The acquisition in fee of these three large parcels within Kodiak NWR now requires the U.S. Fish and Wildlife Service to pay real property taxes to the Kodiak Island borough in accordance with the Revenue Sharing Act of 1935. The act directs the agency to make such payments based on the fair market value of acquired lands.

The service is currently using the federally approved appraisals estimating fair market value of these three large parcels as the basis for computing the revenue sharing payment to the borough. The borough has challenged the service’s determination of fair market value based on the unique circumstances of acquisitions and the findings made by the trustee council in approving funds for these acquisitions.

A plain reading of the Revenue Sharing Act (which authorizes the Secretary of the Interior to make refuge revenue sharing payments) requires that the determinations of fair market value be made in a manner so that the Secretary’s determination is equitable and in the public interest.” Clearly, the public interest associated with these unique acquisitions has been well documented in the findings of the trustee council.

The Revenue Sharing Act imposes no legal impediment for the Secretary to make a determination of fair market value in the unique circumstances of these acquisitions and the specific findings and actions taken by the trustee council. Thus, I urge the Secretary to review the Kodiak Island borough’s appeal to the service’s determinations for making revenue sharing payments and do what is fair and equitable as called for by the act.

These are unique circumstances that exist nowhere else in the United States and are limited to Alaska to lands acquired in the Exxon Valdez spill zone with settlement funds. Thus, there are unique circumstances for making revenue sharing payments are computed for service acquired lands in other parts of Alaska or throughout the rest of the country.

At this opportunity, upon the passage of another year’s funding for the Federal and Indian lands management agencies, I must call to the attention of my colleagues and to the attention of the President of the United States, an issue that troubles me deeply. Over the years, our Government has made commitments to native Americans which it has not kept. Many Americans thought that practice ended with the new, more enlightened self-determination approach to Indian policy. But as one of Alaska’s representatives in the Senate, I am aware that parts of the President’s staff made personal promises to me just last fall on behalf of the native people of the Chugach region which have not been kept.

In 1971 Congress passed the Alaska Native Claims Settlement Act (ANCSA). The act cleared the way for Alaska native people, including the Chugach natives, to receive title to a small portion of their traditional lands as settlement of their aboriginal land claims. The act also cleared the way for the additional millions of acres to our national parks, wildlife refuges, forests, and wilderness areas. Allowing native people to reclaim their lands freed them from economic bondage to the Federal Government. No longer would they have to depend exclusively on the benevolence of the Federal Government to create their own jobs, generate their own income, and determine their own destiny. But only if they had access to their lands.

Both the administration and the Congress recognized the lands would be virtually valueless if there was no way to get to them. The Claims Act recognized that native lands were to be used for both traditional and economic development purposes. Alaska natives were guaranteed a right of access, under law, to their lands, to the vast new parks, refuges, and forests that would be created.

In 1971 and again in 1982, under the terms of the Chugach Native Inc. Settlement Agreement, the Federal Government made a solemn vow to ensure the Chugach people had access to their aboriginal lands. Now, a quarter of a century later, that commitment has not been fulfilled. Many of the native leaders who worked with me to achieve the landmark Native Land Claims Settlement Act have died. In the conference last fall on the omnibus appropriations bill, the administration spoke passionately and repeatedly against this commitment. Why? They fully admitted the obligation to grant an access easement exists. They acknowledged further that access delayed is access denied and that further delays were harmful to the Chugach people. They opposed the proposal on the grounds that it was not necessary since they were going to move with all due haste to finalize the easement before the end of 1998. Katie McGinty, then head of the President’s Council on Environmental Quality sat across from me, looked me in the eye, and promised me that they would fulfill this long overdue promise before the end of the year.

She even offered to issue a “Presidential proclamation and take action” on what had already been promised and promised. My staff worked with OMB on the content of such a proclamation, but I told them it was not necessary. I would take her at her word and believe the administration would live up to the personal commitment she made to me.

Here we are a year later. Chugach still has not received its easement. Ms. McGinty is gone, but her commitment remains. It is now the responsibility of others to ensure the promises she made to me and to Alaska’s native people are kept.

Congressman YOUNG’s House resources Committee has reported a bill, H.R. 2547, to address this issue legislatively. In the hope of forcing the administration to do what it has promised to do, Senator MURkowski has been tireless in his efforts to get the Federal Government to live up to the promises made to Alaskans concerning the Chugach and native lands. I support those efforts.

