the island municipality of Vieques. The Legislature of Puerto Rico believes that the time has come to ensure the people of Vieques the full enjoyment of their unalienable rights to life, liberty and the pursuit of happiness while ensuring common defense of all United States citizens. The People of Puerto Rico are grateful for, appreciate and value the contribution of the armed forces of the United States of America to our collective security, and recognize the vital strategic importance, for our collective defense, of the Navy bases located in Ceiba and Vieques. Nevertheless, and in light of our modern world realities, we request that the courageous men and women of the Navy ensure that the people of Vieques, who have sacrificed so much throughout the years for our national security, achieve full enjoyment of their fundamental rights by ceasing their military exercises and bombing with live ammunition in the territory and surrounding waters of the island municipality of Vieques.

In the case of *Alberto Lozada-Colon* vs. *U.S. Department of State*, docket number 98–5179, filed in the U.S. Court of Appeals for the District of Columbia, the counsels for the U.S. Department of State and the U.S. Department of Justice have argued before the court that the provisions for the organization of a constitutional government in Puerto Rico and the political status adopted as of 1952, in now way altered the political relationship with the United States of America, and that the Island of Puerto Rico continues to be a territory, subject to the plenary powers of the U.S. Congress. Despite this evident colonial status, we are United States citizens and we have the right to enjoy the protection and guarantees that are provided by our U.S. Constitution. Because of this, the U.S. citizens residing in the island of Vieques are covered and protected by the same basic rights as the citizens of any of the fifty (50) states of the American Nation. Upon examining the history of military activity in Vieques, we have to conclude that these have dramatically affected the lives of its people. The constant bombing and other military practices using live ammunition have affected the physical and emotional health of the residents of Vieques.

In the light of these considerations, the Legislature of Puerto Rico believes that it is imperative that the United States Navy cease using live ammunition in its firing and bombing military practices in Vieques. Once again, we reaffirm the need for the residents of Vieques to live in an environment of tranquility and to enjoy the happiness that all Americans aspire; be it

Resolved by the Legislative Assembly of Puerto Rico:

Section 1.—To request that the President, the Congress and the Navy of the United States of America, on behalf and in representation of the People of Puerto Rico, immediately respond to the plea of our people to cease using live ammunition in firing and bombing military practices in the island municipality of Vieques and its surrounding waters.

Section 2.—To request that the President, the Congress, and the Navy of the United States of America, once the firing and bombing military practices mentioned in Section 1 have ceased, deactivate and remove all undetonated explosive artifacts used during its firing and bombing military practices which might reasonably constitute a risk to the inhabitants of Vieques.

Section 3.—This Concurrent Resolution shall be remitted to the Honorable William Jefferson Clinton. President of the United States of America; the Congress of the United States of America, the Vice President of the United States of America, the Chairman of the Joint Chiefs of Staff, the Secretary of the Department of Defense, and the Secretary of the Navy of the United States of America.

Section 4.—This Concurrent Resolution shall take effect immediately after its approval.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRAMS:

S. 1102. A bill to guarantee the right of individuals to receive full social security benefits under title II of the Social Security Act in full with an accurate annual cost-of-living adjustment; to the Committee on Finance.

S. 1103. A bill to reform Social Security by creating personalized retirement accounts, and for other purposes; to the Committee on Finance.

S. 1104. A bill to amend the Social Security Act to provide simplified and accurate information on the social security trust funds, and personal earnings and benefit estimates to eligible individuals; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. LAUTENBERG, Mrs. LINCOLN, and Mr. DASCHLE):

S. 1105. A bill to assist local governments and States in assessing and remediating brownfield sites, increase fairness and reduce litigation, and for other purposes; to the Committee on Environment and Public Works.

By Mr. TORRICELLI (for himself and Ms. SNOWE):

S. 1106. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for qualified individuals for bone mass measurement (bone density testing) to prevent fractures associated with osteoporosis; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WARNER:

S. 1107. A bill to reform the conduct of Federal elections; to the Committee on Rules and Administration.

By Mr. COCHRAN (for himself, Mrs. LINCOLN, Mr. COVERDELL, Mr. SESSIONS, Mr. CLELAND, Mr. HOLLINGS, Mr. SHELBY, Mr. ROBB, and Mr. HUTCHINSON):

S. 1108. A bill to amend the Federal Crop Insurance Act to improve crop insurance coverage and administration, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MCCONNELL (for himself, Mr. SMITH of New Hampshire, Mr. KOHL, Mr. FRIST, Mr. GREGG, Mr. JOHNSON, Mr. WARNER, Mr. CLELAND, Mr. SCHUMER, Mr. ALLARD, Mr. JEFFORDS, Mr. AKAKA, Mrs. FEINSTEIN, Mr. ENZI, Mr. ROBB, Mr. GRAMS, Mrs. BOXER, Mr. LUGAR, Ms. LANDRIEU, Mr. COCHRAN, Mrs. MURRAY, Mr. INHOFE, Mr. MACK, Mr. TORRICELLI, Mr. BINGAMAN, Mr. THOMAS, Mr. LEAHY, Mr. CAMPBELL, Mr. KENNEDY, Mr. HELMS, Mr. DURBIN, Mr. SANTORUM, Mr. LAUTENBERG, Mr. BUNNING, Mr. MOYNIHAN, Mr. KERRY, Mr. WYDEN, Mr. GRAHAM, Mr. REID, Mr. LEVIN, and Mr. LIEBERMAN):

S. 1109. A bill to conserve global bear populations by prohibiting the importance, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LOTT:

S. 1110. A bill to amend the Public Health Service Act to establish the National Institute of Biomedical Imaging and Engineering; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BOND:

S. 1111. A bill to provide continuing authorization for a National Conference on Small Business, and for other purposes; to the Committee on Small Business.

By Mrs. BOXER (for herself and Mr. LAUTENBERG):

S. 1112. A bill to protect children and other vulnerable subpopulations from exposure to environmental pollutants, to protect children from exposure to pesticides in schools, and to provide parents with information concerning toxic chemicals that pose risks to children, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DORGAN (for himself, Mrs. FEINSTEIN, and Mr. SPECTER):

S. Res. 105. A resolution expressing the sense of the Senate relating to consideration of Slobodan Milosevic as a war criminal; to the Committee on Foreign Relations.

By Mr. DOMENICI (for himself, Mr. KENNEDY, Mr. MCCAIN, Mr. HATCH, Mrs. HUTCHISON, Mr. DEWINE, Mr. CHAFEE, Mr. LUGAR, Mr. ABRAHAM, Mr. SANTORUM, and Mr. WARNER):

S. Res. 106. A resolution to express the sense of the Senate regarding English plus other languages; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SMITH of New Hampshire:

S. Res. 107. A resolution to establish a Select Committee on Chinese Espionage; to the Committee on Rules and Administration.

By Ms. LANDRIEU (for herself and Mr. SPECTER):

S. Con. Res. 33. A concurrent resolution expressing the sense of Congress regarding the need for vigorous prosecution of war crimes, genocide, and crimes against humanity in the former Republic of Yugoslavia; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAMS:

S. 1102. A bill to guarantee the right of individuals to receive full social security benefits under title II of the Social Security Act in full with an accurate annual cost-of-living adjustment; to the Committee on Finance.

SOCIAL SECURITY BENEFITS GUARANTEE ACT OF 1999

S. 1103. A bill to reform Social Security by creating personalized retirement accounts, and for other purposes; to the Committee on Finance.

PERSONAL SECURITY AND WEALTH IN RETIREMENT ACT OF 1999

S. 1104. A bill to amend the Social Security Act to provide simplified and accurate information on the social security trust funds, and personal earnings

and benefit estimates to eligible individuals; to the Committee on Finance.

SOCIAL SECURITY INFORMATION ACT OF 1999

Mr. GRAMS. Mr. President, I want to take a little time this morning to talk about Social Security. I know our Nation has been engaged in Social Security reform discussions for about 2 years now kind of formally. But, informally, many have been talking about what we are going to do to ensure a safe, sound Social Security system in the future.

We all expected that we could work in a bipartisan manner during this Congress to be able to complete the immense task of saving and strengthening Social Security for the American people.

Unfortunately, President Clinton has failed to take leadership on this issue and has failed to present an honest plan to this Congress to address Social Security's rapid approaching crisis.

There is widespread reluctance to move forward on reform due to political considerations. Yet, if we keep delaying essential reform until after the ''next election''—it is always after the next election—we will never be able to complete our goal of ensuring retirement security for future generations of Americans.

Now, on the positive side, the debate has surely raised the public's awareness of their own retirement security shortcomings. It has brought attention to the Social Security crisis and has led to a variety of solutions to fix the system.

I believe this is a healthy debate, one that we must continue to encourage. I am sure that when our elected officials muster the political will to make some of those hard choices we face, the Nation will be ready to support those choices.

Regardless of when we actually consider Social Security reform, we must continue the job of educating Americans about the importance of savings and retirement planning. We must continue to debate the role of future Social Security benefits in our retirement security decisions.

That is why I am here. I rise today to introduce three pieces of legislation as first steps to save Social Security. To outline the bills, my first bill, very simply, would grant every current and future Social Security beneficiary a legal right to those Social Security benefits.

The second is a comprehensive plan to move Social Security from the current pay-as-you-go system to one that is a fully funded, personalized retirement system, to ensure a safe, sound, secure retirement program that maximizes benefits for the retiree.

The third bill would provide real information about the costs and the benefits under the current Social Security system.

Mr. President, each working American devotes his or her entire life to a job, or series of jobs, and pays hundreds of thousands of dollars in Social Security taxes into the retirement system. In fact, Social Security taxes are the largest tax that many families will ever pay, accounting for up to one-eighth of the total lifetime income that will go into Social Security.

Many people, including myself, believe that Social Security benefits are our ''earned right.'' We think that because we have paid Social Security taxes, we are legally entitled to receive Social Security benefits. But this ''earned right'' is nothing but an illusion—an illusion created by politicians who call Social Security taxes ''contributions'' and make Social Security sound like it is a regular insurance program.

The truth is that the American people do not have any legal right to their Social Security benefits, though they pay Social Security taxes all of their lives. Their benefits are always at the mercy of the Government and politicians who can adjust them and can even spend them on unrelated Government programs. This fact—that Americans currently have no legal right to Social Security—was decided by the courts when the Social Security was just getting started.

Mr. President, it was back in 1937, less than 2 years after the creation of Social Security, that the Supreme Court decided in the case of Helvering v. Davis that Social Security was not an insurance program.

The court held:

> The proceeds of both the employee and employer taxes are to be paid into the Treasury like any other internal revenue generally, and are not earmarked in any way.

So, basically, Social Security is just a tax, not a retirement system.

The Court also pointed out:

> Congress did not improvise a judgment when it found that the award of old-age benefits would be conducive to the general welfare. The President's committee on economic security made an investigation and report . . . with the loss of savings inevitable in periods of idleness, the fate of workers over 65, when thrown out of work, is little less than desperate. . . . Moreover, laws of the separate States cannot deal with this effectively. . . .Only a power that is national can serve the interests of all.

What it meant was that Social Security was not and is not an insurance program at all, but a tax—a tax, pure and simple—that leaves retirement benefits to be actually determined by the political process—not the benefits of the plan, but the political process.

This decision was later confirmed in another important case, Fleming v. Nestor. In this case, the Supreme Court more expressly ruled that workers have no legally binding contractual rights to their Social Security benefits, and that those benefits can be cut or even eliminated at any time.

Mr. President, this is a very interesting and important case. Ephram Nestor was a Bulgarian immigrant who paid Social Security taxes from 1936 until he retired in 1955. He received a $55.60-per-month Social Security check during his retirement. But in 1956, Nestor was deported for having been a member of the Communist Party in the 1930s. His Social Security checks were stopped in accordance with the law.

Nestor sued the Secretary of Health, Education, and Welfare, claiming that because he had paid Social Security taxes, he had a right to Social Security benefits.

The Supreme Court rejected his claim, clearly stating:

> To engraft upon the Social Security system a concept of ''accrued property rights'' would deprive it of the flexibility and boldness in adjustment to ever changing conditions which it demands.

The Court also held:

> It is apparent that the non-contractual interest of an employee covered by the [Social Security] Act cannot be soundly analogized to that of the holder of an annuity, whose right to benefits is bottomed on his contractual premium payments.

It strikes me that these Supreme Court decisions prove that if Social Security is considered more of a welfare program, there is no assurance that retirees will receive benefits now or in the future if they are judged unworthy, or if the IOUs owed to the Social Security Trust Funds are deemed unnecessary to repay. It also shows, contrary to common belief, that Social Security is not backed by the full faith and credit of the government and is not a government-guaranteed investment. I believe these decisions—which we rarely see referenced, for obvious reasons—are unfair and wrong, and must be corrected.

In my view, workers must have a full legal right to receive government-guaranteed Social Security benefits. The reason is simple: despite these court cases, I believe most people think that the federal government should provide benefits to the American people for their retirement, if those people have paid into the system. It's our moral and contractual duty to honor that commitment, and ensure the program is more of an insurance policy than a welfare program. Coming demographic changes will soon create huge cracks in the Social Security program—if the government fails to make the changes necessary to address the crisis ahead, it would be wrong to let current or future beneficiaries bear that burden.

As a first step to saving Social Security, legislation I am introducing today would grant every current and future Social Security beneficiary an ''earned right,'' or legal right, to their Social Security benefits plus an accurate inflation adjustment. This could be achieved by requiring the government to issue U.S. Treasury-backed certificates specifying the level of guaranteed benefits.

Mr. President, this legislation, the Social Security Benefits Guarantee Act, is not at all complicated. All it does is to create an ''earned right'' to Social Security, which every American deserves and should be given in the first place. It shows that regardless of how we may reform the system in the

future, retirees will earn a return on the investment they make in the form of payroll taxes.

By granting Americans this legal right, we are taking away uncertainties resulting from the growing political debate. Social Security will no longer be subject to Washington's manipulation, and the IOUs will be repaid. Implementing my legislation would force Congress and the Administration to come up with an honest plan to save and strengthen the Social Security system.

But more importantly, it would put millions of current and future Social Security beneficiaries at ease, allowing them to sleep at night without fearing the loss or reduction of their retirement benefits.

Mr. President, once we have secured Social Security benefits, taking the difficult steps to reform the Social Security system will be easier. The current system has served us well until now. The changing demographics of our society makes it impossible for the system to survive without reform. I believe a fully-funded, market-based, personalized retirement system would give all workers full property rights to their retirement investment.

Not only could personal retirement account, or PRA, benefits be three to five times higher than current Social Security benefits, workers would actually own the money in their account and could pass the assets on to their children. It would be part of your estate, which today, as you know, Social Security does not transfer. Congress would no longer spend the surplus money.

That's the reason I am today re-introducing my legislation, the ''Personal Security and Wealth in Retirement Act.''

Mr. President, Americans today are living longer and retiring earlier than ever before. American retirement security is supposedly built on a three-legged stool: Social Security, private pensions, and personal savings. These are the three cornerstones of a secure retirement.

Unfortunately, today these cornerstones have eroded. Without major repair, the stool will collapse, causing serious financial hardship for millions of Americans.

Most Americans rely increasingly on Social Security for their retirement income. Not everyone has a private pension and some are unable to save. Yet Social Security, upon which rests their hopes for a secure retirement, is headed for bankruptcy.

Benefits for 76 million baby boomers and future generations of retirees will not be there unless something is done soon.

I believe the best solution to our retirement crisis is to reform Social Security by moving it from a pay-as-you-go retirement system to a fully-funded, market based system. The legislation I am introducing today will do just that.

The first criticism you will hear is that a market-based retirement system is too risky. However, my plan would guarantee benefits for current and future beneficiaries, while retaining and expanding the current safety net under Social Security.

At the same time, workers would have the freedom to control their funds and resources for their own retirement security within certain safety and soundness parameters. Workers and their employers could divert 10 percent of a worker's income into personal retirement accounts.

In addition, workers could also contribute to personal retirement accounts they've established for their non-working children.

Let me focus on the proposed safety net provisions under my plan: One key component of my proposal is to ensure that a safety net will be there at all times for disadvantaged individuals. This can be done without government guarantees of investments or overly strict regulation of investment options.

Under this legislation, a safety net would be set up and would involve a guaranteed minimum benefit level: 150 percent of the poverty level. When a worker retires, if his or her PRA fails to provide the minimum retirement benefits for whatever reason the government would make up the difference. So nobody would retire into poverty. They would retire at least with a minimum of 150 percent of the poverty level.

The same applies to survivor and disability benefits. If a worker dies or becomes disabled, and his or her PRA doesn't accumulate sufficient funds to provide minimum survivor and disability benefits, the government would match the shortfalls.

This simple safety net is necessary, and the minimum benefit would guarantee that no one in our society would be left impoverished in retirement, while still allowing workers to enjoy the freedom and prosperity achievable under a market-based retirement system.

This would operate in a manner similar to the federal government's Thrift Savings program, which includes safe investments and a far higher return than Social Security. If the system works for us, others should also be able to benefit from it.

Another feature of the fully funded retirement system I'm outlining could provide better survivor and disability benefits than the current Social Security system offers.

Under my plan, for instance, when a worker dies, his family would inherit all the funds accumulated in his PRA.

I use my father as an example. He died at the age of 61, and from Social Security received a check for $253 as a death benefit. But that was all. Under our system, all the money that you have paid in during a lifetime of working would be yours. And, if you happen to die early, it would then be a part of your estate and transferred to your heirs. The savings wouldn't disappear into the black hole of the Social Security trust funds, or become tangled in a survivors' benefit bureaucratic debate.

The system would also provide, besides the retirement savings, a survivors benefit package.

My plan requires the funds that manage PRAs to use part of their annual contribution or yield to buy life and disability insurance, supplementing their accumulated funds to at least match the promised Social Security survivors and disability benefits.

By requiring retirement funds to purchase life and disability insurance for everyone, all workers in each individual fund would be treated as a common pool for underwriting purposes. The insurance would be purchased as a group policy not by individual workers by investment firms or financial institutions, thus avoiding insurance policy underwriting discrimination while providing the largest amount of benefits at the lowest possible cost.

Mr. President, again, a major criticism of a market-based personal retirement account system is that it's inherently volatile, subject to the whims of investors and the market, exposing a worker's retirement income to unnecessary risks.

My plan specifically addresses this concern by requiring the approved investment firms and financial institutions that manage PRAs to have insurance against investment loss.

By approximating the role of the FDIC, we ensure that every PRA would generate a minimum rate of return of at least 2.5 percent, which is more than current Social Security benefits. In fact, Social Security is paying less than 1 percent today, and for future generations it would actually be a negative rate of return.

Regardless of the ups and downs of the markets, workers would still do better under this system than under the current Social Security program.

This is another safety net built into my plan to give the American people peace of mind when it comes to their retirement investment.

To further reduce risks to a worker's PRA, my legislation also requires that rules, regulations, and restrictions similar to those governing IRAs would apply to personal retirement accounts.

PRAs must be properly structured and follow strict, sensible guidelines set forth by the independent federal board that will oversee the system.

In choosing qualified investment firms and financial institutions to manage the PRAs, the oversight board is responsible for examining the credibility and ability of these companies, and then approving them as PRA managers accordingly. In other words, to put in place a very safe and sound retirement system, much like the FDIC is in banks. People are confident their savings is protected. This would be the same with their retirement accounts. They would be protected. This will generate much better returns, as much as three to five times more at retirement

than today's Social Security—three to fives times more benefits when you retire than under the current Social Security plan because personal retirement accounts, unlike Social Security, make real investments which produce new income and produce wealth.

That means improved benefits for everybody, including low-wage earners, without the redistribution of private income.

Mr. GRAMS. The third bill I am introducing today deals with the flow of information related to an individual's Social Security contribution.

Most working Americans are poorly prepared for their retirement. That is because of a disturbing lack of information. Congress needs to help them better plan for retirement by providing useful and accurate information about the Social Security benefits they are going to receive.

In other words, let people know exactly what the system is, how much is in the trust fund, how much money they can expect to receive at retirement, and what will be the rate of return of their investment.

Americans currently receive Social Security information through the personal earnings and benefits estimate statements or the PEBES, provided by the Social Security Administration. However, a recent GAO report shows that the report, although useful, is actually incomplete and it is difficult for many Americans to understand exactly what is in the account for them at Social Security.

As a result, many workers, even those near retirement, continue to overestimate their likely Social Security benefits, which, bottom line, threatens their quality of life throughout their retirement years.

Social Security taxes are the largest tax that many families will ever pay. It will account for up to one-eighth of the total lifetime income they will make. Few Americans know the value or the yield of their investment, because the Government never tells them the whole truth about Social Security by providing them with this key information. Reliable information on Social Security is crucial to enable Americans to better understand the value of their Social Security investment and to help them determine exactly how much they should supplement their expected Social Security benefits with other savings in order to have a certain level of retirement security.

This is particularly important for some ethnic minorities, because research shows that African Americans have lower rates of return from Social Security. They get less back from the system than others who pay in. Low-income, single, African American males have a negative rate of return today. As I said, overall it is about a 1 percent rate of return. For many, it will be a negative rate of return. But for low-income, single, African American males today, they already have a negative rate of return on the money they pay into the system.

My bill would improve the reports by requiring the Social Security Administration to provide an estimate of the Social Security benefits a worker is going to receive in terms of inflation-adjusted dollars, as well as an estimated rate of return the worker is projected to receive from Social Security.

In real dollars, it means today if you are 20 years old, the report says when you retire you could expect to receive about $98,000 a year in retirement benefits. You say, that is great, 98,000 a year; but if you take in the inflation-adjusted amount throughout those 40 years in buying power, it would be less than $14,000 in today's money.

So you need to know exactly what you are going to get at retirement and what the buying power of those dollars is going to be 40 years from now so that you can make better plans on how you are going to plan for your retirement.

Given the crucial role of information about Social Security in retirement planning and the fact that, beginning this year, the statements from Social Security will be mailed annually to every eligible individual over 25, immediate improvement of these standards is imperative. These numbers are already going to be sent out, so this isn't an added cost, this isn't asking for a new program from the Government; this is saying that the report the Social Security Administration is going to send to every American over 25 needs to be more accurate than the information provided today.

Information will not solve all the problems we have with Social Security, but I think it will surely give working Americans some useful tools to help them better plan for retirement.

In closing, American workers labor mightily to put money aside for retirement. They should have full property rights to their money. They deserve the security of owning their retirement benefits and savings. My legislation gives American workers legal protection to their retirement savings. It will stop politicians from cutting their benefits to spend money in other unrelated programs out of our Social Security trust fund. It also allows American workers maximum freedom to better plan for their retirement by giving them more accurate information on their Social Security benefits.

In closing, retirement security is essential to millions of Americans and we must do everything we can to help them achieve that security and the peace of mind that will go along with it.

My legislation charts a course which I believe will lead us there.

By Mr. BAUCUS (for himself, Mr. LAUTENBERG, Mrs. LINCOLN, and Mr. DASCHLE):

S. 1105. A bill to assist local governments and States in assessing and remediating brownfield sites, increase fairness and reduce litigation, and for other purposes; to the Committee on Environment and Public Works.

SUPERFUND LITIGATION REDUCTION AND BROWNFIELD CLEANUP ACT OF 1999

Mr. BAUCUS. Mr. President, today, along with Senators LAUTENBERG, LINCOLN, and DASCHLE, I am introducing legislation to reauthorize and reform the Superfund program, the Superfund Litigation Reduction and Brownfields Cleanup Act.

The Environment and Public Works Committee has been working on Superfund reauthorization legislation for more than six years. It's time to finish the job. To my mind, the best way to accomplish this is to focus on a set of modest but important reforms about which we are likely to be able to achieve a broad bipartisan consensus.

That is what our bill aims to do.

Superfund has been criticized as creating disincentives for cleaning up ''brownfields''—generally, sites in older neighborhoods or industrial areas that are contaminated, but not to the extent that they are likely to be put on the National Priorities List. The main charge is that fear of Superfund liability makes some developers reluctant to invest.

Title I of the bill addresses this concern. It eliminates Superfund liability for prospective purchasers of contaminated property who are not responsible for the contamination, and thereby removes a potential disincentive for brownfields cleanup. The bill also provides liability relief for current owners of contaminated property who are not responsible for and had no reason to know of the contamination when they acquired the property, and persons whose property is contaminated as a result of migration from neighboring property.

In addition, the bill authorizes funding for three purposes:

$35 million per year for five years for grants to local governments, States and Indian tribes to inventory and assess contamination at brownfield sites;

$60 million per year for five years for grants to local governments, States and Indian tribes to capitalize revolving loan funds and for site cleanup; and

$15 million per year for five years to States to develop and enhance voluntary cleanup programs.

