dorgan	Levin	Thomas
Durbin	Lieberman	Thompson
Edwards	Lincoln	Thurmond
Ensign	Lott	Torricelli
Enzi	Lugar	Voinovich
Feingold	McCain	Warner
Feinstein	McConnell	Wellstone
Fitzgerald	Mikulski	Wyden

NOT VOTING—1

Hutchinson

The bill (S. 350), as amended, was passed, as follows:

S. 350

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

TITLE I—BROWNFIELDS REVITALIZATION FUNDING

SEC. 101. BROWNFIELDS REVITALIZATION FUNDING.

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

''(39) BROWNFIELD SITE.—

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

''(B) EXCLUSIONS.—The term 'brownfield site' does not include—

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

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

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

''(iv) a facility that is the subject of a unilateral administrative order, a court order,

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

''(v) a facility that—

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

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

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

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

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

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

''(viii) a portion of a facility—

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

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

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

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

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

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

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

''(II)(aa) is contaminated by petroleum or a petroleum product excluded from the definition of 'hazardous substance' under section 101; and

''(bb) is a site determined by the Administrator or the State, as appropriate, to be—

''(AA) of relatively low risk, as compared with other petroleum-only sites in the State; and

''(BB) a site for which there is no viable responsible party and which will be assessed, investigated, or cleaned up by a person that is not potentially liable for cleaning up the site; and

''(cc) is not subject to any order issued under section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)); or

''(III) is mine-scarred land.''.

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

''SEC. 128. BROWNFIELDS REVITALIZATION FUNDING.

''(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

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

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

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

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

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

''(6) a State; or

''(7) an Indian Tribe.

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

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

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

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

''(2) ASSISTANCE FOR SITE CHARACTERIZATION AND ASSESSMENT.—

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

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

''(c) GRANTS AND LOANS FOR BROWNFIELD REMEDIATION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

''(d) GENERAL PROVISIONS.—

''(1) MAXIMUM GRANT AMOUNT.—

''(A) BROWNFIELD SITE CHARACTERIZATION AND ASSESSMENT.—

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

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

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

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

''(B) BROWNFIELD REMEDIATION.—

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

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

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

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

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

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

''(2) PROHIBITION.—

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

''(i) a penalty or fine;

''(ii) a Federal cost-share requirement;

''(iii) an administrative cost;

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

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

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

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

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

''(iii) monitoring of a natural resource.

''(3) ASSISTANCE FOR DEVELOPMENT OF LOCAL GOVERNMENT SITE REMEDIATION PROGRAMS.—A local government that receives a

grant under this section may use not to exceed 10 percent of the grant funds to develop and implement a brownfields program that may include—

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

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

''(4) INSURANCE.—A recipient of a grant or loan awarded under subsection (b) or (c) that performs a characterization, assessment, or remediation of a brownfield site may use a portion of the grant or loan to purchase insurance for the characterization, assessment, or remediation of that site.

''(e) GRANT APPLICATIONS.—

''(1) SUBMISSION.—

''(A) IN GENERAL.—

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

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

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

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

''(2) APPROVAL.—The Administrator shall—

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

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

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

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

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

''(C) The extent to which a grant would address or facilitate the identification and reduction of threats to human health and the environment, including threats in areas in which there is a greater-than-normal incidence of diseases or conditions (including cancer, asthma, or birth defects) that may be associated with exposure to hazardous substances, pollutants, or contaminants.

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

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

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

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

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

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

''(J) The extent to which a grant would address or facilitate the identification and reduction of threats to the health or welfare of children, pregnant women, minority or low-income communities, or other sensitive populations.

''(f) IMPLEMENTATION OF BROWNFIELDS PROGRAMS.—

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

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

''(g) AUDITS.—

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

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

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

''(A) terminate the grant or loan;

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

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

''(4) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this section, the Inspector General of the Environmental Protection Agency shall submit to Congress a report that provides a description of the management of the program (including a description of the allocation of funds under this section).

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

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

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

''(2) be subject to an agreement that—

''(A) requires the recipient to—

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

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

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

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

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

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

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

''(1) this Act (including the last sentence of section 101(14));

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

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

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

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

''(l) FUNDING.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $200,000,000 for each of fiscal years 2002 through 2006.

''(2) USE OF CERTAIN FUNDS.—Of the amount made available under paragraph (1), $50,000,000, or, if the amount made available is less than $200,000,000, 25 percent of the amount made available, shall be used for site characterization, assessment, and remediation of facilities described in section 101(39)(D)(ii)(II).''.