But I take the time today to say clearly to this administration that the promises made by this act still fall on the Chugach people for access to their lands—and to me personally as their representative—must be honored. Make no mistake, if the promises made to me are not kept, I do not believe that last fall are not lived up to, if they oppose the efforts of Congressman YOUNG and Senator MURKOWSKI on this issue, if they continue to obfuscate and “slow roll” this commitment, it will be clear to all that his administration does not perceive the true meaning of Robert Service’s memorable phrase: “A promise made is a debt unpaid.”

Mr. President. On behalf of myself and my cosponsor, Minority Leader DASCHLE, I would like to insert in the RECORD a legislative history which describes the purpose of each section of S. 1528, the Superfund Recycling Equity Act of 1999. Throughout the negotiations of this language there has been quite a bit of misrepresentation of the purpose of the proposed bill. I hope this will be useful in clearing the confusion.

Mr. President, I ask unanimous consent that the legislative history be entered in the RECORD at this point.

LEGISLATIVE HISTORY FOR S. 1528

Summary

The Superfund Recycling Equity Act of 1999 (the language of S. 1528) seeks to correct the unintended consequences of CERCLA that actually discourages legitimate recycling. The Act recognizes that recycling is an activity distinct from disposal or treatment; thus sending material for recycling is not the same as arranging for disposal or treatment, and recyclable materials are not a waste. Removing the threat of CERCLA liability for recyclers will encourage more recycling at all levels.

The Act has three major elements. First, it creates a new CERCLA §117 which clarifies liability for recycling transactions. Second, it defines those recycling transactions for which there is no liability by providing that only those persons who can demonstrate that they 'arranged for the recycling of recyclable material' as defined in sections 127(c) through (e) are not liable under section 107(a)(b) or (a)(4). The specific definition of 'arranged for recycling' varies depending upon the recyclable material involved. Third, a series of exclusions from the liability clarification are specified such that...
have intrinsic value they may not always be sold for a new transaction in which one who arranges for recycling does not receive any remuneration for the material but rather pays an amount, less than the actual market value of the material to the recyclers for the protection afforded by this Act. A commercial specification grade as referred to in this section may include specifications as those published by industry trade associations, or other historically or widely utilized specifications. It is also recognized that specifications will continue to evolve as market conditions and technologies change.

For purposes of Sec. 127(c)(3), evidence of a market can include, but is not limited to: a third party for a paid price (including a negative price), a market with more than one buyer or one seller for which there is a documented price, and a history of trade in the recyclable material.

§127(c)(3) means that for a transaction to be deemed arranging for recycling, a substantial portion, but not all, of the recyclable material must have been sold with the intent that the material would be used as a raw material in place of a virgin material. In the manufacture of a new product. The fact that the recyclable material was not, for some reason beyond the control of the person who arranged for its sale, not actually used in the manufacture of a new product should not be evidence that the requirements of this §127 were met.

Additionally, no single benchmark or recovery rate is appropriate given variable market conditions, changes in technology, and differences between commodities. Instead, a common sense evaluation of how much of the material is recovered is appropriate. For example, a low but economically viable as a recycling transaction a relatively high volume of the inbound material is expected to be recovered for feedstocks of relatively low per unit economic value (such as paper or plastic), while a dramatically lower volume of material is expected to be recovered to justify the recycling of a feedstock of very high economic value (such as gold or silver).

It is not necessary that the person who arranged for recycling document that a substantial portion of the recyclable material was actually used to make a new product. Instead, the person need only be prepared to demonstrate that it is common practice for recyclable material to be handled to be made available for use in the manufacture of a new saleable product. For example, if recyclable stainless steel is sold to a stainless steel mill without the assumption that the recyclable material will be used to make a new product. It is presumptive that the recycling will occur.

The first part of §127(c)(4) acknowledges the fact that modern technology has developed to the point where some consumers facilities exclusively utilize recyclable material as their raw material feedstock and manufacture a product that had been made at another facility, may have been manufactured using virgin materials. Thus, the fact that the material did not actually displace a virgin material in the raw material feedstock should not be evidence that the requirements of this §127 were not met. Secondary feedstocks must incorporate both directly and indirectly virgin or primary feedstocks. In some cases a secondary feedstock can directly displace virgin material in the same manufacturing process. In other cases, however, a secondary feedstock may not be a direct substitute for a virgin feedstock, but the product of that plant completion may be appropriately disposed of by recycling it to another consumer facility. For example, aluminum may be utilized at a facility with virgin or secondary feedstocks meeting certain specifications. In this case, the virgin and secondary feedstock materials completely replace each other. However, it may only utilize scrap iron and steel as a feedstock because of the design requirements of the facility. The feedstock materials are considered virgin material which in turn are recycled to another consumer facility. It is also the responsibility of the scrap processor to ensure that the material is being recycled to the correct use. In the absence of an agreement between the parties, the party arranged the transaction with, but not subsequent parties.
In determining whether a person exercised reasonable care, the criteria to be applied should be considered in the context of the time of the transaction at issue. At the time the price paid in the recycling transaction in question was set, there was no evidence that the criteria specified in §127(c)(6)(A) or (B) provided any other requirements.