Perhaps the most well known criticism of Superfund relates to the toll it can take on small businesses that, despite their often minimal contribution of waste to a site, have been forced to incur significant sums in attorney fees and payments toward cleanup. A significant portion of small businesses that sent waste to a site sent only municipal waste or very small amounts of hazardous waste. In addition, many small businesses simply cannot afford to pay the costs associated with retaining an attorney and cleanup.

To address these problems, the bill provides two liability exemptions.

The first is an exemption for parties that sent a de micromis amount of hazardous waste—presumed to be less than 110 gallons of liquid material or 200 pounds of solid material. (Note that

this provision is not limited to small businesses: it also would exempt a large company that sends only de micromis amounts of waste.)

The second is an exemption for small business and homeowners that sent municipal solid waste from their home or business. There is no limit on the amount of municipal waste these parties sent.

In addition, the bill provides relief for those who sent a relatively small amount of hazardous waste, but more than allowed under the de micromis exemption, and for small businesses with a limited ability to pay. Specifically, the bill provides expedited settlements for contributors of de minimis amounts of waste and persons with a limited ability to pay. These provisions require EPA to make settlement offers as expeditiously as practicable to these parties. A party who contributed 1% or less of the waste to the site is presumed to be de minimis.

Together, these provisions would provide relief for virtually every small business and homeowner that should get relief. The bill also requires that EPA establish a small business Superfund assistance section within the small business ombudsman office of EPA.

Under Superfund, contributors of municipal solid waste and municipal sewage sludge have been sued, and in some instances, found liable, based on the fact that even municipal waste contains some small amount of hazardous substances. At sites with municipal waste (such as municipal landfills), frequently the majority of waste by volume is municipal waste, but the conditions that result in listing the site on the NPL were caused by the more toxic industrial waste. Hence, there has long been controversy as to whether contributors of municipal waste, and municipalities that own municipal landfills on the NPL, should be treated the same as contributors of other waste.

Last year EPA published a policy for settlements with municipal owners and operators of NPL landfills, and for public and private contributors of municipal waste. The policy was developed through negotiations with several municipal organizations.

Our bill codifies EPA's policy. Under the provision, municipalities that own or operate landfills that are on the NPL are entitled to settle for 20% of the cleanup costs at a site, and for 10% if they have a population below 100,000. Contributors of municipal waste, including municipalities and private parties, can settle for $5.30 a ton. This number was calculated based on the cost of cleaning up a municipal landfill that does not also have hazardous waste.

Title IV provides exemptions for contributors of certain ''recyclable material''—paper, plastic, glass, textiles, rubber (other than whole tires), metal and batteries—that meet specified conditions. It is virtually identical to the Lott/Daschle bill in the 105th Congress. In particular, I appreciate the work of Senator LINCOLN on this issue.

Contributions of orphan funding from the Superfund can mitigate much of the perceived unfairness of the joint and several liability system. Allocation pilot studies conducted by EPA revealed that the most important tool for achieving settlements, and in the process reducing transaction costs, is for EPA to offer some contribution of funding to offset costs attributable to parties that are unable to pay.

The bill authorizes $200 million per year for five years in mandatory spending to be used by EPA in cleanup settlements. It is so used to offset costs attributable to parties that are insolvent or defunct or otherwise unable to pay, or for other equitable purposes. This mandatory spending is conditional, however, on the Superfund cleanup program being appropriated at least $1.5 billion annually, exclusive of the $200 million for orphan funding. That so-called ''firewall'' is intended to ensure that cleanups are not sacrificed in order to pay orphan funding. Assuming the program is funded at the required level, EPA would be required to contribute $200 million per year to cleanup settlements. However, to maintain flexibility, EPA would have the discretion to determine how much of the $200 million to allocate to which sites.

The bill authorizes appropriations of $7.5 billion over five years, or $1.5 billion a year. At this level, EPA would be able to maintain the current pace of cleanups, which is resulting in the completion of construction at 85 sites a year. Now that we finally are making good progress in cleaning up sites, its important to maintain this pace.

On a related point, the bill continues to fund cleanups principally through the Superfund Trust Fund. In doing so, it assumes the reinstatement of the two Superfund taxes—the excise taxes on petroleum and chemical feedstocks and the corporate environmental tax of .12 percent of corporate alternative minimum taxable income above $2 million. By doing so, the bill would retain the current reliance on the trust fund to pay for the majority of cleanup costs, with a limited payment from general revenues.

Mr. President, the chairmen of the Environment and Public Works Committee and its Superfund Subcommittee, Senators CHAFEE and SMITH, also have introduced a Superfund reform bill, S. 1090. There are several areas of general agreement between the bill that we are introducing today and S. 1090. Some examples are the exemption for bona fide prospective purchasers and other exemptions intended to promote brownfields redevelopment; exemptions for contributors of recyclable material; and exemptions and expedited settlements for contributors of municipal waste or small amounts of hazardous waste, to protect municipalities and small businesses.

There are, however, some significant differences between the approaches taken in the two bills, particularly with respect to providing an adequate federal safety net to protect public health and the environment, the allocation system, and, perhaps most significantly, providing adequate and assured funding to operate the program.

I hope that we can work cooperatively and expeditiously to resolve these differences, so that we can pass a Superfund reauthorization bill with broad, bipartisan support.

Mr. LAUTENBERG. Mr. President, I rise to introduce the Superfund Litigation Reduction and Brownfield Cleanup Act along with Senators DASCHLE, BAUCUS, and LINCOLN. This bill will strengthen and improve the current Superfund program by cleaning up urban and rural brownfields and removing small, innocent parties from unnecessary superfund litigation.

Unlike the alternative Superfund proposal offered by the Republicans on Environment and Public Works Committee, this bill continues what is best about the Superfund program and makes the minor adjustments necessary to make it cost effective.

Mr. President, way back in the 103rd Congress, the critics of Superfund raised a number of issues. They asserted that the program was too slow, that not enough cleanups were taking place, that there was too much litigation.

At the time, we were seeking solutions which would make the program faster, streamline cleanups, treat parties more fairly and get the little guys out earlier, all while keeping those responsible for the problem also responsible for cleaning it up. This was all within the general goals of achieving more cleanups and therefore providing better protection of human health and the environment.

I am proud of those proposals, and many of us still on the Environment and Public Works Committee, including Chairman CHAFEE, who voted for that bill way back in the 103rd Congress should also be proud. Many of those proposals, although never enacted into law, were adopted administratively by EPA and radically altered the Superfund Program as we know it.

Others have been tested and been improved upon. In general, the thrust of this bill has resulted in many of the achievements of the current program.

According to a report issued by the General Accounting Office, by the end of this fiscal year all cleanup remedies will have been selected for 95 percent of nonfederal NPL sites (1,109 of 1,169 sites).

In addition, approximately 990 NPL sites have final cleanup plans approved, approximately 5,600 emergency removal actions have been taken at hazardous waste sites to stabilize dangerous situations and to reduce the threat to human health and the environment.

More than 30,900 sites have been removed from the Superfund inventory of

potential waste sites, to help promote the economic redevelopment of these properties.

During this same time, EPA has worked to improve the fairness and efficiency of the enforcement program, even while keeping up the participation of potentially responsible parties in cleaning up their sites.

EPA has negotiated more than 400 deminimis settlements with over 18,000 small parties, which gave protection for these parties against expensive contribution suits brought by other private parties. Sixty six percent of these have been in the last four years alone.

Since fiscal year 1996, EPA has offered ''orphan share'' compensation of over $145 million at 72 sites to responsible parties who were willing to step up and negotiate settlements of their cases. EPA is now offering this at every single settlement, to reward settlors and reduce litigation, both with the government, and with other private parties.

These are just a few highlights of the improvements made in the program, many drawn from our earlier legislative proposals. Other improvements, such as instituting the targeted review of complex and high-cost cleanups, prior to remedy selection, have reduced the cost of cleanups without delaying the pace of cleanups.

EPA's administrative reforms have significantly improved the program, by speeding up cleanups and reducing senseless litigation, and making the program fairer, faster and more efficient overall.

But despite the fact that this is a program that has finally really hit its stride, we are now faced with proposals from the majority which could undercut the progress in the program, and which are premised on a goal of closing down the program rather than a goal of cleaning up the sites. Indeed, the very title of their bill, the Superfund Program Completion Act, reflects this intent.

I am deeply troubled by many of the provisions in the Republican bill, which would have the effect of ramping the program down without regard to the amount of site work left to be done. This bill provides for lowered funding levels, a cap on the NPL, waivers of the federal safety net, and some broad liability exemptions.

At the same time, it creates a number of new, expensive obligations which would further reduce the amount of money available for cleanup. It also shifts the costs of the program to the taxpayers and would not include an extension of the Superfund tax.

In short, while I am encouraged by the fact that the Republican bill drops some troubling provisions from prior bills, it introduces a whole set of new issues that are cause for great concern.

I think it is very clear that what we need here is a better Superfund program, not a retreat from tackling our environmental problems.

We need a bill that continues to accelerate the pace of cleanups, keeps cleanups protective, reduces litigation and transaction costs, is affordable and does not shift costs to the American taxpayer.

That is why I am introducing the Superfund Litigation Reduction and Brownfield Cleanup Act of 1999. I believe that this bill, is in some areas very close to the provisions supported by my Republican colleagues, but differs in some critical areas.

It would protect cleanups, reduce litigation and not shift costs to the American taxpayer.

I hope that these are goals we can agree on. And I urge my colleagues to not throw the Superfund baby out with the bathwater.

I look forward to working with my colleagues to strengthen the Superfund program in the 21st century not dismantle it.

I ask unanimous consent that the bill and a summary of the Legislation be printed in the RECORD.

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

S. 1105

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 ''Superfund Litigation Reduction and Brownfield Cleanup Act of 1999''.

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

Sec. 1. Short title; table of contents.

TITLE I—BROWNFIELDS LIABILITY RELIEF

Sec. 101. Finality for buyers.
Sec. 102. Finality for owners and sellers.
Sec. 103. Regulatory authority.

TITLE II—SMALL BUSINESS LIABILITY RELIEF

Sec. 201. Liability exemptions.
Sec. 202. Expedited settlement for de minimis contributions and limited ability to pay.
Sec. 203. Small business ombudsman.

TITLE III—SETTLEMENTS FOR MUNICIPALITIES AND CONTRIBUTORS OF MUNICIPAL WASTE

Sec. 301. Municipal owners and operators.
Sec. 302. Expedited settlements with contributors of municipal waste.

TITLE IV—CLARIFICATION OF LIABILITY FOR RECYCLING TRANSACTIONS

Sec. 401. Recycling transactions.

TITLE V—BROWNFIELDS CLEANUP

Sec. 501. Brownfields funding.
Sec. 502. Research, development, demonstration, and training.
Sec. 503. State voluntary cleanup programs.
Sec. 504. Audits.

TITLE VI—SETTLEMENT INCENTIVES

Sec. 601. Fairness in settlements.

TITLE VII—FUNDING

Sec. 701. Authorization of appropriations.
Sec. 702. Funding for cleanup settlements.
Sec. 703. Agency for Toxic Substances and Disease Registry.
Sec. 704. Brownfields.
Sec. 705. Authorization of appropriations from general revenues.
Sec. 706. Worker training and education grants.

TITLE VIII—DEFINITIONS

Sec. 801. Definitions.

TITLE I—BROWNFIELDS LIABILITY RELIEF

SEC. 101. FINALITY FOR BUYERS.

(a) LIMITATIONS ON LIABILITY.—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) LIMITATION ON LIABILITY FOR PROSPECTIVE PURCHASERS.—Notwithstanding paragraphs (1) through (4) of subsection (a), to the extent the liability of a person, with respect to a release or the threat of a release from a facility, is based solely on subsection (a)(1), the person shall not be liable under this Act if the person—

''(1) is a bona fide prospective purchaser of the facility; and

''(2) does not impede the performance of any response action or natural resource restoration at a facility.''.

(b) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as amended by subsection (a)) is amended by adding at the end the following:

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

''(1) IN GENERAL.—In any case in which the United States has incurred unrecovered response costs at a facility for which an owner of the facility is not liable by reason of subsection (o), and the conditions described in paragraph (3) are met, the United States shall—

''(A) have a lien on the facility; or

''(B) may obtain, from the appropriate responsible party or parties, a lien on other property or other assurances of payment satisfactory to the Administrator, for the unrecovered costs.

''(2) AMOUNT; DURATION.—The lien shall—

''(A) be for an amount not to exceed the lesser of the amount of—

''(i) the response costs of the United States; or

''(ii) the increase in fair market value of the property attributable to the response action at the time of a subsequent sale or other disposition of the property;

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

''(C) be subject to the requirements for notice and validity specified in subsection (l)(3); and

''(D) continue until the earlier of satisfaction of the lien or recovery of all response costs incurred at the facility, notwithstanding any statute of limitations under section 113.

''(3) CONDITIONS.—The conditions referred to in paragraph (1) are the following:

''(A) RESPONSE ACTION.—A response action for which the United States has incurred unrecovered costs of a response not inconsistent with the National Contingency Plan 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 commenced.

''(4) SETTLEMENT.—Nothing in this subsection prevents the United States and the purchaser from entering into a settlement at any time that extinguishes a lien of the United States.''.

(c) DEFINITION OF BONA FIDE PROSPECTIVE PURCHASER.—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) 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 that can establish each of the following by a preponderance of the evidence:

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

''(B) INQUIRY.—

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

''(ii) STANDARDS.—The standards and practices referred to in clause (ii) of paragraph (35)(B) or those issued or designated by the Administrator under that clause shall satisfy the requirements of this subparagraph.

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

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

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

''(i) stop ongoing releases;

''(ii) prevent threatened future releases of hazardous substances; and

''(iii) prevent or limit human, environmental, or natural resource exposure to hazardous substances previously released into the environment.

''(E) COOPERATION, ASSISTANCE, AND ACCESS.—The person—

''(i) provides full cooperation, assistance, and access to the persons that are authorized to conduct the response and restoration actions at the facility, including the cooperation and access necessary for the assessment of contamination, installation, preservation of integrity, operation, and maintenance of any complete or partial response action at the facility; and

''(ii) has fully complied and is in full compliance with any land use or activity restrictions on the property established or relied on in connection with a response action at the facility, including informing any other party that the person allows to occupy or use the property of the restrictions and taking prompt action to correct any noncompliance by the party.

''(F) RELATIONSHIP.—

''(i) IN GENERAL.—The person is not liable or affiliated with any other person that is potentially liable for response costs at the facility through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.

''(ii) REORGANIZATION.—An entity that results from the reorganization of a business entity that is potentially liable does not qualify as a bona fide prospective purchaser with respect to a purchase or transfer of property directly or indirectly from the potentially liable entity.''.

SEC. 102. FINALITY FOR OWNERS AND SELLERS.

(a) KNOWLEDGE OF INQUIRY REQUIREMENT FOR 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), by striking '', unless'' and inserting ''. An owner or operator of a facility may only assert under section 107(b)(3) that an act or omission of a previous owner or operator of that facility did not occur in connection with a contractual relationship if''; and

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

''(B) KNOWLEDGE OF INQUIRY REQUIREMENT.—

''(i) DEFINITION OF CONTAMINATION.—In this subparagraph, the term 'contamination' means an existing release, a past release, or the threat of a release of a hazardous substance.

''(ii) REQUIREMENT.—

''(I) INQUIRY.—To establish that the defendant had no reason to know (under subparagraph (A)(i)), the defendant must have made, at the time of the acquisition, all appropriate inquiry (as well as comply with clause (vii)) into the previous ownership and uses of the facility, consistent with good commercial or customary practice in an effort to minimize liability.

''(II) CONSIDERATIONS.—For the purpose of subclause (I) and until the President issues or designates standards as provided in clause (iv), the 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 uncontaminated;

''(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 to detect the contamination by appropriate investigation.

''(iii) CONDUCT OF SITE ASSESSMENT.—A person who has acquired real property shall be considered to have made all appropriate inquiry within the meaning of clause (ii)(I) if—

''(I) the person establishes that, not later than 180 days before the date of acquisition, a site assessment of the real property was conducted that meets the requirements of clause (iv); and

''(II) the person complies with clause (vii).

''(iv) SITE ASSESSMENT STANDARDS.—

''(I) IN GENERAL.—A site assessment meets the requirements of this clause if the assessment is conducted in accordance with the standards set forth in the American Society for Testing and Materials (ASTM) Standard E1527–94, entitled 'Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process' or with any alternative standards issued by regulation by the President or issued or developed by other entities and designated by regulation by the President.

''(II) STUDY OF PRACTICES.—Before issuing or designating alternative standards under subclause (I), the President shall conduct a study of commercial and industrial practices concerning site assessments in the transfer of real property in the United States.

''(v) CONSIDERATIONS IN ISSUING STANDARDS.—In issuing or designating any standards under clause (iv), the President shall consider requirements governing each of the following:

''(I) Conduct of an inquiry by an environmental professional.

''(II) Interviews of each owner, operator, and occupant of the property to determine information regarding the potential for contamination.

''(III) Review of historical sources as necessary to determine each previous use and occupancy of the property since the property was first developed. In this subclause, the term 'historical sources' means any of the following, if reasonably ascertainable: each recorded chain of title document regarding the real property, including each deed, easement, lease, restriction, and covenant, any aerial photograph, fire insurance map, property tax file, United States Geological Survey 7.5 minutes topographic map, local street directory, building department record, and zoning/land use record, and any other source that identifies a past use or occupancy of the property.

''(IV) Determination of the existence of any recorded environmental cleanup lien against the real property that has arisen under any Federal, State, or local law.

''(V) Review of reasonably ascertainable Federal, State, and local government records of any facility that is likely to cause or contribute to contamination at the real property, including, as appropriate—

''(aa) any investigation report for the facility;

''(bb) any record of activities likely to cause or contribute to contamination at the real property, including any landfill or other disposal location record, underground storage tank record, hazardous waste handler and generator record, and spill reporting record; and

''(cc) any other reasonably ascertainable Federal, State, and local government environmental record that could reflect an incident or activity that is likely to cause or contribute to contamination at the real property.

''(VI) A visual site inspection of the real property and each facility and improvement on the real property and a visual site inspection of each immediately adjacent property, including an investigation of any hazardous substance use, storage, treatment, or disposal practice on the property.

''(VII) Any specialized knowledge or experience on the part of the person that acquired the property.

''(VIII) The relationship of the purchase price to the value of the property if uncontaminated.

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

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

''(vi) REASONABLY ASCERTAINABLE.—A record shall be considered to be reasonably ascertainable for purposes of clause (v) if a copy or reasonable facsimile of the record is publicly available by request (within reasonable time and cost constraints) and the record is practicably reviewable.

''(vii) APPROPRIATE INQUIRY.—A person shall not be treated as having made all appropriate inquiry under clause (ii)(I) unless—

''(I) the person has maintained a compilation of the information reviewed and gathered in the course of any site assessment;

''(II) with respect to hazardous substances found at the facility, the person, at a minimum, takes reasonable steps to—

''(aa) stop ongoing releases of hazardous substances;

''(bb) prevent threatened future releases of hazardous substances; and

''(cc) prevent or limit human, environmental, or natural resource exposure to hazardous substances previously released into the environment;

''(III) the person provides full cooperation, assistance, and facility access to such persons as 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; and

''(IV) the person has fully complied with and is in full compliance with any land use or activity restrictions on the property established or relied on in connection with a

response action at the facility, including informing any other party that the person allows to occupy or use the property of such restrictions and taking prompt action to correct any noncompliance by such parties.

''(viii) 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 site inspection and title search that reveal no basis for further investigation shall satisfy the requirements of clause (ii).''.

(b) LIMITATION ON LIABILITY FOR CONTIGUOUS PROPERTY OWNERS.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 101(b)) is amended by adding at the end the following:

''(q) CONTIGUOUS PROPERTIES.—

''(1) IN GENERAL.—A person that owns or operates real property that is contiguous to or otherwise similarly situated with respect to other real property that is not owned or operated by that person and that is or may be contaminated by a release or threatened release of a hazardous substance from the other real property 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 such person establishes by a preponderance of the evidence that—

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

''(B) the person is not affiliated with any other person that is liable or potentially liable for any response costs at the facility;

''(C) with respect to hazardous substances on or under the person's property, the person, at a minimum, takes reasonable steps to—

''(i) stop ongoing releases;

''(ii) prevent threatened future releases of hazardous substances; and

''(iii) prevent or limit human, environmental, or natural resource exposure to hazardous substances previously released into the environment;

''(D) the person provides full cooperation, assistance, and access to the persons that are authorized to conduct the response and restoration actions at the facility, including the cooperation and access necessary for the assessment of contamination, or installation, preservation of integrity, operation, and maintenance of any complete or partial response action at the facility;

''(E) the person has fully complied and is in full compliance with any land use or activity restrictions on the property established or relied on in connection with a response action at the facility, including informing any other party that the person allows to occupy or use the property of the restrictions and taking prompt action to correct any noncompliance by the party;

''(F) the person provided all legally required notices with respect to the discovery of the release; and

''(G) at the time the person acquired the property, the person—

''(i) conducted all appropriate inquiry within the meaning of subparagraph (B) of section 101(35); 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 hazardous substances from other real property not owned or operated by that person.

''(2) ASSURANCES.—The President may issue an assurance that no enforcement action under this Act shall be initiated against a person described in paragraph (1).

''(3) GROUNDWATER.—With respect to hazardous substances in groundwater beneath the person's property solely as a result of subsurface migration in an aquifer from a source or sources outside the property, paragraph (1)(C) shall not require that the person conduct groundwater investigations or install groundwater remediation systems, except in accordance with the policy of the Environmental Protection Agency on owners of property containing contaminated aquifers, dated May 24, 1995.

''(4) BONA FIDE PROSPECTIVE PURCHASER.—Any person that does not qualify as a person described in paragraph (1) because the person had the knowledge specified paragraph (1)(G) at the time of acquisition of the real property may qualify as a bona fide prospective purchaser under section 101(39) if the person is otherwise described in that section.

''(5) NO LIMITATION ON DEFENSES.—Nothing in this subsection—

''(A) limits defenses to liability that otherwise may be available to persons described in this subsection; or

''(B) imposes liability not otherwise imposed by section 107(a) on such persons.''.

SEC. 103. REGULATORY AUTHORITY.

(a) IN GENERAL.—The Administrator may—

(1) issue such regulations as the Administrator considers necessary to carry out the amendments made by this title; and

(2) assign any duties or powers imposed on or assigned to the Administrator by the amendments made by this title.

(b) AUTHORITY TO CLARIFY AND IMPLEMENT.—The authority under subsection (a) includes authority to clarify or interpret all terms, including the terms used in this title, and to implement any provision of the amendments made by this title.

TITLE II—SMALL BUSINESS LIABILITY RELIEF

SEC. 201. LIABILITY EXEMPTIONS.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 102(b)) is amended by adding at the end the following:

''(r) DE MICROMIS EXEMPTION.—

''(1) IN GENERAL.—Notwithstanding paragraphs (1) through (4) of subsection (a), and except as provided in paragraph (2), a person shall not be liable under this Act to the United States or any other person (including liability for contribution) for any response costs incurred with respect to a facility if—

''(A) liability is based solely on paragraph (3) or (4) of subsection (a);

''(B) the total of materials containing a hazardous substance that the person arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment of, or accepted for transport for disposal or treatment, at the facility, was less than 110 gallons of liquid materials or less than 200 pounds of solid material, or such greater quantity as the Administrator may determine by regulation; and

''(C) the acts on which liability is based took place before May 1, 1999.

''(2) EXCEPTION.—Paragraph (1) shall not apply in a case in which the Administrator determines that—

''(A) the material containing a hazardous substance referred to in paragraph (1) contributed or could contribute significantly, individually or in the aggregate, to the cost of the response action with respect to the facility; or

''(B) the person has failed to comply with any request for information or administrative subpoena issued by the President under this Act or has impeded or is impeding the performance of a response action with respect to the facility.

''(s) MUNICIPAL SOLID WASTE EXEMPTION.—

''(1) IN GENERAL.—Notwithstanding paragraphs (1) through (4) of subsection (a), and except as provided in paragraph (2), a person shall not be liable under this Act to the United States or any other person (including liability for contribution) for response costs incurred with respect to a facility to the extent that—

''(A) liability is based on paragraph (3) or (4) of subsection (a);

''(B) liability is based on an arrangement for disposal or treatment of, an arrangement with a transporter for transport for disposal or treatment of, or an acceptance for transport for disposal or treatment at a facility of, municipal solid waste; and

''(C) the person is—

''(i) an owner, operator, or lessee of residential property from which all of the person's municipal solid waste was generated with respect to the facility;

''(ii) a business entity (including any parent, subsidiary, or other affiliate of the entity) that, during the taxable year preceding the date of transmittal of written notification that the business is potentially liable, employed not more than 100 individuals, and from which was generated all of the entity's municipal solid waste with respect to the facility; or

''(iii) a small nonprofit organization that, during the taxable year preceding the date of transmittal of written notification that the organization is potentially liable, employed not more than 100 individuals, if the particular chapter, office, or department employing fewer than 100 individuals was the location from which was generated all of the municipal solid waste attributable to the organization with respect to the facility.