TITLE II—BROWNFIELDS LIABILITY CLARIFICATIONS

SEC. 201. CONTIGUOUS PROPERTIES.

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

''(o) CONTIGUOUS PROPERTIES.—

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

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

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

''(ii) the person is not—

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

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

''(iii) the person takes reasonable steps to—

''(I) stop any continuing release;

''(II) prevent any threatened future release; and

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

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

''(v) the person—

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

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

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

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

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

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

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

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

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

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

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

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

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

''(3) ASSURANCES.—The Administrator may—

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

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

SEC. 202. PROSPECTIVE PURCHASERS AND WINDFALL LIENS.

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

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

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

''(B) INQUIRIES.—

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

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

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

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

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

''(i) stop any continuing release;

''(ii) prevent any threatened future release; and

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

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

''(F) INSTITUTIONAL CONTROL.—The person—

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

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

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

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

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

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

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

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

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

''(p) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—

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

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

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

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

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

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

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

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

''(C) shall be subject to the requirements of subsection (l)(3); and

''(D) shall continue until the earlier of—

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

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

SEC. 203. INNOCENT LANDOWNERS.

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

(1) in subparagraph (A)—

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

(B) in the second sentence—

(i) by striking ''he'' and inserting ''the defendant''; and

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

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

''(B) REASON TO KNOW.—

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

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

''(II) the defendant took reasonable steps to—

''(aa) stop any continuing release;

''(bb) prevent any threatened future release; and

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

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

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

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

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

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

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

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

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

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

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

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

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

''(iv) INTERIM STANDARDS AND PRACTICES.—

''(I) PROPERTY PURCHASED BEFORE MAY 31, 1997.—With respect to property purchased before May 31, 1997, in making a determination with respect to a defendant described of clause (i), a court shall take into account—

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

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

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

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

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

''(II) PROPERTY PURCHASED ON OR AFTER MAY 31, 1997.—With respect to property purchased on or after May 31, 1997, and until the Administrator promulgates the regulations described in clause (ii), the procedures of the American Society for Testing and Materials, including the document known as 'Standard E1527–97', entitled 'Standard Practice for Environmental Site Assessment: Phase 1 Environmental Site Assessment Process', shall satisfy the requirements in clause (i).

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

TITLE III—STATE RESPONSE PROGRAMS

SEC. 301. STATE RESPONSE PROGRAMS.

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

''(41) ELIGIBLE RESPONSE SITE.—

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

''(B) INCLUSIONS.—The term 'eligible response site' includes—

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

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

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

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

''(C) EXCLUSIONS.—The term 'eligible response site' does not include—

''(i) a facility for which the President—

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

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

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

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

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

''SEC. 129. STATE RESPONSE PROGRAMS.

''(a) ASSISTANCE TO STATES.—

''(1) IN GENERAL.—

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

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

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

''(B) USE OF GRANTS BY STATES.—

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

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

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

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

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

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

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

''(i) a response action will—

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

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

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

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

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

''(ii) prior notice and opportunity for comment on proposed cleanup plans and site activities; and

''(iii) a mechanism by which—

''(I) a person that is or may be affected by a release or threatened release of a hazardous substance, pollutant, or contaminant at a brownfield site located in the community in which the person works or resides may request the conduct of a site assessment; and

''(II) an appropriate State official shall consider and appropriately respond to a request under subclause (I).

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

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

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

''(1) ENFORCEMENT.—

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

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

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

the President may not use authority under this Act to take an administrative or judicial enforcement action under section 106(a) or to take a judicial enforcement action to recover response costs under section 107(a) against the person regarding the specific release that is addressed by the response action.

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

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

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

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

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

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

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

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

''(D) EPA NOTIFICATION.—

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

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

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

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

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

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

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

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

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

''(2) SAVINGS PROVISION.—

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

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

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

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

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

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

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

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

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

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

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

SEC. 302. ADDITIONS TO NATIONAL PRIORITIES LIST.

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

''(h) NPL DEFERRAL.—

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

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

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

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

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

''(2) PROGRESS TOWARD CLEANUP.—If, after the last day of the 1-year period beginning on the date on which the President proposes to list an eligible response site on the National Priorities List, the President determines that the State or other party is not making reasonable progress toward completing a response action at the eligible response site, the President may list the eligible response site on the National Priorities List.

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

''(A) the complexity of the site;

''(B) substantial progress made in negotiations; and

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

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

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

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

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

Mr. SMITH of New Hampshire. Madam President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. SMITH of New Hampshire. Madam President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak for up to 10 minutes each.

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

The Senator from Utah is recognized.