Section 127(1)(c)(6)(B)(ii)(A) provides that a person who arranges for the recycling of scrap metal must be a dealer in scrap metal and must be in compliance with federal regulations or standards associated with scrap metal recycling that were in effect at the time of the transaction in question. In addition, compliance with federal regulations or standards associated with scrap metal recycling that were in effect at the time of the transaction in question must be considered when determining if a person had reasonable care in the discharge of his responsibilities.

Finally, the court held that the provision of §127(1)(c)(6)(B)(ii)(A) is constitutional because it does not violate the First Amendment to the United States Constitution. The court found that the provision is a reasonable and necessary means of regulating conduct that affects the public interest. The provision is designed to protect the environment by requiring dealers in scrap metal to comply with federal regulations and standards associated with scrap metal recycling.

The court further held that §127(1)(c)(6)(B)(ii)(A) is not overbroad because it is narrowly tailored to achieve the government's goal of protecting the environment. The provision does not prohibit any form of speech or expression, and it is narrowly tailored to achieve the government's goal.

In conclusion, the court held that §127(1)(c)(6)(B)(ii)(A) is constitutional and that it does not violate the First Amendment to the United States Constitution. The provision is a reasonable and necessary means of regulating conduct that affects the public interest. The provision is designed to protect the environment by requiring dealers in scrap metal to comply with federal regulations and standards associated with scrap metal recycling.

Mr. DASCHLE. This past Wednesday—the day we finally produced a budget agreement—marked the 19th anniversary of the first time Congress ever met in Washington, DC. They met that day in what was then an unfinished Capitol. Several times during the negotiations, there occurred to me that, if the same people who are running this Congress were in charge back then, the Capitol might still be unfinished.

These negotiations took longer, and were more difficult, than they needed to be. The good news is: We finally have a budget that will keep America moving in the right direction. Any longtime members and observers of Congress say this has been perhaps the most confusing, convoluted budget process they can remember.

There have been questions of technical these last few weeks about accounting methods, economic growth projections, and CBO versus OMB scorings. But the big question—what the fundamental question that was at the heart of this budget debate—is quite simple: Are we going to move forward—or backward?

We have chosen, thank goodness, to move forward. This budget continues the progress we've made over the last seven years. It maintains our hard-won fiscal discipline. It invests in America's future, and it helps our future.

This budget will put more teachers in our children's classrooms, and more police on our streets. It will enable us to honor our commitments to our partners and fulfill America's obligations as a world leader. And, it will enable us to protect our environment and preserve precious wilderness areas for generations to come.

I want to thank the Majority Leader, my Democratic colleagues, especially Senator HARRY REID, our whip, and...
Senator ROBERT BYRD, ranking member of the Appropriations Committee, I also want to thank some of my colleagues on the other side of this aisle, particularly Senator STEVENS, chairman of the Appropriations Committee.

In addition, I want to acknowledge and thank President Clinton, Vice President Gore, as well as the incredibly skillful, patient White House negotiating team, especially Chief of Staff John Podesta, Deputy Chief of Staff Sylvia Matthews,OMB Director Jack Lew; Larry Stein and Chris Jennings. I also want to thank my own staff and the staff of Appropriations Committee, who have worked many weekends, many late nights, to turn our ideas and debate into a workable budget document.

Finally, I want to acknowledge our dear friend, the late Senator John Chafee. Losing Senator Chafee so suddenly was one of the saddest moments in this year. He embodied what is best about the Senate. He was a reasonable, honorable man who cared deeply about people. Completing the budget process was a major challenge. But the budget, I believe we have produced a budget John Chafee would have approved of.

This budget invests in our children’s education—the best investment any nation can make. It maintains our commitment to reduce class size by hiring 100,000 teachers. It contains money to help communities repair old schools and build new ones. It will enable more children to get a Head Start in school, and in life. And it will allow more young people to attend after-school programs where they will be safe, and where they will have responsible adult supervision.