''(2) EXCEPTION.—Paragraph (1) shall not apply in a case in which the President determines that the person has failed to comply with any request for information or administrative subpoena issued by the President under this Act or has impeded or is impeding the performance of a response action with respect to the facility.''.

SEC. 202. EXPEDITED SETTLEMENT FOR DE MINIMIS CONTRIBUTIONS AND LIMITED ABILITY TO PAY.

(a) PARTIES ELIGIBLE.—Section 122(g) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622(g)) is amended—

(1) in paragraph (1), by redesignating subparagraph (B) as subparagraph (E);

(2) by striking ''(g)'' and all that follows through the end of paragraph (1)(A) and inserting the following:

''(g) EXPEDITED FINAL SETTLEMENT.—

''(1) PARTIES ELIGIBLE.—

''(A) IN GENERAL.—The President shall, as expeditiously as practicable, notify of eligibility for a settlement, and offer to reach a final administrative or judicial settlement with, each potentially responsible party that, in the judgment of the President, meets 1 or more of the conditions stated in subparagraphs (B), (C), (F), and (G).

''(B) DE MINIMIS CONTRIBUTION.—The condition stated in this subparagraph is that the liability of the potentially responsible party is for response costs based on paragraph (3) or (4) of subsection (a) and the potentially responsible party's contribution of hazardous substances at a facility is de minimis. For the purposes of this subparagraph, a potentially responsible party's contribution shall be considered to be de minimis only if the President determines that both of the following criteria are met:

''(i) The quantity of material containing a hazardous substance contributed by the potentially responsible party to the facility is minimal relative to the total quantity of material containing hazardous substances at the facility. The quantity of a potentially responsible party's contribution shall be presumed to be minimal if the quantity is 1 percent or less of the total quantity of materials containing hazardous substances at the

facility, unless the Administrator identifies a different threshold based on site-specific factors.

''(ii) The material containing a hazardous substance contributed by the potentially responsible party does not present toxic or other hazardous effects that are significantly greater than the toxic or other hazardous effects of other material containing hazardous substances at the facility.

''(C) REDUCTION IN SETTLEMENT AMOUNT BASED ON LIMITED ABILITY TO PAY.—

''(i) IN GENERAL.—The conditions stated in this subparagraph are that the potentially responsible party—

''(I) is—

''(aa) a natural person; or

''(bb) a small business; and

''(II) demonstrates to the President an inability or a limited ability to pay response costs.

''(ii) SMALL BUSINESSES.—

''(I) DEFINITION OF SMALL BUSINESS.—In this subparagraph, the term 'small business' means a business entity that, together with its parents, subsidiaries, and other affiliates, had an average of not more than 75 full-time equivalent employees and an average of not more than $3,000,000 in annual gross revenues, as reported to the Internal Revenue Service, during the 3 years preceding the date on which the business entity first received notice from the President of its potential liability under this Act.

''(II) OTHER BUSINESSES.—A business shall be eligible for a settlement under this subparagraph if the business—

''(aa) has an average of not more than 75 employees or an average of not more than $3,000,000 in annual gross revenue; and

''(bb) meets all other requirements for a settlement under this subparagraph.

''(III) CONSIDERATIONS.—At the request of a small business, the President shall take into consideration the ability of the small business to pay response costs and still maintain its basic business operations, including consideration of the overall financial condition of the small business and demonstrable constraints on the ability of the small business to raise revenues.

''(IV) INFORMATION.—A small business requesting settlement under this paragraph shall promptly provide the President with all relevant information needed to determine the ability of the small business to pay response costs.

''(V) DETERMINATION.—To be eligible to be covered by this subparagraph, the business shall demonstrate to the President the inability of the small business to pay response costs. If the small business employs fewer than 25 full-time equivalent employees and has average gross income revenues of less than $2,000,000, the President shall, on request, perform any analysis that the President determines may assist in demonstrating the impact of a settlement on the small business' ability to maintain its basic operations. The President may perform such analysis for any other party or request such other party to perform the analysis.

''(VI) ALTERNATIVE PAYMENT METHODS.—If the President determines that a small business is unable to pay its total settlement quantity immediately, the President shall consider such alternative payment methods as may be necessary or appropriate.

''(D) ADDITIONAL CONDITIONS FOR EXPEDITED SETTLEMENTS.—

''(i) WAIVER OF CLAIMS.—The President shall require, as a condition of settlement under this paragraph, that a potentially responsible party waive some or all of the claims (including a claim for contribution under section 113) that the party may have against other potentially responsible parties for response costs incurred with respect to the facility, unless the President determines that requiring a waiver would be unjust.

''(ii) EXCEPTION.—The President may decline to offer a settlement to a potentially responsible party under this paragraph if the President determines that the potentially responsible party has failed to comply with any request for access or information or an administrative subpoena issued by the President under this Act or has impeded or is impeding the performance of a response action with respect to the facility.

''(iii) RESPONSIBILITY TO PROVIDE INFORMATION AND ACCESS.—A potentially responsible party that enters into a settlement under this paragraph shall not be relieved of the responsibility to provide any information or access requested by the President in accordance with subsection (e)(3)(B) or section 104(e).

''(iv) BASIS OF DETERMINATION.—If the President determines that a potentially responsible party is not eligible for settlement under this paragraph, the President shall state the reasons for the determination in writing to any potentially responsible party that requests a settlement under this paragraph.

''(v) NO JUDICIAL REVIEW.—A determination by the President under this paragraph shall not be subject to judicial review.''; and

(3) in subparagraph (E) of paragraph (1) (as redesignated by paragraph (1))—

(A) by redesignating clauses (i) through (iii) as subclauses (I) through (III), respectively, and adjusting the margins appropriately;

(B) by striking ''(E) The potentially responsible party'' and inserting the following:

''(E) OWNERS OF REAL PROPERTY.—

''(i) IN GENERAL.—The condition stated in this subparagraph is that the potentially responsible party''; and

(C) by striking ''This subparagraph (B)'' and inserting the following:

''(ii) APPLICABILITY.—Clause (i)''.

(b) SETTLEMENT OFFERS.—Section 122(g) of the Comprehensive Environment Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9622(g)) is amended—

(1) by redesignating paragraph (6) as paragraph (9); and

(2) by inserting after paragraph (5) the following:

''(6) SETTLEMENT OFFERS.—

''(A) NOTIFICATION.—As soon as practicable after receipt of sufficient information to make a determination, the Administrator shall notify any person that the Administrator determines is eligible under paragraph (1) of the person's eligibility for the expedited final settlement.

''(B) OFFERS.—As soon as practicable after receipt of sufficient information, the Administrator shall submit a written settlement offer to each person that the Administrator determines, based on information available to the Administrator at the time at which the determination is made, to be eligible for a settlement under paragraph (1).

''(C) INFORMATION.—At the time at which the Administrator submits an offer under paragraph (1), the Administrator shall, at the request of the recipient of the offer, make available to the recipient any information available under section 552 of title 5, United States Code, on which the Administrator bases the settlement offer, and if the settlement offer is based in whole or in part on information not available under that section, so inform the recipient.

''(7) LITIGATION MORATORIUM.—

''(A) IN GENERAL.—No person that has received notification from the Administrator under paragraph (6) that the person is eligible for an expedited settlement under paragraph (1) shall be named as a defendant in any action under this Act for recovery of response costs (including an action for contribution) during the period—

''(i) beginning on the date on which the person receives from the President written notice of the person's potential liability and notice that the person is a party that may qualify for an expedited settlement; and

''(ii) ending on the earlier of—

''(I) the date that is 90 days after the date on which the President tenders a written settlement offer to the person; or

''(II) the date that is 1 year after receipt of notice from the President that the person may qualify for an expedited settlement.

''(B) SUSPENSION OF PERIOD OF LIMITATION.—The period of limitation under section 113(g) applicable to a claim against a person described in subparagraph (A) for response costs, natural resource damages, or contribution shall be suspended during the period described in subparagraph (A).

''(8) NOTICE OF SETTLEMENT.—After a settlement under this subsection becomes final with respect to a facility, the President shall promptly notify potentially responsible parties at the facility that have not resolved their liability to the United States of the settlement.''.

SEC. 203. SMALL BUSINESS OMBUDSMAN.

Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) is amended by adding at the end the following:

''(f) SMALL BUSINESS OMBUDSMAN.—

''(1) ESTABLISHMENT.—The Administrator shall establish a small business Superfund assistance section within the small business ombudsman office of the Environmental Protection Agency.

''(2) FUNCTIONS.—The small business Superfund assistance section shall—

''(A) act as a clearinghouse for the provision to small businesses of information, in a form that is comprehensible to a layperson, regarding this Act, including information regarding—

''(i) requirements and procedures for expedited settlements under section 122(g); and

''(ii) ability-to-pay procedures under section 122(g);

''(B) provide general advice and assistance to small businesses regarding questions and problems concerning the settlement processes (not including legal advice as to liability or any other legal representation); and

''(C) develop proposals and make recommendations for changes in policies and activities of the Environmental Protection Agency that would better fulfill the goals of this title and the amendments made by this title in ensuring equitable, simplified, and expedited settlements for small businesses.''.

TITLE III—SETTLEMENTS FOR MUNICIPALITIES AND CONTRIBUTORS OF MUNICIPAL WASTE

SEC. 301. MUNICIPAL OWNERS AND OPERATORS.

Section 107 of the Comprehensive Environment Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9607) (as amended by section 201) is amended by adding at the end the following:

''(t) MUNICIPAL OWNERS AND OPERATORS.—

''(1) IN GENERAL.—A municipality that is liable for response costs under paragraph (1) or (2) of subsection (a) on the basis of ownership or operation of a municipal landfill that was listed on the National Priority List on or before May 1, 1999, shall be eligible for a settlement of that liability.

''(2) SETTLEMENT AMOUNT.—

''(A) MUNICIPALITIES WITH A POPULATION OF 100,000 OR MORE.—

''(i) IN GENERAL.—Subject to clauses (ii) and (iii), the President shall offer a settlement to a municipality with a population of 100,000 (as measured by the 1990 census) or more with respect to liability described in

paragraph (1) on the basis of a payment or other obligation equivalent in value to not more than 20 percent of the total response costs incurred with respect to a facility.

''(ii) DECREASED AMOUNT.—The President may decrease the percentage under clause (i) with respect to a municipality to not less than 10 percent if the President determines that the municipality took specific acts of mitigation during the operation of the facility to avoid environmental contamination or exposure with respect to the facility.

''(iii) INCREASED AMOUNT.—The President may increase the percentage under clause (i) to not more than 35 percent if the President determines that—

''(I) the municipality committed specific acts that exacerbated environmental contamination or exposure with respect to the facility; or

''(II) the municipality, during the period of ownership or operation of the facility, received operating revenues substantially in excess of the sum of the waste system operating costs plus 20 percent of total estimated response costs incurred with respect to the facility.

''(B) MUNICIPALITIES WITH A POPULATION OF LESS THAN 100,000.—The President shall offer a settlement to a municipality with a population of less than 100,000 (as measured by the 1990 census) with respect to liability described in paragraph (1) in an amount that does not exceed 10 percent of the total response costs incurred with respect to the facility.

''(3) PERFORMANCE OF RESPONSE ACTIONS.—As a condition of a settlement with a municipality under this subsection, the President may require that the municipality perform or participate in the performance of the response actions at the facility.

''(4) OWNERSHIP OR OPERATION BY 2 OR MORE MUNICIPALITIES.—A combination of 2 or more municipalities that jointly own or operate (or owned or operated) a facility at the same time or during continuous operations under municipal control shall be considered to be a single owner or operator for the purpose of calculating a settlement offer under this subsection.

''(5) WAIVER OF CLAIMS.—The President shall require, as a condition of a settlement under this subsection, that a municipality or combination of 2 or more municipalities waive some or all of the claims (including a claim for contribution under section 113) that the party may have against other potentially responsible parties for response costs incurred with respect to the facility, unless the President determines that requiring a waiver would be unjust.

''(6) EXCEPTIONS.—The President may decline to offer a settlement under this subsection with respect to a facility if the President determines that the municipal owner or operator has failed to comply with any request for information or administrative subpoena issued by the United States under this Act, has failed to provide facility access to persons authorized to conduct response actions at the facility, or has impeded or is impeding the performance of a response action with respect to the facility.''.

SEC. 302. EXPEDITED SETTLEMENTS WITH CONTRIBUTORS OF MUNICIPAL WASTE.

Section 122(g)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622(g)(1)) (as amended by section 202(a)) is amended by adding at the end the following:

''(F) CONTRIBUTION OF MUNICIPAL SOLID WASTE AND MUNICIPAL SEWAGE SLUDGE.—

''(i) IN GENERAL.—The condition stated in this subparagraph is that the liability of the potentially responsible party is for response costs based on paragraph (3) or (4) of section 107(a) and the potentially responsible party arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment of, or accepted for transport for disposal or treatment, at a facility listed on the National Priorities List—

''(I) municipal solid waste; or

''(II) municipal sewage sludge.

''(ii) SETTLEMENT AMOUNT.—

''(I) IN GENERAL.—The President shall offer a settlement to a party referred to in clause (i) with respect to liability under paragraph (3) or (4) of section 107(a) on the basis of a payment of $5.30 per ton of municipal solid waste or municipal sewage sludge that the President estimates is attributable to the party.

''(II) REVISION.—

''(aa) IN GENERAL.—The President, after consulting with local government officials, may revise the per-ton rate by regulation.

''(bb) BASIS.—A revised settlement amount under item (aa) shall reflect the estimated per-ton cost of closure and post-closure activities at a representative facility containing only municipal solid waste or municipal sewage sludge.

''(iii) ADJUSTMENT FOR INFLATION.—The Administrator may by guidance periodically adjust the settlement amounts under clause (ii) to reflect changes in the Consumer Price Index (or other appropriate index, as determined by the Administrator).

''(iv) OTHER MATERIAL.—

''(I) IN GENERAL.—Notwithstanding clause (i), a potentially responsible party that arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment of, or accepted for transport for disposal or treatment, municipal solid waste or municipal sewage sludge and other material containing hazardous substances shall be eligible for the per-ton settlement rate provided in this subparagraph as to the municipal solid waste or municipal sewage sludge only, if the potentially responsible party demonstrates to the President's satisfaction the quantity of the municipal solid waste and municipal sewage sludge contributed by the party and the quantity and composition of the other material containing hazardous substances contributed by the party.

''(II) PARTIES ELIGIBLE FOR DE MICROMIS EXEMPTION.—If a potentially responsible party demonstrates to the President's satisfaction that, with respect to the material other than municipal solid waste or municipal sewage sludge contributed by the party, the party qualifies for the de micromis exemption under section 107(r), the party shall qualify for the per-ton settlement rate under clause (ii) with respect to its municipal solid waste and municipal sewage sludge in an expedited settlement under this paragraph.

''(III) PARTIES ELIGIBLE FOR EXPEDITED DE MINIMIS SETTLEMENT.—If a potentially responsible party demonstrates to the satisfaction of the President that, with respect to the material other than a municipal solid waste or municipal sewage sludge contributed by the party, the party qualifies for a de minimis settlement under subparagraph (B), the party shall qualify for the per-ton settlement rate under clause (ii) with respect to its municipal solid waste and municipal sewage sludge at the time that the party agrees to an expedited settlement under this paragraph with respect to its de minimis contribution of other material containing hazardous substances.

''(IV) OTHER PARTIES.—If a party does not make the demonstration under subclauses (II) and (III), the President shall offer to resolve the party's liability with respect to the municipal solid waste or municipal sewage sludge at the per-ton settlement rate under clause (ii) at such time as the party agrees to a settlement with respect to other material containing hazardous substances on terms and conditions acceptable to the President.

''(G) MUNICIPALITY WITH LIMITED ABILITY TO PAY.—

''(i) IN GENERAL.—The conditions stated in this subparagraph are that the potentially responsible party is a municipality and demonstrates to the President an inability or a limited ability to pay response costs.

''(ii) FACTORS.—The President shall consider the inability or limited ability to pay of a municipality to the extent that the municipality provides necessary information with respect to—

''(I) the general obligation bond rating and information about the most recent bond issue for which the rating was prepared;

''(II) the amount of total available funds (other than dedicated funds or State assistance payments for remediation of inactive hazardous waste sites);

''(III) the amount of total operating revenues (other than obligated or encumbered revenues);

''(IV) the amount of total expenses;

''(V) the amount of total debt and debt service;

''(VI) per capita income and cost of living;

''(VII) real property values;

''(VIII) unemployment information; and

''(IX) population information.

''(iii) EVALUATION OF IMPACT.—A municipality may also submit for consideration by the President an evaluation of the potential impact of the settlement on the provision of municipal services and the feasibility of making delayed payments or payments over a certain period of time.

''(iv) RISK OF DEFAULT OR VIOLATION.—A municipality may establish an inability to pay for purposes of this subparagraph through an affirmative showing that payment of its liability under this Act would—

''(I) create a substantial demonstrable risk that the municipality would default on debt obligations existing as of the time of the showing, be forced into bankruptcy, be forced to dissolve, or be forced to make budgetary cutbacks that would substantially reduce the level of protection of public health and safety; or

''(II) necessitate a violation of legal requirements or limitations of general applicability concerning the assumption and maintenance of fiscal municipal obligations.

''(v) OTHER FACTORS RELEVANT TO SETTLEMENTS WITH MUNICIPALITIES.—In determining an appropriate settlement amount with a municipality under this subparagraph, the President may consider other relevant factors, including the fair market value of any in-kind services that the municipality may provide to support the response action at the facility.

''(H) APPLICABILITY OF EXPEDITED SETTLEMENT REQUIREMENTS.—

''(i) IN GENERAL.—The requirements set forth in subparagraph (D) shall apply to settlements described in subparagraphs (F) and (G).

''(ii) OTHER REQUIREMENTS.—The requirements set forth in subparagraph (B)(ii) shall apply to settlements described in subparagraph (F)(i)(II).''.

TITLE IV—CLARIFICATION OF LIABILITY FOR RECYCLING TRANSACTIONS

SEC. 401. RECYCLING TRANSACTIONS.

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. 127. RECYCLING TRANSACTIONS.

''(a) LIABILITY CLARIFICATION.—A person who arranged for recycling of recyclable material in accordance with this section shall not be liable under paragraph (3) or (4) of section 107(a) with respect to the material.

''(b) DEFINITION OF RECYCLABLE MATERIAL.—

''(1) IN GENERAL.—In this section, the term 'recyclable material' means scrap paper, scrap plastic, scrap glass, scrap textile, scrap rubber (other than whole tires), scrap metal, or spent lead-acid, spent nickel-cadmium, and other spent battery, as well as minor quantities of material incident to or adhering to the scrap material as a result of its normal and customary use prior to becoming scrap.

''(2) EXCLUSIONS.—The term 'recyclable material' does not include shipping containers of a capacity from 30 liters to 3,000 liters, whether intact or not, having any hazardous substance (but not metal bits and pieces or hazardous substances that form an integral part of the container) contained in or adhering to the containers.

''(c) TRANSACTIONS INVOLVING SCRAP PAPER, PLASTIC, GLASS, TEXTILES, OR RUBBER.—A transaction involving scrap paper, scrap plastic, scrap glass, scrap textile, or scrap rubber (other than whole tires) shall be considered to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) demonstrates by a preponderance of the evidence that all of the following criteria were met at the time of the transaction:

''(1) The recyclable material met a commercial specification grade.

''(2) A market existed for the recyclable material.

''(3) A substantial portion of the recyclable material was made available for use as feedstock for the manufacture of a new saleable product.

''(4) The recyclable material is a replacement or substitute for a virgin raw material, or the product to be made from the recyclable material is a replacement or substitute for a product made, in whole or in part, from a virgin raw material.

''(5) In the case of a transaction occurring 90 days or more after the date of enactment of this section, the person exercised reasonable care to determine that the facility where the recyclable material was handled, processed, reclaimed, or otherwise managed by another person (referred to in this section as a 'consuming facility') was in compliance with substantive provisions of any Federal, State, or local environmental law (including a regulation, compliance order, or decree issued pursuant to the law) applicable to the handling, processing, reclamation, storage, or other management activities associated with recyclable material.

''(6) For purposes of this subsection, reasonable care shall be determined using criteria that include the following:

''(A) The price paid in the recycling transaction.

''(B) The ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with recyclable material.

''(C) The result of inquiries made to appropriate Federal, State, or local environmental agencies regarding the consuming facility's past and current compliance with substantive provisions of any Federal, State, or local environmental law (including a regulation, compliance order, or decree issued pursuant to the law) applicable to the handling, processing, reclamation, storage, or other management activities associated with the recyclable material. For the purposes of this paragraph, a requirement to obtain a permit applicable to the handling, processing, reclamation, or other management activity associated with the recyclable materials shall be considered to be a substantive provision.

''(d) TRANSACTIONS INVOLVING SCRAP METAL.—

''(1) IN GENERAL.—A transaction involving scrap metal shall be considered to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) demonstrates by a preponderance of the evidence that (at the time of the transaction) the person—

''(A) met the criteria set forth in subsection (c) with respect to the scrap metal;

''(B) was in compliance with any applicable regulations or standards regarding the storage, transport, management, or other activities associated with the recycling of scrap metal that the Administrator promulgates under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) subsequent to the date of enactment of this section and with regard to transactions occurring after the effective date of the regulations or standards; and

''(C) did not melt the scrap metal prior to the transaction.

''(2) THERMAL SEPARATION.—For purposes of paragraph (1)(C), melting of scrap metal does not include the thermal separation of 2 or more materials due to differences in their melting points.

''(3) DEFINITION OF SCRAP METAL.—In this subsection, the term 'scrap metal' means bits and pieces of a metal part (such as a bar, a turning, a rod, a sheet, and a wire) or a metal piece that may be combined together with bolts or soldering (resulting in items such as a radiator, scrap automobile, or railroad box car), which when worn or superfluous can be recycled, other than scrap metals that the Administrator excludes from this paragraph by regulation.

''(e) TRANSACTIONS INVOLVING BATTERIES.—A transaction involving a spent lead-acid battery, a spent nickel-cadmium battery, or other spent battery shall be considered to be arranging for recycling if the person who arranged for the transaction (by selling recyclable material or otherwise arranging for the recycling of recyclable material) demonstrates by a preponderance of the evidence that at the time of the transaction—

''(1) the person met the criteria set forth in subsection (c) with respect to the spent lead-acid battery, spent nickel-cadmium battery, or other spent battery, but the person did not recover the valuable components of such battery; and

''(2)(A) with respect to a transaction involving a lead-acid battery, the person was in compliance with applicable Federal environmental law (including regulations and standards), regarding the storage, transport, management, or other activities associated with the recycling of the battery;

''(B) with respect to a transaction involving a nickel-cadmium battery, the person was in compliance with applicable Federal environmental law (including regulations and standards) regarding the storage, transport, management, or other activities associated with the recycling of the battery; or

''(C) with respect to a transaction involving any other spent battery, the person was in compliance with applicable Federal environmental law (including regulations and standards) regarding the storage, transport, management, or other activities associated with the recycling of the battery.

''(f) EXCLUSIONS.—

''(1) IN GENERAL.—The exemptions set forth in subsections (c), (d), and (e) shall not apply if—

''(A) the person had an objectively reasonable basis to believe at the time of the recycling transaction that—

''(i) the recyclable material would not be recycled;

''(ii) the recyclable material would be burned as fuel, or for energy recovery or incineration; or

''(iii) for a transaction occurring before the date that is 90 days after the date of the enactment of this section, the consuming facility was not in compliance with a substantive provision of any Federal, State, or local environmental law (including a regulation, compliance order, or decree issued pursuant to the law), applicable to the handling, processing, reclamation, or other management activities associated with the recyclable material;

''(B) the person had reason to believe that hazardous substances had been added to the recyclable material for purposes other than processing for recycling;

''(C) the person failed to exercise reasonable care with respect to the management and handling of the recyclable material (including adhering to customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances); or

''(D) with respect to any item of a recyclable material, the item contained polychlorinated biphenyls at a concentration in excess of 50 parts per million or any new standard promulgated pursuant to applicable Federal law.

''(2) OBJECTIVELY REASONABLE BASIS.—For purposes of this subsection, an objectively reasonable basis for belief shall be determined using criteria that include—

''(A) the size of the person's business;

''(B) customary industry practices (including customary industry practices current at the time of the recycling transaction designed to minimize, through source control, contamination of the recyclable material by hazardous substances);

''(C) the price paid in the recycling transaction; and

''(D) the ability of the person to detect the nature of the consuming facility's operations concerning its handling, processing, reclamation, or other management activities associated with the recyclable material.

