

federal initiatives, that there is a basic federal initiative that requires the federal government and states to find mechanisms for the treatment and storage of hazardous waste. If a county adopts a policy that unduly impinges on this federal legislative initiative, which is part of the Resource Recovery Act, or RCRA, as it is called, the county can be hauled into federal court and have their ordinances undone. Now, I would suggest to you that we don't want to invite our counties to be dragged into federal court and to be beat over the head with the Resource Recovery Act. Far better that we have a state system that has a lot of public input, that gives a voice to local officials, but which by the establishment of such procedures should get us around any kind of trouble with the Ensco versus Dumas decision. But if you pass the Schmit amendment and there is such an application and the counties take this final kind of position, and that position can arguably be seen as a renunciation of the federal initiatives, those small counties can be in the very expensive business of defending a lawsuit in federal court up to the Circuit Court of Appeals, and beyond. It is far better, it seems to me, to give the local boards a powerful voice but not the final say. The final say is theirs if their decision is not arbitrary and capricious, but if it is arbitrary and capricious, here is the mechanism for another review, and that review should save us from the Ensco versus Dumas kind of decision in my opinion. We do not now have a hazardous waste commercial site in this state. Why? Because they know the ground rules, and the ground rules are that they go out and make an application, they do a two-year study with the Department of Environmental Control. The state can say, fine, you are safe, there is no problem. There is no geological problem, hydrological problem. It is fine, go ahead with it, and they take it to the local counties, and the counties will say, no, because there will be a negative reaction and an outcry, that is probably true, and that is the end of it. In other words, a company can go through a two-year scientific review at their cost...

SPEAKER BARRETT: One minute.

SENATOR LANDIS: ...and then have a local board say no. There is no incentive to come here with a site. With the 114 process, that potential location, and which, by the way, might be as much as a \$20 million investment, would be able to say, listen, if I can prove this is safe, if I can give sufficient assurances, and if I can negotiate with the local political subdivisions, I have a final say that will be rational and fair and reasonable, and