This budget protects Medicare beneficiaries by providing fair payments to the hospitals, clinics, home health care providers and nursing homes they rely on.

This budget will make our communities safer by putting 50,000 more police officers on the street—in addition to the 100,000 who have already been hired—and by investing in youth crime prevention.

This budget will help keep Americans healthy—by reducing hunger and malnutrition among pregnant women, infants and young children—and by increasing funding for the National Institute of Health and the national Centers for Disease Control.

This budget protects our environment. We took out riders that would have damaged our environment, and put in money to fund the President’s Lands Legacy program.

This budget will help working families find affordable housing. It will help farm and ranch families weather these hard times.

This budget protects our national security—by increasing military pay and helping soldiers reduce the nuclear threat at home and around the world.

This budget will help us fulfill our responsibilities as the world’s only superpower. It provides money to pay our UN arrears and fund the Wye Accord to promote peace to the Middle East. It will also meet the year-in-which-the-burdening-burden-of-debt-on-some-of-the world’s-poorest-countries, those nations that can begin to invest in their own futures.

At the beginning of the year, our Republican colleagues proposed an $800 billion tax cut. For months, we all heard a lot of debate about what such a huge tax cut would mean. This budget makes it clear: there is no way we could have paid for an $800 billion tax cut without exploiting the deficit again, or raiding Medicare, education, and other programs working families depend on.

Instead of moving backwards on taxes, we’re moving forward. We’re cutting taxes the right way. We’re widening the circle of opportunity...by extending the Bush tax cuts for people in all income brackets, and other tax cuts that stimulate the economy...and by empowering people with disabilities by allowing them to maintain their Medicare and Medicaid coverage when they return to work.

There is one other point I want to make about the budget: For every dollar Democrat in restoring these last few weeks...for teachers, public officers and other critical priorities...we have provided a dollar in offsets. Dollar for dollar, every one of our offsets...If CBO determines that this budget exceeds the caps, the overspending is in the basic budget our Republican colleagues drafted—on their own.

As I said, Mr. President, this budget does move the country in the right direction—but only incrementally. My great regret and frustration with this Congress is that we have achieved so little beyond this budget.

Look what we are leaving undone! In a year in which gun violence horrified America, a year in which gun violence invaded our schools and even a day care center...the far right has prevented this Congress from passing even the most modest gun safety measures—measures that would make it harder for children and criminals to get guns.

The far right has prevented this Congress—from passing a Patients’ Bill of Rights. More than 50 percent of Americans—Democrats and Republicans—support a real Patients’ Bill of Rights that holds HMOs accountable. So does the 11,000 members of American Nurses Association—and 200 other health care and consumer organizations. And so does a bipartisan majority in both the House and Senate. Yet the Republican leaders in this Congress have refused to continue to use parliamentary tricks to deny patients their rights. As we leave here for the year, HMO reform, like gun safety, has been stuck for months in the black hole of conference committee.

The Republican leadership clearly is hoping that we will forget about all the shootings...forget about the families who have been injured because some HMO accountant overruled their doctor and denied needed medical treatment. I am here to tell them: The American people will not forget. And neither will Senate Democrats.

We will fight to close the gun show loophole. And we will fight to pass a comprehensive Patients’ Bill of Rights next year.

We will continue the fight for meaningful campaign finance reform. We will continue the fight to preserve and strengthen Medicare—including adding a prescription drug benefit. We will reissue the fight for a decent minimum wage increase. We will fight for a fair resolution of the dairy-pricing issue.

And, we will restore the rural loan guarantee program for strong bipartisan support with 68 cosponsors—68 Senators who have worked together to advance a fix to a small piece of the Superfund debt this year.

In this controversial world of environmental legislation it is rare that the leaders of the two parties in either Congressional body would agree on a bipartisan, comprehensive bill that we in the Senate do. I wish to thank Majority Leader DASCHLE who understood the merits of recycling and twice joined with me to sponsor this legislation. Without his leadership, this legislation would not have been possible.