''(3) PERMIT.—For purposes of this subsection, a requirement to obtain a permit applicable to the handling, processing, reclamation, or other management activities associated with recyclable material shall be considered to be a substantive provision.

''(g) EFFECT ON OTHER LIABILITY.—Nothing in this section affects the liability of a person with respect to materials that are not recyclable materials (as defined in subsection (b)) under paragraph (1), (2), (3), or (4).

''(h) REGULATIONS.—The Administrator has the authority, under section 115, to promulgate additional regulations concerning this section.

''(i) EFFECT ON PENDING OR CONCLUDED ACTIONS.—The exemptions provided under this section shall not affect any concluded judicial or administrative action or any pending judicial action initiated by the United States prior to the date of enactment of this section.

''(j) LIABILITY FOR ATTORNEY'S FEES FOR CERTAIN ACTIONS.—Any person who commences an action in contribution against a person who is not liable by operation of this section shall be liable to that person for all reasonable costs of defending that action, including all reasonable attorneys and expert witness fees.

''(k) RELATIONSHIP TO LIABILITY UNDER OTHER LAWS.—Nothing in this section affects—

''(1) liability under any other Federal, State, or local law (including a regulation), including any requirements promulgated by

the Administrator under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.); or

''(2) the ability of the Administrator to promulgate regulations under any other law, including the Solid Waste Disposal Act.''.

TITLE V—BROWNFIELDS CLEANUP

SEC. 501. BROWNFIELDS 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 FUNDING FOR STATE AND LOCAL GOVERNMENTS.

''(a) BROWNFIELDS INVENTORY AND ASSESSMENT GRANT PROGRAM.—

''(1) ESTABLISHMENT.—The Administrator shall establish a program to award grants to States or local governments to inventory brownfield sites and to conduct site assessments of brownfield sites.

''(2) SCOPE OF PROGRAM.—

''(A) GRANT AWARDS.—To carry out this subsection, the Administrator may, on approval of an application, provide financial assistance to a State or local government.

''(B) GRANT APPLICATION PROCEDURE.—

''(i) IN GENERAL.—The Administrator shall establish a grant application procedure for this section.

''(ii) NATIONAL CONTINGENCY PLAN.—The Administrator may include in the procedure established under clause (i) requirements of the National Contingency Plan, to the extent that those requirements are relevant and appropriate to the program under this subsection.

''(C) GRANT APPLICATION.—An application for a grant under this subsection shall include, to the extent practicable, each of the following:

''(i) An identification of the brownfield sites for which assistance is sought and a description of the effect of the brownfield sites on the community, including a description of the nature and extent of any known or suspected environmental contamination within the areas in which eligible brownfield sites are situated.

''(ii) A description of the need of the applicant for financial assistance to inventory brownfield sites and conduct site assessments.

''(iii) A demonstration of the potential of the grant assistance to stimulate economic development, including the extent to which the assistance would stimulate the availability of other funds for site assessment, site identification, or environmental remediation and subsequent redevelopment of the areas in which eligible brownfield sites are situated.

''(iv) A description of the local commitment as of the date of the application, which shall include a community involvement plan that demonstrates meaningful community involvement.

''(v) A plan that demonstrates how the site assessment, site identification, or environmental remediation and subsequent development will be implemented, including—

''(I) an environmental plan that ensures the use of sound environmental procedures;

''(II) an explanation of the appropriate government authority and support for the project as in existence on the date of the application;

''(III) proposed funding mechanisms for any additional work; and

''(IV) a proposed land ownership plan.

''(vi) A statement describing the long-term benefits and the sustainability of the proposed project that includes—

''(I) the ability of the project to be replicated nationally and measures of success of the project; and

''(II) to the extent known, the potential of the plan for each area in which an eligible brownfield site is situated to stimulate economic development of the area on completion of the environmental remediation.

''(vii) Such other factors as the Administrator considers relevant to carry out this title.

''(D) APPROVAL OF APPLICATION.—

''(i) IN GENERAL.—In making a decision on whether to approve an application under subparagraph (A), the Administrator shall—

''(I) consider the need of the State or local government for financial assistance to carry out this subsection;

''(II) consider the ability of the applicant to carry out an inventory and site assessment under this subsection;

''(III) ensure a fair distribution of grant funds between urban and nonurban areas; and

''(IV) consider such other factors as the Administrator considers relevant to carry out this subsection.

''(ii) GRANT CONDITIONS.—As a condition of awarding a grant under this subsection, the Administrator may, on the basis of the criteria considered under clause (i), attach such conditions to the grant as the Administrator determines appropriate.

''(E) GRANT AMOUNT.—Subject to subparagraph (E), the amount of a grant awarded to any State or local government under this subsection for inventory and site assessment of 1 or more brownfield sites shall not exceed $200,000.

''(F) WAIVER.—The Administrator may waive the limitation on the amount of a grant under subparagraph (E) on the basis of the anticipated level of contamination, size, status of ownership, number of brownfield sites, or any other factor relating to the facility that the Administrator considers appropriate, taking into consideration the impact of the increase on the Administrator's ability to provide grants at other facilities.

''(G) TERMINATION OF GRANTS.—If the Administrator determines that a State or local government that receives a grant under this subsection is in violation of a condition of a grant referred to in subparagraph (D)(ii), the Administrator may terminate the grant made to the State or local government and require full or partial repayment of the grant.

''(b) GRANTS AND LOANS FOR CLEANUP OF BROWNFIELD SITES.—

''(1) ESTABLISHMENT.—The Administrator shall establish a program to award grants to—

''(A) State or local governments to capitalize revolving loan funds for the cleanup of brownfield sites; and

''(B) local governments that are not liable under section 107, in accordance with paragraph (3), for the purpose of cleaning up brownfield sites.

''(2) LOANS.—The loans may be provided by the State or local government to finance cleanups of brownfield sites by the State or local government, or by an owner or operator or a prospective purchaser of a brownfield site (including a local government) at which a cleanup is being conducted or is proposed to be conducted.

''(3) DETERMINATION.—In determining whether to award a grant under paragraph (1)(B), the Administrator shall consider, in addition to other requirements of this subsection—

''(A) the demonstrated financial need of the applicant for a grant, including whether the applicant would be financially able to repay a loan;

''(B) the extent to which the funds from the grant would be used for the creation or preservation of undeveloped space or for other nonprofit purposes; and

''(C) the benefits of a revolving loan program described in paragraph (1)(A) in promoting the long-term availability of funding for brownfields cleanups.

''(4) SCOPE OF PROGRAM.—

''(A) IN GENERAL.—

''(i) GRANTS.—In carrying out this subsection, the Administrator may award a grant to a State or local government that submits an application to the Administrator that is approved by the Administrator.

''(ii) USE OF GRANT.—The grant shall be used—

''(I) by the State or local government to capitalize a revolving loan fund to be used for cleanup of 1 or more brownfield sites; or

''(II) in the case of a grant under paragraph (1)(B), by the local government for cleanup of brownfield sites.

''(B) GRANT APPLICATION PROCEDURE.—

''(i) IN GENERAL.—The Administrator shall establish a grant application procedure for this subsection.

''(ii) INCLUSIONS.—The procedure established under clause (i)—

''(I) shall include criteria for grants under paragraph (1)(B); and

''(II) may include requirements of the National Contingency Plan, to the extent that those requirements are relevant and appropriate to the program under this subsection.

''(C) GRANT APPLICATION FOR REVOLVING LOAN FUNDS.—An application for a grant under this subsection to establish a revolving loan fund, shall be in such form as the Administrator determines appropriate, and shall include, at a minimum, the following:

''(i) Evidence that the grant applicant has the financial controls and resources to administer a revolving loan fund in accordance with this subsection.

''(ii) Provisions that—

''(I) ensure that the grant applicant has the ability to monitor the use of funds provided to loan recipients under this subsection; and

''(II) ensure that any cleanup conducted by the applicant is protective of human health and the environment.

''(iii) Identification of the criteria to be used by the State or local government in providing for loans under the program. The criteria shall include the financial standing of the applicants for the loans, the use to which the loans will be put, the provisions to be used to ensure repayment of the loan funds.

''(iv) A complete description of the financial standing of the applicant that includes a description of the assets, cash flow, and liabilities of the applicant.

''(v) A written statement that attests that the cleanup of the site would not occur without access to the revolving loan fund.

''(vi) The proposed method, and anticipated period of time required, to clean up the environmental contamination at the brownfield site.

''(vii) An estimate of the proposed total cost of the cleanup to be conducted at the brownfield site.

''(viii) An analysis that demonstrates the potential of the brownfield site for stimulating economic development or other beneficial use on completion of the cleanup of the brownfield site.

''(5) GRANT APPROVAL.—In determining whether to award a grant under this subsection, the Administrator shall consider, as applicable—

''(A) the need of the State or local government for financial assistance to clean up brownfield sites that are the subject of the application, taking into consideration the financial resources available to the State or local government;

''(B) the ability of the State or local government to ensure that the applicants repay the loans in a timely manner;

''(C) the extent to which the cleanup of the brownfield site or sites would reduce health and environmental risks caused by the release of contaminants at, or from, the brownfield site or sites;

''(D) the demonstrable potential of the brownfield site or sites for stimulating economic development on completion of the cleanup;

''(E) the demonstrated ability of the State or local government to administer such a loan program;

''(F) the demonstrated experience of the State or local government regarding brownfield sites and the reuse of contaminated land, including whether the government has received any grant under this Act to assess brownfield sites, except that applicants who have not previously received such a grant may be considered for awards under this subsection;

''(G) the efficiency of having the loan administered by the level of government represented by the applicant entity;

''(H) the experience of administering any loan programs by the entity, including the loan repayment rates;

''(I) the demonstrations made regarding the ability of the State or local government to ensure a fair distribution of grant funds among brownfield sites within the jurisdiction of the State or local government; and

''(J) such other factors as the Administrator considers relevant to carry out this subsection.

''(6) GRANT AMOUNT TO CAPITALIZE REVOLVING LOAN FUNDS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the amount of a grant to capitalize a revolving loan fund made to a State or local applicant under this subsection shall not exceed $500,000.

''(B) WAIVER.—The Administrator may waive the limitation on the amount of a grant under subparagraph (A) on the basis of the anticipated level of contamination, size, status of ownership, number of brownfield sites, or any other factor relating to the facility that the Administrator considers appropriate, taking into consideration the impact of the increase on the Administrator's ability to provide grants at other facilities.

''(7) CLEANUP GRANT AMOUNT.—The amount of a grant made to a local applicant under paragraph (1)(B) shall not exceed $200,000.

''(8) GRANT APPROVAL.—Each application for a grant to capitalize a revolving loan fund under this subsection shall, as a condition of approval by the Administrator, include a written statement by the State or local government that cleanups to be funded under this subsection shall be conducted under the auspices of, and in compliance with—

''(A) the State voluntary cleanup program;

''(B) the State Superfund program; or

''(C) Federal law.

''(9) GRANT AGREEMENTS.—Each grant under this subsection shall be made under a grant agreement that shall include, at a minimum, provisions that ensure the following:

''(A) COMPLIANCE WITH LAW.—The grant recipient shall include in all loan agreements a requirement that the loan recipient shall comply with all laws applicable to the cleanup and shall ensure that the cleanup is protective of human health and the environment.

''(B) REPAYMENT.—For grants made under paragraph (1)(A), the State or local government shall require repayment of the loan consistent with this subsection.

''(C) USE OF FUNDS.—

''(i) REVOLVING GRANTS.—For grants made under paragraph (1)(A), the State or local government shall use the funds, including repayment of the principal and interest, solely for purposes of establishing and capitalizing a loan program in accordance with this subsection and of cleaning up the environmental contamination at the brownfield site or sites.

''(ii) CLEANUP GRANTS.—For grants made under paragraph (1)(B), the local government shall use the funds solely for the purpose of cleaning up the environmental contamination at the brownfield site or sites.

''(D) REPAYMENT OF FUNDS.—For grants made under paragraph (1)(A), the State or local government shall require in each loan agreement, and take necessary steps to ensure, that the loan recipient shall use the loan funds solely for the purposes stated in subparagraph (C), and shall require the return of any excess funds immediately on a determination by the appropriate State or local official that the cleanup has been completed.

''(E) NONTRANSFERABILITY.—For grants under paragraph (1)(A) or (1)(B), the loan funds shall not be transferable, unless the Administrator agrees to the transfer in writing.

''(F) LIENS.—

''(i) DEFINITIONS.—In this subparagraph, the terms 'security interest' and 'purchaser' have the meanings given the terms in section 6323(h) of the Internal Revenue Code of 1986.

''(ii) LIENS.—A lien in favor of the grant recipient shall arise on the contaminated property subject to a loan under this subsection.

''(iii) COVERAGE.—The lien shall cover all real property included in the legal description of the property at the time the loan agreement provided for in this subsection is signed, and all rights to the property, and shall continue until the terms and conditions of the loan agreement have been fully satisfied.

''(iv) TIMING.—The lien shall—

''(I) arise at the time a security interest is appropriately recorded in the real property records of the appropriate office of the State, county, or other governmental subdivision, as designated by State law, in which the real property subject to the lien is located; and

''(II) be subject to the rights of any purchaser, holder of a security interest, or judgment lien creditor whose interest is or has been perfected under applicable State law before the notice has been filed in the appropriate office of the State, county, or other governmental subdivision, as designated by State law, in which the real property subject to the lien is located.

''(G) OTHER CONDITIONS.—The State or local government shall comply with such other terms and conditions as the Administrator determines are necessary to protect the financial interests of the United States and to protect human health and the environment.

''(c) REPORTS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and not later than January 31 of each of the 3 calendar years thereafter, the Administrator shall prepare and submit a report describing the results of each program established under this title to—

''(A) the Committee on Environment and Public Works of the Senate; and

''(B) the Committee on Commerce of the House of Representatives.

''(2) CONTENTS OF REPORT.—Each report shall, with respect to each of the programs established under this title, include a description of—

''(A) the number of applications received by the Administrator during the preceding calendar year;

''(B) the number of applications approved by the Administrator during the preceding calendar year; and

''(C) the allocation of assistance under subsections (a) and (b) among the States and local governments.

''(d) LIMITATIONS ON USE OF FUNDS.—

''(1) EXCLUDED FACILITIES.—A grant for site inventory and assessment under subsection (a) or to capitalize a revolving loan fund or conduct a cleanup under subsection (b) may not be used for any activity involving—

''(A) a facility that is the subject of a planned or an ongoing response action under this Act, except for a facility for which a preliminary assessment, site investigation, or removal action has been completed and with respect to which the Administrator has decided not to take further response action, including cost recovery action;

''(B) a facility included, or proposed for inclusion, on the National Priorities List maintained by the Administrator under this Act;

''(C) a facility with respect to which a record of decision, other than a no-action record of decision, has been issued by the President under section 104 with respect to the facility;

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

''(E) any land disposal unit with respect to which a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted and closure requirements have been specified in a closure plan or permit;

''(F) a facility at which there has been a release of a polychlorinated biphenyl and that is subject to the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

''(G) a facility with respect to which an administrative or judicial order or a consent decree requiring cleanup has been issued or entered into by the President and is in effect under—

''(i) this Act;

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

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

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

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

''(H) a facility at which assistance for response activities may be 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 by section 9508 of the Internal Revenue Code of 1986; and

''(I) a facility owned or operated by a department, agency, or instrumentality of the United States, except for land held in trust by the United States for an Indian tribe.

''(2) FACILITY GRANTS.—Notwithstanding paragraph (1), the President may, on a facility-by-facility basis, allow a grant under subsection (a) or (b) to be used for an activity involving any facility or portion of a facility listed in subparagraph (D), (E), (F), (G)(ii), (G)(iii), (G)(iv), (G)(v), or (H) of paragraph (1).

''(3) FINES AND COST-SHARING.—A grant made under this title may not be used to pay any fine or penalty owed to a State or the Federal Government, or to meet any Federal cost-sharing requirement.

''(4) OTHER LIMITATIONS.—

''(A) IN GENERAL.—Funds made available to a State or local government under the grant programs established under subsections (a) and (b) shall be used only to inventory and assess brownfield sites as authorized by this title and for capitalizing a revolving loan

fund or cleanup of a brownfield site as authorized by this title, respectively.

''(B) RESPONSIBILITY FOR CLEANUP ACTION.—Funds made available under this title may not be used to relieve a local government or State of the commitment or responsibilities of the local government or State under State law to assist or carry out cleanup actions at brownfield sites.

''(e) REGULATIONS.—

''(1) IN GENERAL.—The Administrator may issue such regulations as are necessary to carry out this section.

''(2) PROCEDURES AND STANDARDS.—The regulations shall include such procedures and standards as the Administrator considers necessary, including procedures and standards for evaluating an application for a grant or loan submitted under this section.

''(f) EFFECT ON OTHER LAWS.—Nothing in this title affects the liability or response authorities for environmental contamination under any other law (including any regulation), including—

''(1) this Act;

''(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. 502. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND TRAINING.

(a) RESEARCH, DEVELOPMENT, DEMONSTRATION, AND TRAINING.—Section 311 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660) is amended by striking subsection (c) and inserting the following:

''(c) HAZARDOUS SUBSTANCE RESEARCH, DEVELOPMENT, DEMONSTRATION, AND TRAINING.—

''(1) IN GENERAL.—The Administrator may conduct and, through grants, cooperative agreements, contracts, and the provision of technical assistance, may support, research, development, demonstration, and training relating to the detection, assessment, remediation, and evaluation of the effects on and risks to human health and the environment from hazardous substances.

''(2) ELIGIBILITY.—The Administrator may award grants and cooperative agreements, or contracts or provide technical assistance under this subsection to a State, Indian tribe, consortium of Indian tribes, interstate agency, political subdivision of a State, educational institution, or other agency or organization for the development and implementation of training, technology transfer, and information dissemination programs to strengthen environmental response activities, including enforcement, at the Federal, State, tribal and local levels.

''(3) REQUIREMENTS.—The Administrator may establish such requirements for grants and cooperative agreements under this subsection as the Administrator considers to be appropriate.''.

(b) TRAINING AND TECHNICAL ASSISTANCE.—Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) (as amended by section 203) is amended by adding at the end the following:

''(g) FINANCIAL ASSISTANCE FOR TRAINING.—The Administrator may provide training and technical assistance to individuals and organizations, as appropriate to—

''(1) inventory and conduct assessments and cleanups of brownfield sites; and

''(2) conduct response actions under this Act.''.

SEC. 503. STATE VOLUNTARY CLEANUP 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 501) is amended by adding at the end the following:

''SEC. 129. SUPPORT FOR STATE VOLUNTARY CLEANUP PROGRAMS.

''(a) EPA ASSISTANCE FOR STATES FOR STATE VOLUNTARY RESPONSE PROGRAMS.—The Administrator shall assist States to establish and administer State voluntary response programs that provide—

''(1) voluntary response actions that ensure adequate site assessment and are protective of human health and the environment;

''(2) opportunities for technical assistance (including grants) for voluntary response actions;

''(3) meaningful opportunities for public participation on issues that affect the community, which shall include prior notice and opportunity for comment in the selection of response actions and which may include involvement of State and local health officials during site assessment;

''(4) streamlined procedures to ensure expeditious voluntary response actions;

''(5) adequate oversight, enforcement authorities, resources, and practices to—

''(A) ensure that voluntary response actions are protective of human health and the environment, as provided in paragraph (1), and are conducted in a timely manner in accordance with a State-approved response action plan; and

''(B) ensure completion of response actions if the person conducting the response action fails or refuses to complete the necessary response activities that are protective of human health and the environment, including operation and maintenance or long-term monitoring activities;

''(6) mechanisms for the approval of a response action plan; and

''(7) mechanisms for a certification or similar documentation to the person that conducted the response action indicating that the response is complete.

''(b) GRANTS FOR DEVELOPMENT AND ENHANCEMENT OF STATE VOLUNTARY RESPONSE PROGRAMS AND REPORTING REQUIREMENT.—

''(1) GRANTS TO STATES.—The Administrator shall provide grants to States to develop or enhance State voluntary response programs described in subsection (a).

''(2) PUBLIC RECORD.—To assist the Administrator in determining the needs of States for assistance under this section, the Administrator shall encourage the States to maintain a public record of facilities, by name and location, that have been or are planned to be addressed under a State voluntary response program.

''(3) REPORTING REQUIREMENT.—Not later than the end of the first calendar year after the date of enactment of this section, and annually thereafter, each State that receives financial assistance under this section shall submit to the Administrator a report describing the progress of the voluntary response program of the State, including information, with respect to that calendar year, on—

''(A) the number of sites, if any, undergoing voluntary cleanup, including a separate description of the number of sites in each stage of voluntary cleanup;

''(B) the number of sites, if any, entering voluntary cleanup; and

''(C) the number of sites, if any, that received a certification from the State indicating that a response action is complete.''.

SEC. 504. AUDITS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by adding at the end the following:

''(q) AUDITS.—

''(1) IN GENERAL.—The Inspector General of the Environmental Protection Agency shall audit a portion of the grants awarded under section 129 to ensure that all funds are used in a manner that is consistent with that section.

''(2) FUTURE GRANTS.—The result of the audit shall be taken into account in awarding any future grants to the State or local government under that section.''.

TITLE VI—SETTLEMENT INCENTIVES

SEC. 601. FAIRNESS IN SETTLEMENTS.

Section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622) is amended by adding at the end the following:

''(n) FAIRNESS IN SETTLEMENTS.—

''(1) ASSISTANCE FOR CLEANUP SETTLEMENTS.—An agreement under subsection (a) may, in the discretion of the President, provide for payment of sums appropriated under section 111(s) to pay a portion of the response costs at a facility in accordance with section 122(b) where the President determines there are parties that are insolvent, defunct, or otherwise have a limited ability to pay, or based on other equitable considerations.

''(2) APPLICATION TOWARD CLEANUP SETTLEMENT OF SUMS RECOVERED IN OTHER SETTLEMENTS.—The President may enter into settlements under paragraphs (3), subparagraphs (B), (C), (F), and (G) of section 122(g)(1), and section 107(t) that include terms providing for the disposition of the proceeds of the settlements in a manner that is fair and reasonable, including, as appropriate, the placement of settlement proceeds in interest-bearing accounts to conduct or enable other persons to conduct response actions at the facility.

''(3) ADDITIONAL SETTLEMENTS BASED ON ABILITY TO PAY.—The President shall have the authority to evaluate the ability to pay of any potentially responsible party, and to enter into a settlement with the party based on that party's ability to pay.''.

TITLE VII—FUNDING

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended in the first sentence by striking ''$8,500,000,000 for the 5-year period beginning on the date of enactment of the Superfund Amendments and Reauthorization Act of 1986, and not more than $5,100,000,000 for the period commencing October 1, 1991, and ending September 30, 1994'' and inserting ''$7,500,000,000 for the period beginning October 1, 1999, and ending September 30, 2004''.

SEC. 702. FUNDING FOR CLEANUP SETTLEMENTS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended—

(1) in subsection (a), by inserting after paragraph (6) the following:

''(7) FUNDING FOR CLEANUP SETTLEMENTS.—Payments toward cleanup settlements under subsection (r) and section 122(n)(1).''; and

(2) by adding at the end the following:

''(r) MANDATORY FUNDING.—

''(1) IN GENERAL.—Subject to paragraph (4), for the purpose of contributing under section 122(n)(1) to a cleanup settlement, there is made available for obligation from amounts in the Hazardous Substance Superfund for each of fiscal years 2000 through 2004, $200,000,000, to remain available until expended

''(2) EFFECT ON AUTHORITY.—Nothing in this paragraph affects the authority of the Administrator to forego recovery of past costs.

''(3) FISCAL YEAR FUNDS.—Except in fiscal year 2000, if the amounts made available under paragraph (1) available for a fiscal year have been obligated, up to ½ of the

amounts made available under paragraph (1) for the next fiscal year may be obligated.

''(4) CONDITION ON AVAILABILITY.—An amount under paragraph (1) may be made available for obligation for a fiscal year only if the total amount appropriated for the fiscal year under section 111(a) equals or exceeds $1,500,000,000.''.

SEC. 703. AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by striking subsection (m) and inserting the following:

''(m) AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY.—There shall be directly available to the Agency for Toxic Substances and Disease Registry to be used for the purpose of carrying out activities described in subsection (c)(4) and section 104(i) not less than $75,000,000 for each of fiscal years 2000 through 2004.''.

SEC. 704. BROWNFIELDS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) (as amended by section 702) is amended by adding at the end the following:

''(s) AUTHORIZATION OF APPROPRIATIONS.—

''(1) INVENTORY AND ASSESSMENT PROGRAM.—There is authorized to be appropriated to carry out section 128(a) $35,000,000 for each of fiscal years 2000 through 2004.

''(2) GRANTS FOR CLEANUP.—There is authorized to be appropriated to carry out section 128(b) $60,000,000 for each of fiscal years 2000 through 2004.

