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.

S. 1, BETTER EDUCATION FOR STUDENTS AND TEACHERS ACT

Mr. HATCH. Mr. President, I rise today to speak on the subject of education, a subject about which we have been hearing a good deal in the past several months.

I commend President Bush for putting forth a credible plan for education improvement. The Bush Administration has worked with colleagues on both sides of the aisle to craft a policy compromise which will go along way to securing that all children have access to quality education. I also commend the distinguished Chairman of the Health, Education, Labor and Pensions, HELP, Committee for his tireless work on this issue. As former chairman of the then Labor Committee, I know my friend from Vermont has a job roughly akin to herding cats.

I also appreciate the Majority Leader's diligence and persistence in continuing to bring this measure up for Senate consideration and his efforts at brokering a compromise.

President Bush has made it a priority to ensure that State and local education agencies have the discretion to make key decisions on how education dollars are spent. I support the President's approach. I have often said that we should not be second guessing on a federal level the ability of State and local school boards, educators and parents to direct the education of students.

President Bush has made it a priority to link a reduction in the ridiculous amount of red-tape that State and local education agencies face with real accountability measures.

Paperwork reduction is a decidedly pro-teacher priority, 80 percent of our nation's educators say that paperwork is their number one headache. Teachers just want to teach, not fill out forms or go to meetings required by federal regulations.

The President has made yearly testing a priority and I commend him for that. In my State of Utah, we have already begun implementing an annual test. The Utah Performance Assessment System for Students, U-PASS, requires a statewide criterion referenced test for all students, grades 1st through 12th in reading, language arts, and math. I am proud that, once again, Utah educators are ahead of the curve when it comes to education innovation and reform.

I sincerely hope that my colleagues on the other side of the aisle will not stall, delay or prevent the reauthorization of the Elementary and Secondary Education Act, or as it is now called, BEST, the Better Education for Students and Teachers Act. We really need to pass this bill and set the country on a path toward meaningful education progress.

The need for reform is great. A recent report from the National Center for Education Statistics, NAEP, concluded that reading scores for 4th and 12th graders failed to improve over their 1992 levels. This study also concluded that 58 percent of disadvantaged children in 4th grade scored at the ''below basic'' level.

There also is an alarming disparity in skills between white students and African American students. According to the National Center for Education Statistics, achievement gaps between white and African-American 9-year-old students have not narrowed since 1975. The score gap in reading narrowed to its lowest, 18 points in 1988, and has since widened to 29 points in 1999. For 17-year-old students, the gap in reading was also its lowest in 1988, 20 points and has since widened to 31 points in 1999.

Clearly, the challenge is before us. And yes, we can do better.

Many local school districts are struggling. They are struggling with class sizes that are too large and school buildings that are too small or dysfunctional. They are struggling to provide books, materials, and equipment that are appropriate for the 21st century.

They are struggling with resources, so they can pay their teachers better, increase professional development for educators, and provide essential music, art and sports opportunities for students as well. They are struggling with transportation needs, especially in many rural Utah communities where children can be bused as many as 100 miles round-trip a day.

There is not a Senator in this body who doesn't want to help solve these problems. Certainly, I have been a long-time advocate of federal support for education, and I will continue to make that a top priority.

I honestly believe that colleagues on both sides of the aisle sincerely and with good intentions want children to attend clean, safe schools with state of the art technology and teachers who are appreciated and well paid in reasonably sized classrooms and up-to-date textbooks.

Sometimes, when the rhetoric gets too hot around these deeply felt issues, I think it would behoove us all to remember that no one gets elected to serve as an anti-education Senator.

So, if we are all pro-education then why the debate? Because, of course, while we all agree on the merits of reform and we all want education progress, we disagree on the means to achieve this goal. We cannot afford to tie this bill up in partisan gridlock over a debate on how much funding to provide. Where there is a will, there is a way, and we simply have to find that way or we will be letting the American public down.

While there are good intentions on all sides, some of my colleagues honestly feel that education policy is best met at the federal level and that the answer to every education challenge is a new federal program. Others of us have markedly differing views.

I sincerely believe that State and local officials in Utah's 40 school districts and 763 public schools are the best ones to decide whether or not to target federal money on school construction, technology improvements, hiring new teachers, or anything else.

I trust the people of Utah to make these decisions. And, I believe Utahns are perfectly capable of debating these issues locally and choosing a course.

I have repeatedly said that Utah does more with less than any State in the nation. Utah is a worst case scenario when it comes to school finance, yet we consistently rank highly on student performance measures. We must be doing something right!

Actually, I think we are doing a lot that is right, and one of the things that Utah parents do right is spend a lot of time with their children. An integral part of Utah's way of life involves family-centered activities. This clearly has spill-over benefits for schools.

Utah can claim some well-deserved bragging rights. For example:

Utah is first in the nation in both advanced placement participation and performance on a per capita basis.

Utah's dropout rates are substantially lower than the nation's as a whole.

In the Statewide Testing Program, the performance of Utah students on the Stanford Achievement Test exceeds national performance in mathematics, reading, science reasoning, and the composite score.

Since 1984, Utah high school graduates have taken increasingly more rigorous programs of study with substantial increases in such areas as mathematics and foreign language.

Utah is second in the nation in the percentage of its adult population holding a high school diploma.

Utah has made a number of important commitments to advancing technology in education.

Utah provides incentives for school districts to acquire technology infrastructure.

Utah installs Internet connections at every school and pays most of the line charges.

Utah has launched a number of professional development efforts.

Utah provides in-service training opportunities and requires pre-service teachers to complete a technology course as part of their preparation program.

Utah parents are educated and informed and take an active role in educating their children. I firmly believe that this is one of the reasons why Utah students perform so well.

But, what we need in my State is not a federal superintendent looking over the shoulder of our State-elected or locally elected school boards. We need additional resources, plain and simple. But, resources with so many strings attached bog us down. Give us the flexibility to manage these resources and apply them to the areas of greatest need in our State. Measure our children's educational progress. We will meet the challenge.

I look forward to a challenging and informative debate. It is my sincere hope that we will be successful in crafting legislation which will genuinely put children first. Children are America's greatest asset, and our future depends on their educational excellence. We must ensure that no child is left behind. We must ensure that the achievement gap is closed between disadvantaged children and their peers. We must ensure that every child in this country is prepared for the challenges and opportunities that await them in the years to come. For it we fail, we have failed not only ourselves, but future generations.

I am confident we are up to the task.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY last month. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

Today, I would like to detail a heinous crime that occurred on November 6, 1998 in Seattle, Washington. A gay man was severely beaten with rocks and broken bottles in his neighborhood by a gang of youths shouting ''faggot.'' The victim sustained a broken nose and swollen jaw. When he reported the incident to police two days later, the officer refused to take the report.

I believe that government's first duty is to defend its citizens—to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation, we can change hearts and minds as well.

VA CONTINUES TO LEAD THE NATION IN END-OF-LIFE CARE

Mr. ROCKEFELLER. Mr. President, I am committed to focusing a spotlight