Mr. President, I would like to commend the Senators who originally joined Senator DASCHLE and me in introducing this legislation. Senators WARNER and LINCOLN, who sponsored this measure in a previous Congress, have long exhibited their enthusiasm for a strong, comprehensive recycling bill. They are true leaders—leaders who have fostered this reasonable, workable, environmental proposal. Senator BAUCUS, the Ranking Minority Member of the Environment and Public Works Committee, has also been an avid supporter of recycling by including a version of the Superfund Recycling Equity Act in his sweeping Superfund reform bill in the 103rd Congress. His six years of leadership in trying to fix public policy for recyclers is appreciated.
Mr. President, this bill would not be where it is at today, on the cusp of becoming law, had it not been for the active support of the late Senator John Chafee—a dear friend to me and many of our colleagues. Senator Chafee was a responsive leader of the Environment and Public Works Committee. His advice and counsel helped shape my bill and he was an original cosponsor. I am proud to have assisted with him on this bill and its legislative process. I consider it a tribute that this bipartisan bill, negotiated with the Administration, representatives of the national environmental community, and the recycling industry, was supported by John Chafee, a man for whom consensus was so important. I believe this is not a footnote to John Chafee’s legacy, rather I believe that he made this kind of cooperation possible.

The former mayor of Warwick, Rhode Island, is now the newly appointed Senator to that land. I have had an opportunity to hear our newest senator—Senator LINCOLN CHAFEE—tell me about what Warwick has done with regards to recycling. It is a recycling effort that would be extended and enhanced by this bill. I find it a credit to John Chafee’s legacy that his son would be working with me on this legislation. Less than a month before the Senate and already LINCOLN’s voice is being heard in ways that will directly help Rhode Island.

Mr. President, I also must recognize the vision of trade associations like American Petroleum Institute and National Federation of Independent Businesses for supporting an incremental solution. It would have been easier for these groups to oppose the bill because it did not address all the fixes for which they have been advocating. However, AFI and NFIB recognized that this increment would not jeopardize their efforts; rather, it exemplifies the efforts of various stakeholders to accomplish something positive for the environment albeit incrementally.

And finally, I thank the various staff members who have diligently worked toward the passage of this legislation: Eric Washburn and Peter Hanson of Senator DASCHEL’s staff; Tom Gibson and Barbara Rogers of the Environment and Public Works committee staff; Charles Barnett of Senator LINCOLN’s staff, Ann Loomis of Senator WARNER’s staff, and my former staffer, Kristy Slidum, who set the stage for this year's success.

While too often Senators have seen various interest groups tell Congress why we cannot achieve some environmental goal, the history of the Superfund Recycling Equity Act is replete with evidence of people coming together to correct a problem. Everyone from Senator Chafee to myself, I realize that comprehensive reform is necessary to fix the vast array of problems in many different sectors of the environmental community. Unfortunately, we don’t live in a world where the Congress must do what is achievable whenever it is possible. This is good public policy—incremental solutions will not only save the environment but also save taxpayers millions of dollars for problems they did not cause. With passage of the Superfund Recycling Equity Act, the costs of cleanup at sites that utilize recycled materials as feedstock will be borne, rightfully, by those persons who actually cause or contribute to the pollution. As a result, those facilities will be less likely to cause contamination because they will no longer have recyclers to help them pay for Superfund cleanup. That’s a powerful market incentive and will cause the consuming facility to become more environmentally conscientious.

Let me be clear, this legislation will not alter the basic tenants of environmental law—polluters will still pay. This legislation does not relieve recyclers of Superfund liability when they have polluted their own facilities. It also does not protect these businesses when they have sent materials destined for disposal to landfills or other facilities where those materials contributed, in whole or in part, to the pollution of those facilities. Furthermore, the public can expect recyclers to continue to be environmentally vigilant because they must operate their businesses in an environmentally sound manner, in order to be relieved of Superfund liability.

Today is a victory for coalition building that avoids the attack strategies that are so often employed by trade associations in DC. I hope they see the wisdom in building coalitions around achievable increments. This is how Congress can move forward. This is how the Congress can do what it is supposed to do, work as one from its constituents but it acts successfully. Hostage taking, distortion, and scorched earth approaches are not productive legislative strategies or lobbying tactics. Trade associations need to seek achievable solutions, develop responsible legislative goals, and avoid Beltway attack politics. I am extremely pleased that Congress has been able to take this tiny but very important step forward in reforming the Superfund law. I hope this accomplishment will inspire others to work for sensible, incremental solutions that help both our environment and our nation’s economy.

I am proud that today Congress lifted the playing field and created equity in the statutory treatment of recycled material and virgin materials. I am proud to have removed the disincentives to recycling without loosening any existing liability laws for polluters. I am proud to have represented the mom and pop recyclers across America. I’m especially proud of the fact that this was all done in a bipartisan manner.