''(3) VOLUNTARY RESPONSE PROGRAMS.—There is authorized to be appropriated for assistance to States for voluntary response programs under section 129(b) $15,000,000 for each of the first 5 fiscal years beginning after the date of enactment of this section.

''(4) AVAILABILITY OF FUNDS.—The amounts appropriated under this subsection shall remain available until expended.''.

SEC. 705. AUTHORIZATION OF APPROPRIATIONS FROM GENERAL REVENUES.

Section 111(p) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(p)) is amended by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—

''(A) AUTHORIZATION.—There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund, $250,000,000 for each of fiscal years 2000 through 2004.

''(B) APPROPRIATION IN SUBSEQUENT YEARS.—In addition to funds appropriated under subparagraph (A), there is authorized to be appropriated to the Hazardous Substance Superfund for each fiscal year described in subparagraph (A) an amount equal to so much of the aggregate amount authorized to be appropriated under subparagraph (A) as has not been appropriated for any previous fiscal year.''.

SEC. 706. WORKER TRAINING AND EDUCATION GRANTS.

Section 111(c)(12) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(c)(12)) is amended—

(1) by striking ''$10,000,000'' and inserting ''$40,000,000''; and

(2) by striking ''each of fiscal years 1987,'' and all that follows through ''1994'' and inserting ''each of fiscal years 2000 through 2004''.

TITLE VIII—DEFINITIONS

SEC. 801. DEFINITIONS.

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

''(40) BROWNFIELD SITE.—The term 'brownfield site' means a facility that has or is suspected of having environmental contamination that—

''(A) could prevent the timely use, development, reuse, or redevelopment of the facility; and

''(B) is relatively limited in scope or severity and can be comprehensively assessed and readily analyzed.

''(41) CONTAMINANT.—The term ''contaminant'', for purposes of section 128 and paragraph (44), includes any hazardous substance.

''(42) GRANT.—The term ''grant'' includes a cooperative agreement.

''(43) LOCAL GOVERNMENT.—The term ''local government'' has the meaning given the term ''unit of general local government'' in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)), except that the term includes an Indian tribe.

''(44) SITE ASSESSMENT.—

''(A) IN GENERAL.—The term ''site assessment'', for purposes of sections 128 and 129 and paragraph (35) means an investigation that determines the nature and extent of a release or potential release of a hazardous substance at a brownfield site and meets the requirements of subparagraph (B).

''(B) INVESTIGATION.—For the purposes of this paragraph, an investigation that meets the requirements of this subparagraph—

''(i) shall include—

''(I) an onsite evaluation; and

''(II) sufficient testing, sampling, and other field-data-gathering activities to accurately determine whether the brownfield site is contaminated and the threats to human health and the environment posed by the release of contaminants at the brownfield site; and

''(ii) may include—

''(I) review of such information regarding the brownfield site and previous uses as is available at the time of the review; and

''(II) an offsite evaluation, if appropriate.

''(45) MUNICIPAL SOLID WASTE.—

''(A) IN GENERAL.—The term 'municipal solid waste' means—

''(i) waste material generated by a household (including a single or multifamily residence); and

''(ii) waste material generated by a commercial, institutional, or industrial source, to the extent that the waste material—

''(I) is essentially the same as waste normally generated by a household; or

''(II) is collected and disposed of with other municipal solid waste or municipal sewage sludge as part of normal municipal solid waste collection services, and, with respect to each source from which the waste material is collected, qualifies for a de micromis exemption under section 107(r).

''(B) EXAMPLES.—Examples of municipal solid waste under subparagraph (A) include food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, elementary or secondary school science laboratory waste, and household hazardous waste.

''(C) EXCLUSIONS.—The term 'municipal solid waste' does not include—

''(i) combustion ash generated by resource recovery facilities or municipal incinerators; or

''(ii) waste material from manufacturing or processing (including pollution control) operations that is not essentially the same as waste normally generated by households.

''(46) MUNICIPALITY.—

''(A) IN GENERAL.—The term 'municipality' means a political subdivision of a State.

''(B) INCLUSIONS.—The term 'municipality' includes—

''(i) a city, county, village, town, township, borough, parish, school, school district, sanitation district, water district, or other public entity performing local governmental functions; and

''(ii) a natural person acting in the capacity of an official, employee, or agent of a political subdivision of a State or an entity described in clause (i) in the performance of governmental functions.

''(47) OWNER, OPERATOR, OR LESSEE OF RESIDENTIAL PROPERTY.—

''(A) IN GENERAL.—The term 'owner, operator, or lessee of residential property' means a person that—

''(i) owns, operates, manages, or leases residential property; and

''(ii) uses or allows the use of the residential property exclusively for residential purposes.

''(B) RESIDENTIAL PROPERTY.—For the purposes of subparagraph (A) the term 'residential property' means a single or multifamily residence (including incidental accessory land, buildings, or improvements) that is used exclusively for residential purposes.

''(48) SMALL NONPROFIT ORGANIZATION.—The term 'small nonprofit organization' means an organization that, at the time of disposal—

''(A) did not distribute any part of its income or profit to its members, directors, or officers;

''(B) employed not more than 100 paid individuals at the chapter, office, or department disposing of the waste; and

''(C) was an organization described in section 501(c) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.

''(49) AFFILIATE; AFFILIATED.—The terms 'affiliate' and 'affiliated' have the meanings that those terms have in section 121.103 of title 13, Code of Federal Regulations (or any successor regulation).

''(50) MUNICIPAL SEWAGE SLUDGE.—The term 'municipal sewage sludge' means solid, semisolid, or liquid residue removed during the treatment of municipal wastewater, domestic sewage, or other wastewater at or by publicly owned or federally owned treatment works.''.

S. 1105—SUMMARY

1. BROWNFIELDS LIABILITY RELIEF

Finality for Buyers (limitation on liability for prospective purchasers).

Finality for Owners and Sellers (liability relief for innocent landowners and contiguous property owners).

2. BROWNFIELDS FUNDING

Grants to municipalities, states and tribes to assess conditions at brownfields sites.

Grants to municipalities, states and tribes to capitalize revolving loan funds for cleanup of brownfields sites.

Grants to states to develop and enhance state voluntary cleanup programs.

3. SMALL BUSINESS LIABILITY RELIEF

Liability exemptions:

De micromis (generators and transporters that send less than 110 gallons of liquid material or less than 200 pounds of solid material, or different amount determined by the Administrator on a site-specific basis).

Generators and transporters of municipal solid waste who are small businesses, residential homeowners or small non-profits.

Expedited settlement:

De Minimis (presumed to be 1% or less of waste at site).

Limited ability to pay.

4. CLARIFICATION OF LIABILITY FOR RECYCLING TRANSACTIONS

Exemption for generators and transporters of recyclable material, as provided in the Lott/Daschle bill in the 105th, and endorsed buy ISRI, environmental groups, the Administration and others.

5. RELIEF FOR GENERATORS AND TRANSPORTERS OF MUNICIPAL WASTE AND FOR MUNICIPAL OWNERS OF LANDFILLS

Cap on liability of generators and transporters of municipal solid waste and sewage sludge, and of municipalities that own or operate municipal landfills on the NPL, per EPA 1998 policy that was negotiated with and has the support of several municipal representatives (including National Association of Counties, National League of Cities): expedited settlement based on dollar per ton limits, for generators and transporters; percentage of total costs cap for owners and operators.

6. FUNDING

Authorization levels consistent with recent years and, consistent with past, majority of funding from the Superfund trust fund, with $250 million from general revenues.

EPA continue to provide orphan funding as incentive for parties to enter into cleanup settlements.

By Mr. TORRICELLI (for himself and Ms. SNOWE):

S. 1106. A bill to amend the Public Health Service Act and Employee Retirement Income Security Act of 1974 to require that group and individual health insurance coverage and group health plans provide coverage for qualified individuals for bone mass measurement (bone density testing) to prevent fractures associated with osteoporosis; to the Committee on Health, Education, Labor, and Pensions.

EARLY DETECTION AND PREVENTION OF OSTEOPOROSIS AND RELATED BONE DISEASES ACT OF 1999

Mr. TORRICELLI. Mr. President, I rise today to introduce the Early Detection and Prevention of Osteoporosis and Related Bone Diseases Act of 1999 along with my colleague from Maine, Senator SNOWE.

Osteoporosis and other related bone diseases pose a major public health threat. More than 28 million Americans, 80 percent of whom are women, suffer from, or are at risk for, osteoporosis. Between three and four million Americans suffer from related bone diseases like Paget's disease or osteogenesis imperfecta. Today, in the United States, 10 million individuals already have osteoporosis and 18 million more have low bone mass, placing them at increased risk.

Osteoporosis is often called the ''silent disease'' because bone loss occurs without symptoms. People often do not know they have osteoporosis until their bones become so weak that a sudden bump or fall causes a fracture or a vertebra to collapse. Every year, there are 1.5 million bone fractures caused by osteoporosis. Half of all women, and one-eighth of all men, age 50 or older, will suffer a bone fracture due to osteoporosis.

Osteoporosis is a progressive condition that has no known cure; thus, prevention and treatment are key. The Early Detection and Prevention of Osteoporosis and Related Bone Diseases Act of 1999 seeks to combat osteoporosis, and related bone diseases like Paget's disease by requiring private health plans to cover bone mass measurement tests for qualified individuals who are at risk for developing osteoporosis.

Bone mass measurement is the only reliable method of detecting osteoporosis in its early stages. The test is non-invasive and painless and is as predictive of future fractures as high cholesterol or high blood pressure is of heart disease or stroke. This provision is similar to a provision in the Balanced Budget Act of 1997 that requires Medicare coverage of bone mass measurements.

Medical experts agree that osteoporosis is preventable. Thus, if the toll of osteoporosis and other related bone diseases is to be reduced, the commitment to prevention and treatment must be significantly increased.

Last year, Congress reauthorized the Women's Health Research and Prevention Act. This legislation authorized $3 million for a national resource center to increase public knowledge and awareness of osteoporosis, and $40 million for osteoporosis research at the National Institutes of Health (NIH). This was an important first step in the fight against osteoporosis. Congress must now maintain its commitment to prevention by ensuring women have access to bone mass measurement tests.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1106

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Early Detection and Prevention of Osteoporosis and Related Bone Diseases Act of 1999''.

(b) FINDINGS.—Congress makes the following findings:

(1) NATURE OF OSTEOPOROSIS.—

(A) Osteoporosis is a disease characterized by low bone mass and structural deterioration of bone tissue leading to bone fragility and increased susceptibility to fractures of the hip, spine, and wrist.

(B) Osteoporosis has no symptoms and typically remains undiagnosed until a fracture occurs.

(C) Once a fracture occurs, the condition has usually advanced to the stage where the likelihood is high that another fracture will occur.

(D) There is no cure for osteoporosis, but drug therapy has been shown to reduce new hip and spine fractures by 50 percent and other treatments, such as nutrition therapy, have also proven effective.

(2) INCIDENCE OF OSTEOPOROSIS AND RELATED BONE DISEASES.—

(A) 28 million Americans have (or are at risk for) osteoporosis, 80 percent of which are women.

(B) Osteoporosis is responsible for 1.5 million bone fractures annually, including more than 300,000 hip fractures, 700,000 vertebral fractures and 200,000 fractures of the wrists.

(C) Half of all women, and one-eighth of all men, age 50 or older will have a bone fracture due to osteoporosis.

(D) Between 3 and 4 million Americans have Paget's disease, osteogenesis imperfecta, hyperparathyroidism, and other related metabolic bone diseases.

(3) IMPACT OF OSTEOPOROSIS.—The cost of treating osteoporosis is significant:

(A) The annual cost of osteoporosis in the United States is $13.8 billion and is expected to increase precipitously because the proportion of the population comprised of older persons is expanding and each generation of older persons tends to have a higher incidence of osteoporosis than preceding generations.

(B) The average cost in the United States of repairing a hip fracture due to osteoporosis is $32,000.

(C) Fractures due to osteoporosis frequently result in disability and institutionalization of individuals.

(D) Because osteoporosis is a progressive condition causing fractures primarily in aging individuals, preventing fractures, particularly for post menopausal women before they become eligible for medicare, has a significant potential of reducing osteoporosis-related costs under the medicare program.

(4) USE OF BONE MASS MEASUREMENT.—

(A) Bone mass measurement is the only reliable method of detecting osteoporosis at an early stage.

(B) Low bone mass is as predictive of future fractures as is high cholesterol or high blood pressure of heart disease or stroke.

(C) Bone mass measurement is a non-invasive, painless, and reliable way to diagnose osteoporosis before costly fractures occur.

(D) Under section 4106 of the Balanced Budget Act of 1997, Medicare provides coverage, effective July 1, 1999, for bone mass measurement for qualified individuals who are at risk of developing osteoporosis.

(5) RESEARCH ON OSTEOPOROSIS AND RELATED BONE DISEASES.—

(A) Technology now exists, and new technology is developing, that will permit the early diagnosis and prevention of osteoporosis and related bone diseases as well as management of these conditions once they develop.

(B) Funding for research on osteoporosis and related bone diseases is severely constrained at key research institutes, including the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the National Institute on Aging, the National Institute of Diabetics and Digestive and Kidney Diseases, the National Institute of Dental Research, and the National Institute of Child Health and Human Development.

(C) Further research is needed to improve medical knowledge concerning—

(i) cellular mechanisms related to the processes of bone resorption and bone formation, and the effect of different agents on bone remodeling;

(ii) risk factors for osteoporosis, including newly discovered risk factors, risk factors related to groups not ordinarily studied (such as men and minorities), risk factors related to genes that help to control skeletal metabolism, and risk factors relating to the relationship of aging processes to the development of osteoporosis;

(iii) bone mass measurement technology, including more widespread and cost-effective techniques for making more precise measurements and for interpreting measurements;

(iv) calcium (including bioavailability, intake requirements, and the role of calcium in building heavier and denser skeletons), and vitamin D and its role as an essential vitamin in adults;

(v) prevention and treatment, including the efficacy of current therapies, alternative drug therapies for prevention and treatment, and the role of exercise; and

(vi) rehabilitation.

(D) Further educational efforts are needed to increase public and professional knowledge of the causes of, methods for avoiding, and treatment of osteoporosis.

SEC. 2. REQUIRING COVERAGE OF BONE MASS MEASUREMENT UNDER HEALTH PLANS.

(a) GROUP HEALTH PLANS.—

(1) PUBLIC HEALTH SERVICE ACT AMENDMENTS.—

(A) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act (42 U.S.C. 300gg-4) is amended by adding at the end the following new section:

"SEC. 2707. STANDARDS RELATING TO BENEFITS FOR BONE MASS MEASUREMENT.

''(a) REQUIREMENTS FOR COVERAGE OF BONE MASS MEASUREMENT.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall include (consistent with this section) coverage for bone mass measurement for beneficiaries and participants who are qualified individuals.

''(b) DEFINITIONS RELATING TO COVERAGE.—In this section:

''(1) BONE MASS MEASUREMENT.—The term 'bone mass measurement' means a radiologic or radioisotopic procedure or other procedure approved by the Food and Drug Administration performed on an individual for the purpose of identifying bone mass or detecting bone loss or determining bone quality, and includes a physician's interpretation of the results of the procedure. Nothing in this paragraph shall be construed as requiring a bone mass measurement to be conducted in a particular type of facility or to prevent such a measurement from being conducted through the use of mobile facilities that are otherwise qualified.

''(2) QUALIFIED INDIVIDUAL.—The term 'qualified individual' means an individual who—

''(A) is an estrogen-deficient woman at clinical risk for osteoporosis;

''(B) has vertebral abnormalities;

''(C) is receiving chemotherapy or long-term gluococorticoid (steroid) therapy;

''(D) has primary hyperparathyroidism, hyperthyroidism, or excess thyroid replacement;

''(E) is being monitored to assess the response to or efficacy of approved osteoporosis drug therapy;

''(F) is a man with a low trauma fracture; or

''(G) the Secretary determines is eligible.

''(c) LIMITATION ON FREQUENCY REQUIRED.—Taking into account the standards established under section 1861(rr)(3) of the Social Security Act, the Secretary shall establish standards regarding the frequency with which a qualified individual shall be eligible to be provided benefits for bone mass measurement under this section. The Secretary may vary such standards based on the clinical and risk-related characteristics of qualified individuals.

''(d) RESTRICTIONS ON COST-SHARING.—

''(1) IN GENERAL.—Subject to paragraph (2), nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to bone mass measurement under the plan (or health insurance coverage offered in connection with a plan).

''(2) LIMITATION.—Deductibles, coinsurance, and other cost-sharing or other limitations for bone mass measurement may not be imposed under paragraph (1) to the extent they exceed the deductibles, coinsurance, and limitations that are applied to similar services under the group health plan or health insurance coverage.

''(e) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

''(2) provide incentives (monetary or otherwise) to individuals to encourage such individuals not to be provided bone mass measurements to which they are entitled under this section or to providers to induce such providers not to provide such measurements to qualified individuals;

''(3) prohibit a provider from discussing with a patient osteoporosis preventive techniques or medical treatment options relating to this section; or

''(4) penalize or otherwise reduce or limit the reimbursement of a provider because such provider provided bone mass measurements to a qualified individual in accordance with this section.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require an individual who is a participant or beneficiary to undergo bone mass measurement.

''(g) NOTICE.—A group health plan under this part shall comply with the notice requirement under section 714(g) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of this section as if such section applied to such plan.

''(h) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

''(i) PREEMPTION.—

''(1) IN GENERAL.—The provisions of this section do not preempt State law relating to health insurance coverage to the extent such State law provides greater benefits with respect to osteoporosis detection or prevention.

''(2) CONSTRUCTION.—Section 2723(a)(1) shall not be construed as superseding a State law described in paragraph (1).''.

(B) CONFORMING AMENDMENT.—Section 2723(c) of such Act (42 U.S.C. 300gg–23(c)) is amended by striking ''section 2704'' and inserting ''sections 2704 and 2707''.

(2) ERISA AMENDMENTS.—

(A) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185 et seq.) is amended by adding at the end the following new section:

"SEC. 714. STANDARDS RELATING TO BENEFITS FOR BONE MASS MEASUREMENT.

''(a) REQUIREMENTS FOR COVERAGE OF BONE MASS MEASUREMENT.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall include (consistent with this section) coverage for bone mass measurement for beneficiaries and participants who are qualified individuals.

''(b) DEFINITIONS RELATING TO COVERAGE.—In this section:

''(1) BONE MASS MEASUREMENT.—The term 'bone mass measurement' means a radiologic or radioisotopic procedure or other procedure approved by the Food and Drug Administration performed on an individual for the purpose of identifying bone mass or detecting bone loss or determining bone quality, and includes a physician's interpretation of the results of the procedure. Nothing in this paragraph shall be construed as requiring a bone mass measurement to be conducted in a particular type of facility or to prevent such a measurement from being conducted through the use of mobile facilities that are otherwise qualified.

''(2) QUALIFIED INDIVIDUAL.—The term 'qualified individual' means an individual who—

''(A) is an estrogen-deficient woman at clinical risk for osteoporosis;

''(B) has vertebral abnormalities;

''(C) is receiving chemotherapy or long-term gluococorticoid (steroid) therapy;

''(D) has primary hyperparathyroidism, hyperthyroidism, or excess thyroid replacement;

''(E) is being monitored to assess the response to or efficacy of approved osteoporosis drug therapy;

''(F) is a man with a low trauma fracture; or

''(G) the Secretary determines is eligible.

''(c) LIMITATION ON FREQUENCY REQUIRED.—The standards established under section 2707(c) of the Public Health Service Act shall apply to benefits provided under this section in the same manner as they apply to benefits provided under section 2707 of such Act.

''(d) RESTRICTIONS ON COST-SHARING.—

''(1) IN GENERAL.—Subject to paragraph (2), nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to bone mass measurement under the plan (or health insurance coverage offered in connection with a plan).

''(2) LIMITATION.—Deductibles, coinsurance, and other cost-sharing or other limitations for bone mass measurement may not be imposed under paragraph (1) to the extent they exceed the deductibles, coinsurance, and limitations that are applied to similar services under the group health plan or health insurance coverage.

''(e) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

''(1) deny to an individual eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

''(2) provide incentives (monetary or otherwise) to individuals to encourage such individuals not to be provided bone mass measurements to which they are entitled under this section or to providers to induce such providers not to provide such measurements to qualified individuals;

''(3) prohibit a provider from discussing with a patient osteoporosis preventive techniques or medical treatment options relating to this section; or

''(4) penalize or otherwise reduce or limit the reimbursement of a provider because such provider provided bone mass measurements to a qualified individual in accordance with this section.

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require an individual who is a participant or beneficiary to undergo bone mass measurement.

''(g) NOTICE UNDER GROUP HEALTH PLAN.—The imposition of the requirements of this section shall be treated as a material modification in the terms of the plan described in section 102(a)(1), for purposes of assuring notice of such requirements under the plan; except that the summary description required

to be provided under the last sentence of section 104(b)(1) with respect to such modification shall be provided by not later than 60 days after the first day of the first plan year in which such requirements apply.

''(h) PREEMPTION.—

''(1) IN GENERAL.—The provisions of this section do not preempt State law relating to health insurance coverage to the extent such State law provides greater benefits with respect to osteoporosis detection or prevention.

''(2) CONSTRUCTION.—Section 731(a)(1) shall not be construed as superseding a State law described in paragraph (1).''.

(B) CONFORMING AMENDMENTS.—

(i) Section 731(c) of such Act (29 U.S.C. 1191(c)), as amended by section 603(b)(1) of Public Law 104–204, is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(ii) Section 732(a) of such Act (29 U.S.C. 1191a(a)), as amended by section 603(b)(2) of Public Law 104–204, is amended by striking ''section 711'' and inserting ''sections 711 and 714''.

(iii) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

''Sec. 714. Standards relating to benefits for bone mass measurement.

(b) INDIVIDUAL HEALTH INSURANCE.—

(1) IN GENERAL.—Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2752 (42 U.S.C. 300gg-52) the following new section:

''SEC. 27530. STANDARDS RELATING TO BENEFITS FOR BONE MASS MEASUREMENT.

''(a) IN GENERAL.—The provisions of section 2707 (other than subsection (g)) shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

''(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 714(g) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) as if such section applied to such issuer and such issuer were a group health plan.

''(c) PREEMPTION.—

''(1) IN GENERAL.—The provisions of this section do not preempt State law relating to health insurance coverage to the extent such State law provides greater benefits with respect to osteoporosis detection or prevention.

''(2) CONSTRUCTION.—Section 2762(a) shall not be construed as superseding a State law described in paragraph (1).''.

(2) CONFORMING AMENDMENTS.—Section 2762(b)(2) of such Act (42 U.S.C. 300gg–62(b)(2)), as added by section 605(b)(3)(B) of Public Law 104–204, is amended by striking ''section 2751'' and inserting ''sections 2751 and 2753''.

(c) EFFECTIVE DATES.—

(1) GROUP HEALTH PLANS.—The amendments made by subsection (a) shall apply with respect to group health plans for plan years beginning on or after January 1, 2000.

(2) INDIVIDUAL MARKET.—The amendments made by subsection (b) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after such date.

By Mr. WARNER:

S. 1107. A bill to reform the conduct of Federal elections; to the Committee on Rules and Administration.

CONSTITUTIONAL AND EFFECTIVE REFORM OF CAMPAIGNS ACT OF 1999

Mr. WARNER. Mr. President, today I introduce the Constitutional and Effective Reform of Campaigns Act, or ''CERCA'', which I first introduced during the 105th Congress. This legislation is the product of two years of hearings during my Chairmanship of the Rules Committee, discussions with numerous experts, party officials, and candidates, and nearly two decades of participating in campaigns and campaign finance debates in the Senate. Many of the proposals in this bill have been made in some form by several of my Senate colleagues and by Members of the House, and I readily acknowledge drawing on their expertise. The important discussions last Congress during the meetings of a task force headed by Senator NICKLES, at the request of Majority Leader LOTT, were invaluable.

This legislation offers an opportunity for bipartisan support. It is a good faith effort to strike middle ground between those who believe public financing of campaigns is the solution, and those who believe the solution is to remove current regulations. It offers a package of proposals which realistically can be achieved with bipartisan support and meet the desire of the majority of Americans who believe that our present system can be reformed. In my judgment, we will not succeed with any measure of campaign reform in this complicated field without a bipartisan consensus.

In drafting this legislation, I began with four premises. First, all provisions had to be consistent with the First Amendment: Congress would be acting in bad faith to adopt provisions which have a likelihood of being struck down by the federal courts. Second, I oppose public financing and mandating ''free'' or reduced-cost media time which in my mind is neither free nor a good policy idea. Why should seekers of federal office get free time, while candidates for state office or local office—from governors to local sheriffs—do not receive comparable free benefits? Such an inequity and imbalance will breed friction between federal and state office seekers. Third, I believe we should try to increase the role of citizens and the political parties. Fourth, any framework of campaign reform legislation must respect and protect the constitutional right of individuals, groups, and organizations to participate in advocacy concerning political issues.

This bill is designed to be a ''bilateral disarmament'' on the tough issues of soft money and union dues: each side must give up equivalent ground. The Republicans should give ground by placing a cap on soft money which has tended to favor our side. And Democrats should give ground by allowing union members to decide voluntarily for themselves whether to contribute the portion of dues which goes to political contributions or activities.

Specifically, on the issue of soft money, no reform can be considered true reform without placing limits on the corporate and union donations to the national political parties. This bill places a $100,000 cap on such donations. While this provision addresses the public's legitimate concern over the propriety of these large donations, it allows the political parties sufficient funds to maintain their headquarters and conduct their grassroots efforts. In addition, the current limits on ''hard'' contributions must be updated. The ability of citizens to contribute voluntarily to a wide range of candidates and to their parties is fundamental.

At the same time, the practice of mandatory union dues going to partisan politics without union members' consent must end: it is counter to all the political freedoms that make America a true democracy. The concept of ''paycheck protection'' must be included in any campaign finance reform, so that these deductions are voluntary, whether these dues fund direct contributions to candidates or parties, or pay for undisclosed spending on phone banks, get-out-the-vote efforts, literature, and television ads.

Under this legislation, unions would be required to obtain advance, written consent before deducting money for political activities from union members' paychecks. The present state of the law requires most union workers to give up their rights to participate in the union if they seek refunds of that portion of dues going to politics. In addition, this section would strengthen the reporting requirements for unions engaged in political activities and enhance an aggrieved union member's right to challenge a union's determination of the portion of dues going to political activities.

In the Senate debates thus far, there has been much discussion about whether corporations should be required to obtain shareholder approval to make political contributions. This is an issue which warrants consideration. My proposal not only limits these corporate and union contributions to $100,000, it also includes a requirement that companies disclose their donations to federal political parties in their annual reports. And under current policies of the Securities and Exchange Commission, shareholders have the same rights to make recommendations to boards of directors on the propriety of political donations as they do on any business issue related to the company.

In addition, the SEC is in the process of making it easier for shareholders to raise questions related to social policy matters at annual meetings. I am monitoring how these changes are implemented: if they are insufficient to guarantee adequate rights to shareholders, I will consider amending my bill to protect these rights.

As an aside, I reject the notion that the status of union members is similar to those who belong to groups such as the National Rifle Association or the Sierra Club. Nobody is compelled to join these types of organizations, and

those that do, know or should know that their dues are going in part to political causes.

Furthermore, I considered including in this bill a narrowly-tailored disclosure requirement for individuals and groups spending large sums on public advertising affecting the public image of candidates during election seasons. However, in keeping with my first basic premise that reforms must pass the federal court test of constitutionality, I concluded that such a provision, in view of a long line of Supreme Court cases, likely would be declared unconstitutional, and thus I did not include the provision.

The McCain-FEINGOLD bill was thoroughly debated in the Senate, and any objective observer of the Senate would agree that we are genuinely deadlocked. This body needs to move beyond the debate of McCain-Feingold. I hope that all Members will review my bill as an objective and pragmatic approach to current problems with our campaign system. I encourage other Members to come forward, as I have, with proposals which objectively represent pragmatic approaches to what can be achieved. I do not claim to have the only solution: those with other ideas should come forward.

In addition to the issues of soft money and union dues discussed above, nine other fundamental problems—all of which can be solved in a constitutional manner—are the most pressing. Here are these problems, in no particular order, and my proposed solutions:

Problem 1: Politicians spend too much time fundraising, at the expense of their legislative duties for incumbents, and, for both incumbents and challengers, at the expense of debating the issues with voters.

Solution: The current individual contribution limit of $1,000 has not been raised, or even indexed for inflation, for over 20 years. This fact requires that candidates must spend more and more time seeking more and more donors. The limit should be doubled, as well as indexed for inflation.

Problem 2: The influence of voters on campaigns has been diminished by the activities of political action committees and interest groups.

Solutions: I propose a $100 tax credit for contributions made by citizens, with incomes under specified levels, to Senate and House candidates in their states: this credit should spark an influx of small dollar contributions to balance the greater ability of citizens with higher incomes to participate.

In addition, the increased individual contribution limit should balance the activities of political action committees.

Problem 3: The influence of voters on campaigns has been diminished by contributions from those not eligible to vote.

Solution: If you are not eligible to vote, you should not contribute to campaigns. My bill would prohibit contributions by those ineligible to vote, including non-citizens, children, and persons under felony convictions. It also codifies current regulations concerning political donations by domestic subsidiaries of foreign companies.

Problem 4: Compared to incumbents, challengers face greater difficulties raising funds and communicating with voters, particularly at the outset of a campaign.

Solutions: This legislation will allow candidates to receive ''seed money'' contributions of up to $10,000 from individuals and political action committees. This provision should help get candidacies off the ground. The total amount of these ''seed money'' contributions could not exceed $100,000 for House candidates or $300,000 for Senate candidates. To meet the constitutional test, this provision would apply to both challengers and incumbents alike, but in the case of an incumbent with money carried over from a prior cycle, those funds would count against the seed money limit.

Second, Senate incumbents would be barred from using the franking privilege to send out mass mailings during the election year, rather than the sixty day ban in current law.

Problem 5: Candidates with personal wealth have a distinct advantage through their constitutional right to spend their own funds.

Solution: If a candidate spends more than $25,000 of his or her own money, the individual contribution limits would be raised to $10,000 so that candidates could raise money to counter that personal spending. Again, to meet constitutional review, this provision would apply to all candidates.

Problem 6: Current laws prohibiting fundraising activities on federal property are weak and insufficient.

Solution: The current ban on fundraising on federal property was written before the law created such terms as ''hard'' and ''soft'' money. This bill updates this law to require that no fundraising take place on federal property.

Problem 7: Reporting requirements and public access to disclosure statements are weak and inadequate.

Solutions: Under this proposal, the FEC would be required to post reports on the Internet for all to see, and to require that candidates, and groups making independent expenditures, make faster and more complete reports. In addition, registered lobbyists would be required to report their campaign contributions and those of their employer on their lobbyist disclosure reports.

Problem 8: The Federal Election Commission is in need of procedural and substantive reform.

Solutions: This legislation contains a number of procedural and substantive reforms of the FEC, including term limits for commissioners, and increases in penalties for serious violations.

Problem 9: The safeguards designed to protect the integrity of our elections are compromised by weak aspects of federal laws regulating voter registration and voting.

Solutions: The investigations of contested elections in Louisiana and California have shown significant weaknesses in federal laws designed to safeguard the registration and voting processes. The requirement that states allow registration by mail has undermined confidence that only qualified voters are registering to vote and only registering once: states should be allowed to decide whether to allow mail-in registrations. In addition, states should be allowed to require proof of citizenship when registering and proof of identification when voting: we require a photo ID to buy beer or cigarettes and can certainly allow states to protect the voting process by requiring a photo ID.

Lastly, this bill would allow states to purge inactive voters and to allow state law to govern whether voters who move without reregistering should be allowed to vote.

These are the problems which I believe can be solved in a bipartisan fashion. Attached to this statement is a section by section review of the legislation. I look forward to working with my colleagues to enact meaningful campaign reform, by looking at reform beyond the usual sound bites and addressing the real problems with our present campaign system.

Mr. President, I ask unanimous consent that the text of the bill summary be printed in the RECORD.

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

CONSTITUTIONAL AND EFFECTIVE REFORM OF CAMPAIGNS ACT—SECTION-BY-SECTION

TITLE I—ENHANCEMENT OF CITIZEN INVOLVEMENT

Section 101: Prohibits those ineligible to vote (non-citizens, minors, felons) from making contributions ('hard money') or donations ('soft money'). Also bans foreign aliens making independent expenditures and codifies FEC regulations on foreign control of domestic donations.

Section 102: Updates maximum individual contribution limit to $2000 per election (primary and general) and indexes both individual and PAC limits in the future.

Section 103: Provides a tax credit up to $100 for contributions to in-state candidates for Senate and House for incomes up to $60,000 ($200 for joint filers up to $120,000).

TITLE II—LEVELING THE PLAYING FIELD FOR CANDIDATES

Section 201: Seed money provision: Senate candidates may collect $300,000 and House candidates $100,000 (minus any funds carried over from a prior cycle) in contributions up to $10,000 from individuals and PAC's.

Section 202: 'Anti-millionaires' provision: when one candidate spends over $25,000 of personal funds, a candidate may accept contributions up to $10,000 from individuals and PAC's up to the amount of personal spending minus a candidate's funds carried over from a prior cycle and own use of personal funds.

Section 203: Bans use of Senate frank for mass mailings from January 1 to election day for incumbents seeking reelection.

TITLE III—VOLUNTARINESS OF POLITICAL CONTRIBUTIONS

Section 301: Union dues provision: Labor organizations must obtain prior, written authorization for portion of dues or fees not to

be used for representation: Establishes civil action for aggrieved employee. Requires employers to post notice of rights. Amends reporting statute to require better disclosure of expenses unrelated to representation.

Section 302: Corporations must disclose soft money donations in annual reports.

TITLE IV—ELIMINATION OF CAMPAIGN EXCESSES

Section 410: Adds soft money donations to present ban on fundraising on federal property and to other criminal statutes.

Section 402: Hard money contributions or soft money donations over $500 which a political committee intends to return because of illegality must be transferred to the FEC and may be given to the Treasury as part of a civil or criminal action.

Section 403: 'Soft' and 'hard' money provisions. Soft money cap: no national party, congressional committee or senatorial committee shall accept donations from any source exceeding $100,000 per year. Hard money increases: limit raised from $25,000 to $50,000 per individual per year with no sublimit to party committees.

Section 404: Codifies FEC regulations banning conversion of campaign funds to personal use.

TITLE V—ENHANCED DISCLOSURE

Section 501: Additional reporting requirements for candidates: weekly reports for last month of general election, 24-hour disclosure of large contributions extended to 90 days before election, and end of 'best efforts' waiver for failure to obtain occupation of contributors over $200.

Section 502: FEC shall make reports filed available on the Internet.

Section 503: 24-hour disclosure of independent expenditures over $1,000 in last 20 days before election, and of those over $10,000 made anytime.

Section 504: Registered lobbyists shall include their own contributions and soft money donations and those of their employers and the employers' coordinated PAC's on lobbyist disclosure forms.

TITLE VI—FEDERAL ELECTION COMMISSION REFORM

Section 601: FEC shall develop and provide, at no cost, software to file reports, and shall issue regulations mandating electronic filing and allowing for filing by fax.

Section 602: Limits commissioners to one term of eight years.

Section 603: Increases penalties for knowing and willful violations to greater of $15,000 or 300 percent of the contribution or expenditure.

Section 604: Requires that FEC create a schedule of penalties for minor reporting violations.

Section 605: Establishes availability of oral arguments at FEC when requested and two commissioners agree. Also requires that FEC create index of Commission actions.

Section 606: Changes reporting cycle for committees to election cycle rather than calendar year.

Section 607: Classifies FEC general counsel and executive director as presidential appointments requiring Senate confirmation.

TITLE VII—IMPROVEMENTS TO NATIONAL VOTER REGISTRATION ACT

Section 701: Repeals requirement that states allow registration by mail.

Section 702: Requires that registrants for federal elections provide social security number and proof of citizenship.

Section 703: Provides states the option of removing registrants from eligible list of federal voters who have not voted in two federal elections and did not respond to postcard.

Section 704: Allows states to require photo ID at the polls.

Section 705: Repeals requirement that states allow people to change their registration at the polls and still vote.

By Mr. COCHRAN (for himself, Mrs. LINCOLN, Mr. COVERDELL, Mr. SESSIONS, Mr. CLELAND, Mr. HOLLINGS, Mr. SHELBY, Mr. ROBB, and Mr. HUTCHINSON):

S. 1108. A bill to amend the Federal Crop Insurance Act to improve crop insurance coverage and administration, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

CROP INSURANCE EQUITY ACT OF 1999

Mr. COCHRAN. Mr. President, I am pleased to be joined today by my colleague from Arkansas, Mrs. Lincoln, in introducing the Crop Insurance Equity Act of 1999 to reform the federal crop insurance program. The other cosponsors of the bill are: Mr. COVERDELL, Mr. SESSIONS, MR. CLELAND, Mr. HOLLINGS, Mr. SHELBY, Mr. ROBB, and Mr. HUTCHINSON.

The Crop Insurance Equity Act of 1999 is based on several principles. First, we do not believe that the crop insurance program should be the next iteration of a farm bill. Therefore, this bill maintains the current policy with regard to federal subsidy for revenue insurance products.

We developed this bill with the intent of addressing the reasons farmers in our states have found crop insurance to be impractical. We believe that farmers from Washington to Florida and Maine to California will find this bill worthy of their support.

Our bill establishes a process under which the current rates and rating methods and procedures will be re-evaluated by USDA to examine factors not currently considered. This may lower crop insurance rates for some commodities. However, because all current rating methodologies are actuarially sound, if the re-evaluation would result in an increased rate, the current method must remain in place.

This bill also establishes a fixed percentage as the federal contribution to a farmer's crop insurance premium. Current law provides higher contributions for lower levels of coverage. This bill would treat all farmers fairly.

We believe that one of the simplest ways to make crop insurance more attractive is to make it operate more like other common forms of insurance, such as homeowners or auto insurance. This bill establishes a process of discounts and a menu of policy options from which farmers can choose. These include discounts for coverage of larger, less risky units of production, employment of technologically advanced agricultural management practices, and the reinstatement of good experience discounts. In addition, farmers will be able to choose whether to purchase specific coverages for prevented planting, quality losses, and cost of production coverage.

Mr. President, this bill raises the basic coverage level for the lowest crop insurance unit—catastrophic coverage—so that all farmers will benefit from this legislation. For the same minimal fee as established in current law, this bill will provide catastrophic coverage for sixty percent of a farmer's historical production at seventy percent of the market price.

Our bill also makes other important changes to the program. It protects new farmers or those who rent new land or produce new crops by ensuring they are assigned a fair yield until they generate adequate actual production data.

The legislation improves the management and oversight of the crop insurance program by establishing the Farm Service Agency as the sole agency for acreage and yield record keeping within USDA. It restructures the board of directors of the Federal Crop Insurance Corporation to include more farmers, and establishes a new office to work with private sector companies who develop new crop insurance products.

One of the major complaints that I have heard about crop insurance is the abuse and fraud that exists in the current program. To address this complaint, our bill also improves the monitoring of agents and adjusters to combat fraud, and strengthens the penalties available to USDA for companies, agents, and producers who engage in fraudulent activities.

I believe that we have developed a sound proposal which Senators will find good reason to support.

Mr. President, I ask unanimous consent that the bill and a summary of the legislation be printed in the RECORD.

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

S. 1108

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 ''Crop Insurance Equity Act of 1999''.

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

Sec. 1. Short title; table of contents.

TITLE I—CROP INSURANCE COVERAGE

Sec. 101. Prevented planting.
Sec. 102. Alternative rating methodologies.
Sec. 103. Quality adjustment.
Sec. 104. Low-risk producer pilot program.
Sec. 105. Catastrophic risk protection.
Sec. 106. Loss adjustment.
Sec. 107. Cost of production plans of insurance.
Sec. 108. Discounts.
Sec. 109. Adjustments to subsidy levels.
Sec. 110. Sales closing dates.
Sec. 111. Assigned yields.
Sec. 112. Actual production history adjustment for disasters.
Sec. 113. Payment of portion of premium.
Sec. 114. Limitation on premiums included in underwriting gains.

TITLE II—ADMINISTRATION

Sec. 201. Board of Directors of Corporation.
Sec. 202. Office of Risk Management.
Sec. 203. Office of Private Sector Partnership.
Sec. 204. Penalties for false information.
Sec. 205. Regulations.
Sec. 206. Program compliance.
Sec. 207. Payments by cooperative associations.
Sec. 208. Limitation on double insurance.
Sec. 209. Consultation with State committees of Farm Service Agency.
Sec. 210. Records and reporting.
Sec. 211. Fees for plans of insurance.
Sec. 212. Flexible subsidy pilot program.
Sec. 213. Reinsurance agreements.
Sec. 214. Funding.

TITLE I—CROP INSURANCE COVERAGE

SEC. 101. PREVENTED PLANTING.

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) is amended by adding at the end the following:

''(7) PREVENTED PLANTING.—

''(A) IN GENERAL.—The Corporation shall offer coverage for prevented planting of an agricultural commodity only as an endorsement to a policy.

''(B) EQUAL COVERAGE.—For each agricultural commodity for which prevented planting coverage is available, the Corporation shall offer an equal level of prevented planting coverage.

''(C) PLANTING OF SUBSTITUTE AGRICULTURAL COMMODITIES.—In the case of prevented planting coverage that is offered under this paragraph, the Corporation shall allow producers that have the coverage, and that are eligible to receive a prevented planting indemnity, to plant an agricultural commodity, other than the commodity covered by the prevented planting coverage, on the acreage that the producer has been prevented from planting to the original agricultural commodity.

''(D) INELIGIBILITY FOR COVERAGE.—A substitute agricultural commodity described in subparagraph (C) shall not be eligible for coverage under a plan of insurance under this title.''.

SEC. 102. ALTERNATIVE RATING METHODOLOGIES.

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) (as amended by section 101) is amended by adding at the end the following:

''(8) ALTERNATIVE RATING METHODOLOGIES.—

''(A) IN GENERAL.—Not later than September 30, 2000, the Corporation shall develop and implement alternative methodologies for rating plans of insurance under subsections (b) and (c), and rates for the plans of insurance, that take into account—

''(i) producers that elect not to participate in the Federal crop insurance program established under this title; and

''(ii) producers that elect only to obtain catastrophic risk protection under subsection (b).

''(B) REVIEW AND ADJUSTMENT.—Effective for the 2001 and subsequent crop years, the Corporation shall review and make any necessary adjustments to methodologies and rates established under this paragraph, based on (as determined by the Corporation)—

''(i) expected future losses, with appropriate adjustment of any historical data used in rating to remove—

''(I) the impact of adverse selection; and

''(II) data that no longer reflects the productive capacity of the area;

''(ii) program errors; and

''(iii) any other factor that can cause errors in methodologies and rates.

''(C) IMPLEMENTATION.—In developing, implementing, and adjusting rating methodologies and rates under this paragraph, the Corporation shall—

''(i) use methodologies for rating plans of insurance under subsections (b) and (c) that result in the lowest premiums payable by producers of an agricultural commodity in a geographic area, as determined by the Corporation; and

''(ii) update the manner in which rates are applied at the individual producer level, as determined by the Corporation.

''(D) PRIORITY.—In developing, implementing, and adjusting alternative methodologies for rating plans of insurance under subsections (b) and (c) for agricultural commodities, the Corporation shall provide the highest priority to agricultural commodities with (as determined by the Corporation)—

''(i) the largest average acreage; and

''(ii) the lowest percentage of producers that purchased coverage under subsection (c).''.

SEC. 103. QUALITY ADJUSTMENT.

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) (as amended by section 102) is amended by adding at the end the following:

''(9) QUALITY ADJUSTMENT POLICIES.—The Corporation shall offer, only as an endorsement to a policy, coverage that permits a reduction in the quantity of production of an agricultural commodity produced during a crop year, or any similar adjustment, that results from the agricultural commodity not meeting the quality standards established in the policy.''.

SEC. 104. LOW-RISK PRODUCER PILOT PROGRAM.

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) (as amended by section 103) is amended by adding at the end the following:

''(10) LOW-RISK PRODUCER PILOT PROGRAM.—

''(A) IN GENERAL.—For each of the 2000 through 2003 crop years, the Corporation shall carry out a pilot program that is designed to encourage participation in the Federal crop insurance program established under this title by producers who rarely suffer insurable losses.

''(B) SCOPE.—The Corporation shall carry out the pilot program in at least 40 counties that are determined by the Corporation to be adequate to provide a comprehensive evaluation of the feasibility, effectiveness, and demand among producers for a low-risk producer program.

''(C) PREMIUM REFUND.—Notwithstanding section 506(o) and subsection (d)(1), if a producer participating in the pilot program incurs a yield loss in any crop year that is more than 10 percent but not more than 35 percent of the yield determined under subsection (g), the Corporation shall—

''(i) refund all or part, as determined by the Corporation, of the premium that was paid by the producer for a plan of insurance for the crop that incurred the qualifying loss; or

''(ii) apply the amount to be refunded under clause (i) against the premium payable by the producer for equivalent coverage for the subsequent crop year.

''(D) REGULATIONS.—The Corporation shall promulgate such regulations as are necessary to carry out the pilot program.''.

SEC. 105. CATASTROPHIC RISK PROTECTION.

Section 508(b)(2)(A) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(2)(A)) is amended—

(1) in clause (i), by striking ''and'' at the end;

(2) in clause (ii)—

(A) by striking ''each of the 1999 and subsequent crop years'' and inserting ''the 1999 crop year''; and

(B) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(iii) in the case of each of the 2000 and subsequent crop years, catastrophic risk protection shall offer a producer coverage for a 60 percent loss in yield, on an individual yield or area yield basis, indemnified at 70 percent of the expected market price, or a comparable coverage (as determined by the Corporation).''.

SEC. 106. LOSS ADJUSTMENT.

Section 508(b)(11) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(11)) is amended by striking ''11 percent'' and all that follows through the end of the paragraph and inserting ''$50 for each claim that is adjusted under this subsection.''.

SEC. 107. COST OF PRODUCTION PLANS OF INSURANCE.

(a) IN GENERAL.—Section 508(c) of the Federal Crop Insurance Act (7 U.S.C. 1508(c)) is amended by striking paragraph (5) and inserting the following:

''(5) EXPECTED MARKET PRICE.—

''(A) IN GENERAL.—For the purposes of this title, the Corporation shall establish or approve the price level (referred to in this title as the 'expected market price') of each agricultural commodity for which insurance is offered.

''(B) AMOUNT.—The expected market price of an agricultural commodity—

''(i) except as otherwise provided in this subparagraph, shall be not less than the projected market price of the agricultural commodity, as determined by the Corporation;

''(ii) may be based on the actual market price of the agricultural commodity at the time of harvest, as determined by the Corporation; or

''(iii) in the case of cost of production or similar plans of insurance, shall be the projected cost of producing the agricultural commodity, as determined by the Corporation.''.

(b) CONFORMING AMENDMENTS.—Section 508(h) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)) is amended—

(1) by striking paragraph (9); and

(2) by redesignating paragraph (10) as paragraph (9).

SEC. 108. DISCOUNTS.

Section 508(d) of the Federal Crop Insurance Act (7 U.S.C. 1508(d)) is amended by adding at the end the following:

''(3) DISCOUNTS.—

''(A) IN GENERAL.—Notwithstanding section 506(o) and paragraph (1), the Corporation shall provide a discount in the premium payable by the producer for a plan of insurance under subsections (b) and (c) for an agricultural commodity in a county if the producer—

''(i) during each of the preceding 5 consecutive crop years—

''(I) has obtained insurance under this title for the agricultural commodity; and

''(II) has not filed any claim under the insurance;

''(ii) if offered by the Corporation, elects to have unit coverage that reduces the risk of loss below the risk of loss that is expected for a unit comprised of all insurable acreage of the agricultural commodity in the county; or

''(iii) implements innovative farming management practices that reduce the risk of insurable loss, as determined by the Corporation.

''(B) AMOUNT.—

''(i) IN GENERAL.—Subject to clause (ii), the amount of the discount provided to a producer for a crop year under subparagraph (A) shall be determined by the Corporation.

''(ii) NO CLAIM DISCOUNT.—The amount of the discount provided to a producer for a crop year under subparagraph (A)(i) shall increase for each additional consecutive crop year for which the producer is eligible for a discount under subparagraph (A)(i).''.

SEC. 109. ADJUSTMENTS TO SUBSIDY LEVELS.

(a) IN GENERAL.—Section 508(e)(2) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)(2)) is amended by striking subparagraphs (B) and (C) and inserting the following:

''(B) In the case of additional coverage below 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount shall be equal to the sum of—

''(i) 50 percent of the amount of the premium established under subsection (d)(2)(B)(i); and

''(ii) the amount of operating and administrative expenses determined under subsection (d)(2)(B)(ii).

''(C) In the case of additional coverage equal to or greater than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount shall be equal to the sum of—

''(i) 50 percent of the amount of the premium established under subsection (d)(2)(C)(i); and

''(ii) the amount of operating and administrative expenses determined under subsection (d)(2)(C)(ii).''.

(b) APPLICATION.—The amendment made by subsection (a) applies beginning with the 2000 crop year.

SEC. 110. SALES CLOSING DATES.

Section 508(f)(2) of the Federal Crop Insurance Act (7 U.S.C. 1508(f)(2)) is amended by striking the last sentence.

SEC. 111. ASSIGNED YIELDS.

Section 508(g)(2)(B) of the Federal Crop Insurance Act (7 U.S.C. 1508(g)(2)(B)) is amended—

(1) by striking ''assigned a yield'' and inserting ''assigned—

''(i) a yield'';

(2) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(ii) a yield determined by the Corporation, in the case of—

''(I) a person that has not been actively engaged in farming for a share of the production of the insured crop for more than 2 crop years, as determined by the Secretary;

''(II) a producer that produces an agricultural commodity on land that has not been farmed by the producer; and

''(III) a producer that rotates a crop produced on a farm to a crop that has not been produced on the farm.''.

SEC. 112. ACTUAL PRODUCTION HISTORY ADJUSTMENT FOR DISASTERS.

Section 508(g)(2) of the Federal Crop Insurance Act (7 U.S.C. 1508(g)(2)) is amended by adding at the end the following:

''(E) SUBSTITUTION OF TRANSITIONAL YIELD.—Effective beginning with the 2000 crop year, if the producer's yield of an agricultural commodity in any crop year is less than 85 percent of the transitional yield established by the Corporation for the agricultural commodity, the Corporation shall, at the option of the producer, consider the producer's yield for the crop year to be 85 percent of the transitional yield for the purpose of calculating the actual production history for a crop of an agricultural commodity under subparagraph (A).

''(F) CORPORATION'S SHARE OF COSTS.—In the case of any yield substitution under subparagraph (E), in addition to any other authority to pay any portion of the premium and indemnity, the Corporation shall pay—

''(i) the portion of the premium or indemnity that represents the increase in premium associated with the substitution of the transitional yield under subparagraph (E);

''(ii) all additional indemnities associated with the substitution; and

''(iii) any amounts that result from the difference in the administrative and operating expenses owed to an approved insurance provider as the result of the substitution.''.

SEC. 113. PAYMENT OF PORTION OF PREMIUM.

Section 508(h)(2) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)(2)) is amended in the second sentence by inserting before the period at the end the following: '', except that the Corporation shall not pay any portion of the premium for any plan of insurance that offers coverage for losses associated with a change in price''.

SEC. 114. LIMITATION ON PREMIUMS INCLUDED IN UNDERWRITING GAINS.

Section 508(k) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)) is amended by adding at the end the following:

''(8) LIMITATION ON PREMIUMS INCLUDED IN UNDERWRITING GAINS.—Notwithstanding any other provision of law, the reinsurance agreements of the Corporation shall require that not more than 50 percent of any premium for catastrophic risk protection under subsection (b) be included in the calculation of gains or losses of an approved insurance provider unless the loss ratio for catastrophic risk protection exceeds 1.0.''.

TITLE II—ADMINISTRATION

SEC. 201. BOARD OF DIRECTORS OF CORPORATION.

Section 505 of the Federal Crop Insurance Act (7 U.S.C. 1505) is amended by striking subsection (a) and inserting the following:

''(a) BOARD OF DIRECTORS.—

''(1) IN GENERAL.—The management of the Corporation shall be vested in a Board subject to the general supervision of the Secretary.

''(2) COMPOSITION.—The Board shall consist of—

''(A) 4 members who are active agricultural producers with or without crop insurance, with 1 member appointed from each of the 4 regions of the United States (as determined by the Secretary);

''(B) 1 member who is active in the crop insurance business;

''(C) 1 member who is active in the reinsurance business;

''(D) the Under Secretary for Farm and Foreign Agricultural Services;

''(E) the Under Secretary for Rural Development; and

''(F) the Chief Economist of the Department of Agriculture.

''(3) APPOINTMENT AND TERMS OF PRIVATE SECTOR MEMBERS.—The members of the Board described in subparagraphs (A), (B), and (C) of paragraph (2)—

''(A) shall be appointed by, and hold office at the pleasure of, the Secretary;

''(B) shall not be otherwise employed by the Federal Government;

''(C) shall be appointed to staggered 4-year terms, as determined by the Secretary; and

''(D) shall serve not more than 2 consecutive terms.

''(4) CHAIRPERSON.—The Board shall select a member of the Board described in subparagraph (A), (B), or (C) of paragraph (2) to serve as Chairperson of the Board.

''(5) STAFF.—The Board shall employ or contract with 1 or more individuals who are knowledgeable and experienced in quantitative mathematics and actuarial rating to assist the Board in reviewing and approving policies and materials with respect to plans of insurance authorized or submitted under section 508.''.

SEC. 202. OFFICE OF RISK MANAGEMENT.

(a) ESTABLISHMENT.—Section 226A(a) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6933(a)) is amended by striking ''independent Office of Risk Management'' and inserting ''Office of Risk Management, which shall be under the direction of the Board of Directors of the Federal Crop Insurance Corporation''.

(b) FUNCTIONS.—Section 226A(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6933(b)) is amended by striking paragraph (1) and inserting the following:

''(1) Assistance to the Board in developing, reviewing, and recommending plans of insurance under section 508(a)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)(7)) to ensure that each agricultural commodity (including each new or speciality crop) is adequately served by plans of insurance.''.

SEC. 203. OFFICE OF PRIVATE SECTOR PARTNERSHIP.

The Federal Crop Insurance Act is amended by inserting after section 507 (7 U.S.C. 1507) the following:

''SEC. 507A. OFFICE OF PRIVATE SECTOR PARTNERSHIP.

''(a) ESTABLISHMENT.—The Secretary shall establish and maintain in the Department an Office of Private Sector Partnership, which shall be under the direction of the Board.

''(b) FUNCTIONS.—The Office shall—

''(1) provide at least monthly reports to the Board on crop insurance issues, which shall be based on comments received from producers, approved insurance providers, and other sources that the Office considers appropriate;

''(2)(A) review policies and materials with respect to—

''(i) subsidized plans of insurance authorized under section 508; and

''(ii) unsubsidized plans of insurance submitted to the Board under section 508(h); and

''(B) make recommendations to the Board with respect to approval of the policies and materials;

''(3) administer the reinsurance functions described in section 508(k) on behalf of the Corporation;

''(4) review and make recommendations to the Board with respect to methodologies for rating plans of insurance under this title; and

''(5) perform such other functions as the Board considers appropriate.

''(c) ADMINISTRATOR.—The Office shall be headed by an Administrator who shall be appointed by the Secretary.

''(d) STAFF.—The Administrator shall appoint such employees pursuant to title 5, United States Code, as are necessary for the administration of the Office, including employees who have commercial reinsurance and actuarial experience.''.

SEC. 204. PENALTIES FOR FALSE INFORMATION.

Section 506(n)(1) of the Federal Crop Insurance Act (7 U.S.C. 1506(n)(1)) is amended—

(1) in subparagraph (A), by inserting ''for each claim'' after ''$10,000''; and

(2) in subparagraph (B), by striking ''noninsured assistance'' and inserting ''any loan, payment, or benefit described in section 1211 of the Food Security Act of 1985 (16 U.S.C. 3811)''.

SEC. 205. REGULATIONS.

Section 506(p) of the Federal Crop Insurance Act (7 U.S.C. 1506(p)) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary''; and

(2) by adding at the end the following:

''(2) TERMS OF INSURANCE.—

''(A) IN GENERAL.—Regulations issued by the Secretary and the Corporation specifying the terms of insurance under section 508 shall be issued without regard to—

''(i) the notice and comment provisions of section 553 of title 5, United States Code;

''(ii) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

''(iii) chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act').

''(B) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this paragraph, the Secretary shall use the authority provided under section 808 of title 5, United States Code.''.

SEC. 206. PROGRAM COMPLIANCE.

Section 506(q) of the Federal Crop Insurance Act (7 U.S.C. 1506(q)) is amended—

(1) by redesignating paragraph (2) as paragraph (6); and

(2) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Crop Insurance Equity Act of 1999, the Corporation

shall establish a program for monitoring compliance with this title by all Federal crop insurance participants, including producers, agents, adjusters, and approved insurance providers.

''(2) CONSULTATION.—The Corporation shall consult with approved insurance providers in developing the compliance program.

''(3) OVERSIGHT OF LOSS ADJUSTMENT.—As part of the compliance program, the Corporation shall provide for a mechanism to independently review the performance of loss adjusters.

''(4) PROGRAM REVIEW.—Not later than 90 days after the date of enactment of the Crop Insurance Equity Act of 1999, the Corporation shall submit to the Board and the Office of Private Sector Partnership for their review the proposed compliance program under this subsection.

''(5) ANNUAL REPORTS.—Beginning with fiscal year 2001, the Corporation shall submit an annual report to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Board, and the Office of Private Sector Partnership concerning the compliance program established under this subsection, including any recommendations for legislative or administrative changes that could further improve program compliance.''.

SEC. 207. PAYMENTS BY COOPERATIVE ASSOCIATIONS.

Section 507(e) of the Federal Crop Insurance Act (7 U.S.C. 1507(e)) is amended—

(1) by striking ''(e) In'' and inserting the following:

''(e) COOPERATIVE ASSOCIATIONS.—

''(1) IN GENERAL.—In''; and

(2) by adding at the end the following:

''(2) PAYMENTS.—A cooperative association described in paragraph (1) that is licensed and acts as an agent or approved insurance provider with respect to any plan of insurance offered under this title may provide to the members of the association all or part of any funds received from the Corporation under this title.''.

SEC. 208. LIMITATION ON DOUBLE INSURANCE.

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) (as amended by section 104) is amended by adding at the end the following:

''(11) LIMITATION ON DOUBLE INSURANCE.—The Corporation may offer plans of insurance or reinsurance for only 1 agricultural commodity on specific acreage during a crop year, unless—

''(A) there is an established practice of double-cropping in an area, as determined by the Corporation;

''(B) the additional plan of insurance is offered with respect to an agricultural commodity that is customarily double-cropped in the area; and

''(C) the producer has a history of double cropping or the acreage has historically been double-cropped.''.

SEC. 209. CONSULTATION WITH STATE COMMITTEES OF FARM SERVICE AGENCY.

Section 508(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) (as amended by section 208) is amended by adding at the end the following:

''(12) CONSULTATION WITH STATE COMMITTEES OF FARM SERVICE AGENCY.—The Corporation shall establish a mechanism under which State committees of the Farm Service Agency are consulted concerning policies of insurance offered in a State under this title.''.

SEC. 210. RECORDS AND REPORTING.

(a) CATASTROPHIC RISK PROTECTION.—Section 508(f)(3)(A) of the Federal Crop Insurance Act (7 U.S.C. 1508(f)(3)(A)) is amended by striking ''provide, to the extent required by the Corporation,'' and inserting ''to the extent required by the Corporation, provide to the Secretary, acting through the Farm Service Agency,''.

(b) NONINSURED CROP DISASTER ASSISTANCE PROGRAM.—Section 196(b) of the Agricultural Market Transition Act (7 U.S.C. 7333(b)) is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) RECORDS.—To be eligible for assistance under this section, a producer shall provide annually to the Secretary, acting through the Farm Service Agency, records of crop acreage, acreage yields, and production for each eligible crop.''; and

(2) in paragraph (3), by inserting ''annual'' after ''shall provide''.

SEC. 211. FEES FOR PLANS OF INSURANCE.

Section 508(h)(5) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)(5))) is amended—

(1) by striking ''Any policy'' and inserting the following:

''(A) IN GENERAL.—Any policy''; and

(2) by adding at the end the following:

''(B) FEES FOR NEW PLANS OF INSURANCE.—

''(i) IN GENERAL.—If an approved insurance provider elects to sell a plan of insurance that was developed by another approved insurance provider after the date of enactment of this subparagraph and the plan of insurance offered coverage that was not available for any crop at the time the plan of insurance was approved by the Board (as determined by the Corporation), the approved insurance provider that developed the plan of insurance shall have the right to receive a fee from the approved insurance provider that elects to sell the plan of insurance.

''(ii) AMOUNT.—

''(I) IN GENERAL.—Subject to subclause (II), the amount of the fee that is payable by an approved insurance provider for a plan of insurance under clause (i) shall be an amount that is—

''(aa) determined by the approved insurance provider that developed the plan; and

''(bb) approved by the Board.

''(II) APPROVAL.—The Board shall not approve the amount of a fee under clause (i) if the amount of the fee unnecessarily inhibits the use of the plan of insurance, as determined by the Board.

''(C) PAYMENTS.—The Corporation shall annually—

''(i) collect from an approved insurance provider the amount of any fees that are payable by the approved insurance provider under subparagraph (B); and

''(ii) credit any fees that are payable to an approved insurance provider under subparagraph (B).''.

SEC. 212. FLEXIBLE SUBSIDY PILOT PROGRAM.

Section 508(h) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)) is amended by adding at the end the following:

''(11) FLEXIBLE SUBSIDY PILOT PROGRAM.—For each of the 2000 through 2002 crop years, the Corporation shall carry out a pilot program under which flexible subsidies are provided under this title to encourage private sector innovation through exclusive marketing rights and premium rate competition.''.

SEC. 213. REINSURANCE AGREEMENTS.

Section 508(k) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)) is amended by striking paragraph (3) and inserting the following:

''(3) REINSURANCE AGREEMENTS.—

''(A) SHARE OF RISK.—Each reinsurance agreement of the Corporation with a reinsured company shall require the reinsured company to bear a sufficient share of any potential loss under the agreement so as to ensure that the reinsured company will sell and service policies of insurance in a sound and prudent manner, taking into consideration the financial condition of the reinsured company and the availability of private reinsurance.

''(B) COMPLIANCE.—To promote program compliance and integrity, the Corporation, after notice and an opportunity for a hearing on the record—

''(i)(I) shall assess civil fines in an amount not to exceed $10,000 per violation against agents, loss adjusters, and approved insurance providers that are determined by the Corporation to have recurring compliance problems; and

''(II) may deposit any civil fines collected under subclause (I) in the insurance fund established under section 516(c); and

''(ii) shall disqualify the agents, loss adjusters, and approved insurance providers described in clause (i)(I) from participation in the Federal crop insurance program for a period not to exceed 5 years.

''(C) REVIEW OF AGREEMENTS.—As soon as practicable after the date of enactment of this subparagraph and regularly thereafter, in consultation with the Office of Private Sector Partnership, the Corporation shall review the Standard Reinsurance Agreement issued by the Corporation to ensure that the allocation of risk between the Corporation and the reinsured companies is equitable, as determined by the Corporation.''.

SEC. 214. FUNDING.

Section 516 of the Federal Crop Insurance Act (7 U.S.C. 1516) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) salaries and expenses of the Office of Private Sector Partnership.'';

(2) in subsection (b)(1)—

(A) in subparagraph (B), by striking ''; and'' and inserting a semicolon;

(B) in subparagraph (C), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(D) salaries and expenses of the Office of Private Sector Partnership, but not to exceed $5,000,000 for each fiscal year;

''(E) administrative expenses of collecting information under section 508(f)(3); and

''(F) payment of fees in accordance with section 508(h)(5)(B).''; and

(3) in subsection (c)(1), by inserting '', fees under section 508(h)(5)(B), civil fines under section 508(k)(3)(B)(i)(II),'' after ''premium income''.

CROP INSURANCE EQUITY ACT OF 1999—SUMMARY

Sec. 101—Prevented Planting. Ensures that producers have the ability to reduce premium cost by giving them the option whether to choose prevented planting coverage for a commodity. Ensures that prevented planting coverage offered under the crop insurance program is equivalent among all commodities. Also eliminates current ''black dirt'' requirement by allowing producers who are prevented from planting their insured commodity to receive the prevented planting indemnity but still plant another, uninsured crop on the same acreage without penalty. Amendment ensures that productive crop land is not idled because of crop insurance requirement.

Sec. 102—Alternative Rating Methodologies. The preliminary conclusions from a review of current rating methodologies indicates that many of FCIC's rates and rating procedures need to be changed. The bill directs FCIC to develop and implement alternative methodologies for rating insurance

plans by September 30, 2000, that takes into account (1) producers that elect not to participate in the Federal crop insurance program, and (2) producers that elect only to obtain catastrophic coverage. FCIC is also directed to review and make adjustments to methodologies and rates by the 2001 crop year, based on expected future losses (adjusted to correct for adverse selection and old data), program errors and other factors that can cause errors in methodologies and rates. The bill requires FCIC to implement the rating methodologies in a manner that results in the lowest premium payable by producers of a commodity in a particular geographic area. Priority will be given to those commodities with the lowest level of participation in buy-up coverage plans.

Sec. 103—Quality Adjustment. Ensures that quality adjustment coverage is offered as optional coverage.

Sec. 104—Low-risk producer pilot program. Establishes a pilot program designed to encourage participation in crop insurance by producers who rarely suffer insurable losses. Participating producers would receive a reduction in their payable premium if they incur a yield loss greater than 10%, but not great enough to trigger an indemnity.

Sec. 105—Catastrophic risk protection. Increases the coverage level for catastrophic coverage to 60% of APH at 70% of the price. Other parts of the bill address excessive underwriting gains and unearned loss adjustment expenses being generated as a result of CAT coverages.

Sec. 106—Loss adjustment. Reduces the fees for loss adjustments with respect to catastrophic coverage.

Sec. 107—Cost of production plans of insurance. Provides permanent authority for the Federal Crop Insurance Corporation to provide cost of production and revenue insurance coverage.

Sec. 108—Discounts. The bill requires FCIC to reinstate good experience discounts and to provide discounts for production practices that reduce the risk of loss and for insurance that is issued on larger, more cost-effective insurable units.

Sec. 109—Adjustment to Subsidy Levels. The bill provides for 50% subsidization of all levels of buy-up coverage.

Sec. 110—Sales Closing Dates. The bill restores flexibility to FCIC in determining sales closing dates.

Sec. 111—Assigned Yields. Ensures that beginning farmers or farmers who rent new land or produce new crops will be assigned a fair yield.

Sec. 112—Actual production history adjustment for disasters. Requires FCIC to adjust APH yields for producers who suffer multiyear disasters by directing FCIC to assign a yield equal to 85% of the county transition yield for any year in which a producer's yield falls below that 85% level.

Sec. 113—Payment of Portion of Premium. Prohibits FCIC from subsidizing revenue or price insurance policies.

Sec. 114—Limitation on Underwriting Gains. The bill limits the amount of underwriting gains companies can make on catastrophic policies to 50 percent of the premium.

TITLE II

Sec. 201—Board of Directors of Corporation. Expands the board to include 4 producers from 4 regions of the United States, 1 person engaged in the crop insurance business, 1 person engaged in reinsurance, the Undersecretary for Farm and Foreign Agricultural Services, the Under Secretary for Rural Development and the Chief Economist of the Department of Agriculture.

Sec. 202—Office of Risk Management. Clarifies that the FCIC board of directors shall have direct oversight of RMA.

Sec. 203—Office of Private Sector Partnership. Establishes the Office of Private Sector Partnership, reporting directly to the FCIC board. The OPSP will have the authority to review and make recommendations on both privately and RMA-developed policies. It will also have the authority to approve reinsurance and review and make recommendations concerning subsidy for new crop policies and, with board concurrence, approve new rating structures.

Sec. 204—Penalities for false information. Allows anyone convicted of providing false information in connection with any crop insurance claim to be disbarred from all USDA programs.

Sec. 205—Regulations. Allows certain RMA rulemaking activities to be exempted from the Administrative Procedures Act and other federal statutes.

Sec. 206—Program Compliance. The bill enhances the compliance authority of FCIC by 1) requiring FCIC to develop and implement an effective program for monitoring program compliance by all crop insurance participants; and 2) requiring regular oversight of loss adjusters.

Sec. 207—Payment of rebates to cooperative associations. Allows the payment of rebates to cooperatives who engage in the sale of crop insurance.

Sec. 208—Limitation on Double Insurance. Prohibits purchasing insurance for two crops for the same acreage in a year, except where there is an established practice of double-cropping.

Sec. 209—Consultation with state committees of farm service agency. Requires FCIC to consult with state FSA committees on the feasibility of polices of insurance being offered in their state.

Sec. 210—Records and reporting. The bill strengthens requirements for accurate recordkeeping and reporting of crop production by participants and non-participants in crop insurance.

Sec. 211—Fees for plans of insurance. Establishes a system of payment for the sale of policies developed by other companies.

Sec. 212—Flexible subsidy pilot program. Allows for the creation of a flexible subsidy pilot program for the 2000–2002 crop years.

Sec. 213—Reinsurance Agreements. Provides tougher sanctions for agents and reinsured companies that have recurring compliance difficulties, and requires a regular review of the Standard Reinsurance Agreement.

Sec. 214—Funding. Makes necessary adjustments in funding provisions to take into account the establishment of the Office of Private Sector Partnership.

Mrs. LINCOLN. Mr. President, I am pleased to be here today with my colleague from Mississippi, Senator COCHRAN, to introduce the Crop Insurance Equity Act of 1999. We believe this bill makes fundamental changes to the existing Federal Crop Insurance Program that are necessary to make crop insurance more workable and affordable for producers across the country.

As we all know, the government's role in farm programs has changed. The 1996 Farm Bill phased out traditional support for our farmers, and current farm programs require producers to assume more risk than ever before. Due to the Ag economic crisis, there has been much discussion lately on the issue of the ''safety net'' for our nation's producers. On that point I would like to be perfectly clear. Crop insurance is a risk management tool to help producers guard against yield loss. It was not created and was never intended to be the end all be all solution for the income needs of our nation's producers. As the crop insurance reform debate proceeds, I am hopeful that my colleagues will be cognizant of the various needs in the agriculture community and recognize that while crop insurance is an important part of the ''safety net,'' it is not and should not be the only income guard for our nation's farmers.

Congress has been attempting to eliminate the ad hoc disaster program for years because it is not the most efficient way of helping our farmers who suffer yield losses. Senator Cochran and I have been working over the last few months with individuals involved in crop insurance delivery, major commodity organizations, and most importantly, farmers, to craft a comprehensive bill that addresses the various reform needs of the crop insurance program. We feel that this legislation takes a significant step toward providing a crop insurance program that is equitable, affordable, and effective.

In response to the outcry we have heard from producers in Arkansas, Mississippi, and across the nation, we have attempted to make the crop insurance program more cost effective for our farmers. In Arkansas, the last estimates I heard indicated that 1% of our cotton producers were participating in the buy-up program this year. Buy-up coverage for all commodities in Akansas historically is around 12%. That tells me that producers at home don't think that crop insurance is currently providing the kind of help they need. Our bill establishes a process for re-evaluating crop insurance rates for all crops and for lowering those rates if warranted. By making the crop insurance program more affordable, additional producers will be encouraged to participate in the program and protect themselves against the unforeseeable factors that will be working against them once they put a crop into the ground.

This legislation directs USDA to establish ''good experience'' premium discounts for producers who have not filed claims in the last years. This simply makes sense. If you have car insurance and you haven't had a wreck or a ticket over a significant period of time, then your premium is reduced. Crop insurance should not be any different.

The bill also provides for a more equitable subsidy method by setting the subsidy for crop insurance premiums at a flat rate, regardless of the level of coverage a producer purchases. Current law provides higher levels of federal subsidy to producers who purchase the lowest levels of coverage.

In an attempt to improve the record keeping process within USDA, this legislation establishes the Farm Service Agency (FSA) as the central repository for all acreage and yield record keeping. Current USDA record keeping, split between FSA and RMA, is redundant and insufficient. By including

both crop insurance program participants and non-program participants in the process, we hope to enhance the agricultural data held by the agency and make acreage and yield reporting less of a hassle for already overburdened producers.

In addition, this bill establishes a role for consultation with state FSA committees in the introduction of new coverage to a state. The need for this provision was made abundantly clear to Arkansas' rice producers this spring. A private insurance policy was offered to farmers at one rate, only to have the company reduce the rate once the amount of potential exposure was realized. In my discussions with various executives from the company on this issue it became apparent that their knowledge of the rice industry was fairly minimal. Had they consulted with local FSA committees who had a working knowledge of the rice industry before introduction of the policy, the train wreck that occurred might have been stopped in its tracks.

Many of the problems associated with the crop insurance program have been addressed in previous reform measures, however, fraud and abuses are still present to some degree. This bill strengthens the monitoring of agents and adjusters to combat fraud and enhances the penalties available to USDA for companies, agents and producers who engage in fraudulent activities. There is simply no room for bad actors that recklessly cost the taxpayers money.

While this bill was crafted with the input of producers from Arkansas and Mississippi, there is no preferential treatment toward any commodity or geographic region. We have attempted to include provisions that will make the crop insurance program more effective across the nation. We hope that we have achieved this goal and look forward to working with our colleagues to address any measures that will make the crop insurance reform effort more effective.

Mr. President, I ask unanimous consent that letters of support for this bill be included in the RECORD from the following commodity organizations: The National Cotton Council, USA Rice Federation, American Sugar Cane League, the Southern Peanut Farmers Federation, and the Alabama Farmers Federation.

These organizations have been very helpful in the crafting of this bill and we certainly appreciate the input they have provided.

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

AMERICAN SUGAR CANE LEAGUE
OF THE U.S.A., INC.
Thibodaux, La, May 19, 1999.

Hon. THAD COCHRAN,
Russell Senate Office Building,
Washington, DC
Hon. BLANCHE LINCOLN,
Hart Senate Office Building,
Washington, DC

DEAR SENATORS COCHRAN AND LINCOLN: On behalf of the American Sugar Cane League of the U.S.A., Inc., which represents the entire sugar producing and processing industry in the state of Louisiana, I offer to you our full support of your efforts to improve crop insurance with the introduction of the Crop Insurance Equity Act of 1999. Agriculture in this great country has been in a crisis mode for the last several years and the federal crop insurance program, as it is presently structured, is of limited or no utility to our growers.

In particular, we are pleased with the language which directs the Federal Crop Insurance Corporation (FCIC) to review the rating methodologies, giving high priority to those commodities with the lowest level of participation. Due to the inherent problems with the program, as presently structured, sugarcane growers in Louisiana have not considered crop insurance an affordable or viable management tool. Again, it is with great enthusiasm that we support this bill which we hope will benefit the entire agricultural community and our industry, and allow us the opportunity to have available to us a viable risk management tool that is affordable.

We appreciate tremendously your initiative with this bill language which seeks to make crop insurance more useful for southern commodities. The Louisiana sugarcane industry will continue to review the reasons that crop insurance has not worked thus far and would like to reserve the option to make additional suggestions to you as the process moves forward. Thanks again for taking on a challenge that stands to give American agriculture what the rest of the manufacturing and business community of this country has always had, a viable and affordable risk management tool.

Sincerely,

CHARLES J. MELANCON,
President and General Manager.

NATIONAL COTTON COUNCIL OF AMERICA,
May 18, 1999.

Hon. THAD COCHRAN,
Hon. BLANCHE LINCOLN,
U.S. Senate, Washington, DC.

DEAR SENATORS COCHRAN and LINCOLN: On behalf of the National Cotton Council, I would like to convey our sincere appreciation and strong support for your efforts to improve the Federal crop insurance program. The legislation that you are about to introduce, The Crop Insurance Equity Act of 1999, makes many needed changes to the program, improves compliance, and should increase participation as well.

The profitability crisis we are experiencing in American agriculture and the policy direction we have chosen on farm programs has greatly increased the cotton industry's interest in more sound risk management tools to help weather the tough times. Your legislation takes a very comprehensive approach towards improving the current system. We are especially pleased with your provisions that will result in a reformed rating process, significantly improved record keeping requirements through the Farm Service Agency, equitable prevented planting coverage for all crops, and a streamlined private product approval process.

Finally, we appreciate the efforts of Hunt Shipman and Ben Noble on your staffs who worked tirelessly with the cotton industry to include provisions that would make the program more equitable for all commodities. They are both an asset to your offices.

Thank you again for your efforts and all you do to help the cotton industry. We look forward to working with you any way we can to insure passage of your bill.

Sincerely,

RON RAYER,
President, National Cotton Council,
ALLEN HELMS,
Chairman, American Cotton Producers Association.

USA RICE FEDERATION,
May 19, 1999

Hon. BLANCHE LAMBERT LINCOLN,
U.S. Senate, Washington, DC.

DEAR SENATOR LINCOLN: On behalf of the USA Rice Federation, which represents producers of over 80 percent of America's rice crop and virtually all U.S. rice millers, I would like to express our appreciation for the leadership that you and Senator Cochran have provided on the issue of reforming Federal crop insurance. Specifically, we want to express our strong support for the Crop Insurance Equity Act of 1999 which represents a positive step towards addressing the concerns that U.S. rice producers have had with the existing crop insurance program.

As you probably are aware, most rice producers have traditionally not participated in the Federal crop insurance program because premiums have been viewed as too high relative to the minimal coverage the program offers. For example, during the 1998 crop year, only 43 percent of 3 million acres planted to rice was covered by catastrophic policies while only another 20 percent of the acreage was covered by buy-up policies. In general, the low level of participation by U.S. rice farmers has occurred because: CAT coverage offers farmers minimal coverage and buy-up policies are too expensive; serious problems exist with the actuarial data used to calculate premiums and coverage; and rice farmers, who traditionally experience relatively low levels of yield variability, want price/revenue protection versus traditional yield coverage. We believe that the Crop Insurance Equity Act begins to seriously address each of these three major issues.

Again, Senator Lincoln, we want to thank you and your staff for working so closely with the USA Rice Federation during the development of this important bill. We are proud to support this bill and look forward to working with you to enact the legislation in 1999.

Sincerely,

A. ELLEN TERPSTRA,
President and Chief Executive Officer.

THE REDDING FIRM,
313 MASSACHUSETTS AVENUE, N.E.,
WASHINGTON, DC

We are very appreciative of Senators Cochran and Lincoln taking the lead on reforming the Federal Crop Insurance Program. Growers in the Southeast want sound product options at a reasonable price. The Cochran-Lincoln bill moves crop insurance in this direction. Disaster bills do not adequately address the problems growers face in a bad crop year. Crop insurance has to be reformed where growers can plan and address difficult financial times.

SOUTHERN PEANUT FARMERS
FEDERATION.

ALFA FARMERS,
May 18, 1999.

Senator Blanche Lincoln,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR LINCOLN: On behalf of over 398,000 members of the Alabama Farmers Federation, I am writing in support of this bill which you and Senator Cochran are introducing titled the Crop Insurance Equity Act of 1999. This crop insurance reform bill goes a long way toward addressing the inequities southern producers face under the current federal crop insurance program. While producers do not want the government to guarantee them a profit, real crop insurance reform is needed to ensure farmers have

adequate risk management tools for years when a disaster does occur.

We are pleased that the Crop Insurance Equity Act addresses the so-called ''ratings'' issue in which southern producers are unfairly penalized by a flawed rating system. As you know, the current 20–year historical actuarial database being used to determine probability of loss and establish premium levels does not accurately reflect real risk (particularly in the Southeast).

In addition, Alabama farmers want increased emphasis on oversight by the federal government and private insurers to prevent fraud. The Federation is pleased that the oversight provisions were included in your bill by making crop insurance more affordable for good farmers and eliminating abuses by those who would take advantage of it, thereby increasing producer participation.

The Federation is also pleased to note that your bill restores the provision in law that enables producers with good experience to receive premium discounts, as well as eliminating ''black dirt'' and replant provisions which have unfairly penalized cotton growers in the current federal crop insurance program.

Furthermore, it is important to note that premium subsidies are shifted to the higher levels of coverage in your bill, as well as recognizing that your provision concerning the multiple year disasters remedies the problem that producers who experience multiple years of disaster currently face. These provisions should make higher coverage more affordable, as well as encourage greater producer participation.

Again, we thank you and Senator Cochran for your leadership for southern agriculture, and we look forward to working toward a reasonable crop insurance program that is truly a risk management tool for producers of all areas of the country.

Sincerely,

G. Keith Gray, Director, National Affairs.

By Mr. MCCONNELL (for himself, Mr. SMITH of New Hampshire, Mr. KOHL, Mr. FRIST, Mr. GREGG, Mr. JOHNSON, Mr. WARNER, Mr. CLELAND, Mr. SCHUMER, Mr. ALLARD, Mr. JEFFORDS, Mr. AKAKA, Mrs. FEINSTEIN, Mr. ENZI, Mr. ROBB, Mr. GRAMS, Mrs. BOXER, Mr. LUGAR, Ms. LANDRIEU, Mr. COCHRAN, Mrs. MURRAY, Mr. INHOFE, Mr. MACK, Mr. TORRICELLI, Mr. BINGAMAN, Mr. THOMAS, Mr. LEAHY, Mr. CAMPBELL, Mr. KENNEDY, Mr. HELMS, Mr. DURBIN, Mr. SANTORUM, Mr. LAUTENBERG, Mr. BUNNING, Mr. MOYNIHAN, Mr. KERRY, Mr. WYDEN, Mr. GRAHAM, Mr. REID, Mr. LEVIN, and Mr. LIEBERMAN):

S. 1109. A bill to conserve global bear populations by prohibiting the importance, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes; to the Committee on Environment and Public Works.

THE BEAR PROTECTION ACT

Mr. MCCONNELL. Mr. President, I rise today to introduce the Bear Protection Act. This legislation, which I sponsored in the 105th Congress, is aimed at eliminating the poaching of America's bears for profit. As you may know, bear parts, such as gall bladders and bile, which are commonly referred to as ''viscera,'' have traditionally been used in myriad Asian medicines—for everything from diabetes to heart disease to hangovers, and in luxury shampoos and cosmetics. Due to the popularity of these products containing bear viscera, Asian bear populations have been decimated, causing poachers to run to American bears to meet the increasing demand.

Mr. President, the practice of poaching bears for viscera is both a national and international problem. Asian and American bear populations are threatened by high demand for and low supply of bear parts and by the black market trade in exotic and traditional medicine cures. The problem is compounded by the fact that the poaching of bears for their viscera is a very profitable enterprise, and one in which at least 18 Asian countries are known to participate. In fact, bear gall bladders in South Korea, for instance, are worth more than their weight in gold, fetching a price of about $10,000 a piece.

Mr. President, each year, nearly 40,000 black bears are legally hunted in 36 States and Canada. Unfortunately, it has been estimated that roughly the same number is illegally poached every year, according to a former chief law enforcement officer with the U.S. Fish and Wildlife Service. While I am pleased to report that for the most part, U.S. bear populations have remained stable or are increasing, I continue to remain concerned about the threat posed by unchecked poaching.

Since 1981, State and Federal wildlife agents have conducted many successful undercover operations to aimed at exposing the illegal slaughter of American bears. As recently as this past February, a group of State and Federal officers arrested 25 people in Virginia and charged them with 112 wildlife violations including bear poaching as part of Operations SOUP, or ''Special Operation to Uncover Poaching.'' Operation SOUP is a major undercover investigation, which has been ongoing for three years and is aimed at the trafficking of gall bladders and other bear parts from black bears in Virginia and Shenandoah National Park.

Mr. President, I have with me two press releases from the Virginia Department of Game and Inland Fishing, as well as an article from the Washington Post which I would like to have placed in the RECORD.

Mr. President, as these and other news reports will attest, this problem with poaching and trading bear parts must be addressed. Although many States and the U.S. Fish and Wildlife Service are making efforts to combat this problem, these agencies have neither the funds nor the resources to adequately solve the problem. Moreover, there are loopholes created by a patchwork of State laws that allow these illegal practices to flourish. There are fourteen States in which the sale of bear gall bladders is legal—eight of those States limit the sale to viscera taken from bears in other States, and there are five States that have no law in this regard. This patchwork of State laws enables poachers to ''launder'' the gall through the States that permit the sale of gall bladders. As long as a few States allow this action to go on, poaching for profit will continue.

Mr. President, as I mentioned earlier, this is both a national and international problem—and it is a growing problem. The Convention on International Trade in Endangered Species (CITES), to which the United States is a party, has recognized the issue of bear conservation as a global issue. In fact, CITES has noted that ''the continued illegal trade is bear parts and derivatives of bear parts undermines the effectiveness of the Convention and that if CITES parties . . . do not take action to eliminate such trade, poaching may cause declines of wild bears that could lead to the extirpation of certain populations or even species.'' The Convention goes on to say that in order to achieve this goal, ''submitted and measurable action'' must be taken—this includes adopting national legislation.

I would like to point out that members of the U.S. delegation to the CITES Convention contributed to the drafting of that resolution, and in doing so, made a strong statement about the need to strengthen our national commitment to eradicating the poaching of bears. Recently, the Secretariat pointed out that bear poaching is most likely to flourish in countries that have inconsistent internal trade, import, and export controls. In such instances where there are differences in national, Federal, and State laws, the Secretariat asserts that confusion and enforcement difficulties arise which will contribute to the availability of bear viscera that can become available for international trade.

Mr. President, in order to halt the poaching of America's bears, we need to effectuate legislation that not only prohibits the import and export of bear viscera, but we need to close the loopholes in State laws that encourage poachers to evade the law. To effectively reduce the laundering of bear viscera through the United States, all states must have a minimum level of protection. We must also stop the import and export of bear viscera, so that we can shut off the international trade before America's bear populations suffer the same fate as Asian bear populations.

The Bear Protection Act will do just that. It will establish national guidelines for trade in bear parts, but will not weaken any existing state laws that have been instituted to deal with this issue. The outright ban on the trade, sale or barter of bear viscera, including items that claim to contain bear parts, will close the existing loopholes and will allow State and Federal wildlife officials to focus their limited resources on much needed conservation efforts.

Mr. President, let me underscore that my bill would in no way infringe on the rights of hunters to legally hunt bears. These sportsmen would still be allowed to keep trophies and furs of bears killed during legal hunts.

The Bear Protection Act will also bolster America's efforts to curtail the international bear trade by directing the Secretaries of the Interior and State, as well as the United States Trade Representative to establish a dialogue with the counties that share our interest in conserving bear species. This, too, is an important element of the legislation because I believe efforts to both reduce the demand for bear parts in Asia and encourage the increased usage of synthetic and other natural products as an alternative to beargall should be made a priority.

Mr. President, it is important that we act now to protect the American bear population. The United States must take a stand and be an example to the rest of the world by prohibiting the illegal taking and smuggling of American bears. If we act now, we can stop the poaching of bears, which left unchecked, will lead us down a path toward these magnificent creatures' extinction. That is why I urge my colleagues to join me in support of this worthwhile legislation.

Mr. President, I ask that the full text of my legislation and additional material to be printed in the RECORD.

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

S. 1109

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Bear Protection Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) all 8 extant species of bear—Asian black bear, brown bear, polar bear, American black bear, spectacled bear, giant panda, sun bear, and sloth bear—are listed on Appendix I or II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249) (referred to in this section as ''CITES'');

(2) Article XIV of CITES provides that Parties to CITES may adopt stricter domestic measures regarding the conditions for trade, taking, possession, or transport of species on Appendix I or II, and the Parties to CITES adopted a resolution (Conf. 10.8) urging Parties to take immediate action to demonstrably reduce the illegal trade in bear parts and derivatives;

(3) the Asian bear populations have declined significantly in recent years, as a result of habitat loss and poaching due to a strong demand for bear viscera used in traditional medicines and cosmetics;

(4) Federal and State undercover operations have revealed that American bears have been poached for their viscera;

(5) while most American black bear populations are generally stable or increasing, commercial trade could stimulate poaching and threaten certain populations if the demand for bear viscera increases; and

(6) prohibitions against the importation into the United States and exportation from the United States, as well as prohibitions against the interstate trade, of bear viscera and products containing, or labeled or advertised as containing, bear viscera will assist in ensuring that the United States does not contribute to the decline of any bear population as a result of the commercial trade in bear viscera.

SEC. 3. PURPOSES.

The purpose of this Act is to ensure the long-term viability of the world's 8 bear species by—

(1) prohibiting international trade in bear viscera and products containing, or labeled or advertised as containing, bear viscera;

(2) encouraging bilateral and multilateral efforts to eliminate such trade; and

(3) ensuring that adequate Federal legislation exists with respect to domestic trade in bear viscera and products containing, or labeled or advertised as containing, bear viscera.

SEC. 4. DEFINITIONS.

In this Act:

(1) BEAR VISCERA.—The term ''bear viscera'' means the body fluids or internal organs, including the gallbladder and its contents but not including blood or brains, of a species of bear.

(2) IMPORT.—The term ''import'' means to land on, bring into, or introduce into any place subject to the jurisdiction of the United States, whether or not the landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(3) PERSON.—The term ''person'' means—

(A) an individual, corporation, partnership, trust, association, or other private entity;

(B) an officer, employee, agent, department, or instrumentality of—

(i) the Federal Government;

(ii) any State, municipality, or political subdivision of a State; or

(iii) any foreign government;

(C) a State, municipality, or political subdivision of a State; and

(D) any other entity subject to the jurisdiction of the United States.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory, commonwealth, or possession of the United States.

(6) TRANSPORT.—The term ''transport'' means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, conveyance, carriage, or shipment.

SEC. 5. PROHIBITED ACTS.

(a) IN GENERAL.—Except as provided in subsection (b), a person shall not—

(1) import into, or export from, the United States bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera; or

(2) sell or barter, offer to sell or barter, purchase, possess, transport, deliver, or receive, in interstate or foreign commerce, bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera.

(b) EXCEPTION FOR WILDLIFE LAW ENFORCEMENT PURPOSES.—A person described in subparagraph (B) or (C) of section 4(3) may import into, or export from, the United States, or transport between States, bear viscera or any product, item, or substance containing, or labeled or advertised as containing, bear viscera if the importation, exportation, or transportation—

(1) is solely for wildlife law enforcement purposes; and

(2) is authorized by a valid permit issued under Appendix I or II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249), in any case in which such a permit is required under the Convention.

SEC. 6. PENALTIES AND ENFORCEMENT.

(a) CRIMINAL PENALTIES.—A person that knowingly violates section 5 shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

(b) CIVIL PENALTIES.—

(1) AMOUNT.—A person that knowingly violates section 5 may be assessed a civil penalty by the Secretary of not more than $25,000 for each violation.

(2) MANNER OF ASSESSMENT AND COLLECTION.—A civil penalty under this subsection shall be assessed, and may be collected, in the manner in which a civil penalty under the Endangered Species Act of 1973 may be assessed and collected under section 11(a) of that Act (16 U.S.C. 1540(a)).

(c) PRODUCTS, ITEMS, AND SUBSTANCES.—Any bear viscera, or any product, item, or substance sold, imported, or exported, or attempted to be sold, imported, or exported, in violation of this section (including any regulation issued under this section) shall be seized and forfeited to the United States.

(d) REGULATIONS.—After consultation with the Secretary of the Treasury, the Secretary of Health and Human Services, and the United States Trade Representative, the Secretary shall issue such regulations as are necessary to carry out this section.

(e) ENFORCEMENT.—The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating shall enforce this section in the manner in which the Secretaries carry out enforcement activities under section 11(e) of the Endangered Species Act of 1973 (16 U.S.C. 1540(e)).

(f) USE OF PENALTY AMOUNTS.—Amounts received as penalties, fines, or forfeiture of property under this section shall be used in accordance with section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)).

SEC. 7. DISCUSSIONS CONCERNING TRADE PRACTICES.

The Secretary and the Secretary of State shall discuss issues involving trade in bear viscera with the appropriate representatives of countries trading with the United States that are determined by the Secretary and the United States Trade Representative to be the leading importers, exporters, or consumers of bear viscera, and attempt to establish coordinated efforts with the countries to protect bears.

SEC. 8. REPORT.

Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with appropriate State agencies, shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report detailing the progress of efforts to end the illegal trade in bear viscera.

———

[From the Virginia Department of Game and Inland Fisheries, Jan. 18, 1999]

JOINT EFFORT TACKLES POACHERS, ILLEGAL BEAR TRADE

LURAY, VIRGINIA.—Earlier today, nearly 100 state and federal officers arrested almost three dozen defendants charged with more than 150 state wildlife violations. Officers executed approximately a dozen search warrants to further the investigation into the illegal trade of bear parts. The action is part of the continuing investigation Operation SOUP, or Special Operation to Uncover Poaching. The operation is expected to yield one of the largest prosecutions in the nation's history for crimes relating to bear poaching and illegal trade in bear parts. Operation SOUP is a joint effort of the Virginia

Department of Game and Inland Fisheries (VDGIF), the National Park Service, and the U.S. Fish & Wildlife Service.

Operation SOUP's three-year undercover investigation involves a three-pronged approach targeting the commercialization of bear parts used in the jewelry trade; bear gall bladder and paw trafficking; and poaching by individuals associated with specific groups suspected of supplying bear parts. In addition to the arrests made today, more misdemeanor and felony indictments may follow in the weeks and months ahead as this joint effort identifies other individuals involved in poaching and commercial trafficking of bear parts. By working together, these government agencies have been able to increase their manpower and resources to combat the illegal sale of bear parts.

A major aspect of the investigation focuses on the bear gall bladder trade. This worldwide market is driven by the demand for its use in traditional Asian medicine. Since the substantial decline of the Asian bear populations, the American black bear has been targeted for this trade. One bear gall bladder may sell overseas at auction for thousands of dollars. Dried and ground to a fine powder it is sold by the gram at a street value greater than cocaine.

Details of Operation SOUP will be announced at a press conference to be held tomorrow, Tuesday, January 19, at 1 PM, at the Shenandoah National Park administrative headquarters on U.S. Route 211 east of Luray, Virginia and west of the Skyline Drive.

[From the Virginia Department of Game and Island Fisheries, Jan. 19, 1999]

SUCCESSFUL JOINT EFFORT TACKLES POACHERS, ILLEGAL BEAR TRADE

LURAY VIRGINIA.—On Monday, January 18, 1999, nearly 110 state and federal officers arrested 25 defendants charged with 112 wildlife violations, and executed 14 search warrants as part of Operation SOUP, or ''Special Operation to Uncover Poaching''. Operation SOUP is a major, on-going, undercover investigation into illegal hunting and commercialization of American black bears in Virginia and in Shenandoah National Park. This three-year investigation has been a joint operation of the Virginia Department of Game and Inland Fisheries, the National Park Service, and the U.S. Fish & Wildlife Service. Much of the investigation has been concentrated in the Blue Ridge region of Virginia. Upon its completion, Operation SOUP is expected to yield one of the largest prosecutions in the nation's history for crimes relating to bear poaching and illegal trade in bear parts.

Operation SOUP utilizes a three-pronged approach to combat this criminal activity. The first has targeted the sale of bear parts, mostly claws and teeth, for use in the jewelry trade. Sales of intact bear paws used to make ashtrays and other trinkets also fall into this category. This investigation has confirmed that in Virginia there is active trade in bear parts used for jewelry. Independent of yesterday's arrests, over the last eight months 12 individuals have been arrested and charged with 94 counts of buying or selling bear parts in violation of state law.

The second prong of Operation SOUP has targeted trafficking of gall bladders and frozen bear paws. This aspect of the investigation has confirmed that significant trade in gall bladders and bear paws out of Virginia exists, including from bears within and around Shenandoah National Park.

To further this portion of the investigation, 11 federal search warrants were executed in Madison and Rappanhannock Counties in Virginia, and near Petersburg, West Virginia. They were issued on a combination of homes, businesses and vehicles. Seized were five vehicles, several freezers, and an assortment of bear parts, firearms, and cash. Federal felony indictments may be forthcoming in the weeks and months ahead. Three arrests made on Monday have connections with trafficking of bear parts. Additional details will be released as they become available.

The third prong of Operation SOUP has targeted the poachers themselves. These individuals are associated with specific groups that are suspected of being a source of bear parts for commercial trade. On Monday, 22 individuals were arrested and charged with a total of 107 state wildlife violations. Although bear may be legally taken in Virginia by legitimate sportsmen, these individuals are accused of using illegal hunting practices to harvest bears. Undercover investigations in this portion of the operation indicated that some of these individuals may also have engaged in bear poaching within Shenandoah National Park where it is unlawful to hunt. This is still under investigation and may result in federal indictments for illegal hunting within the park being passed down in the weeks or months ahead.

At the heart of Operation SOUP are concerns about an international problem that has a toehold in Virginia. The bear gall bladder trade is a worldwide industry driven by the demand for its use in traditional Asian medicine. Many people from Asian cultures believe bear parts, particularly the gall bladder, have medicinal value for treating and preventing a variety of ailments. A single gall bladder can be sold at auction overseas for thousands of dollars. Dried, ground and sold by the gram, bear gall bladders have a street value greater than cocaine. In this operation, 300 gall bladders were purchased or seized with an estimated U.S. value of $75,000 and an international value of more than $3 million dollars. Bear paws also have high commercial value. Bear paws are purchased as an ingredient in Bear Paw Soup, considered a delicacy in some ethnic Asian restaurants. A single bowl of this soup can sell for hundreds of dollars overseas. The serious decline in the Asian black bear population has lead to the American black bear being targeted for this trade. The government agencies behind Operation SOUP are deeply concerned about these activities and will continue to investigate illegal bear poaching and trafficking of bear parts.

[From the Washington Post, Feb. 16, 1999]

BEAR POACHING ON RISE ON SHENANDOAH REGION

(By Maria Glod and Leef Smith)

It was early January when the call came in on Jeffrey Pascale's unlisted phone line: The goods were available. Was he interested?

A date was set, and Pascale agreed to meet James Presgraves at a roadside dinner in Stanley, Va. The deal was completed several miles away at Presgrave's home, where he allegedly removed an assortment of bear gallbladders from the freezer and Pascale, an undercover U.S. Park Ranger, paid him $925 for six of the golf ball-size organs.

The purchase of the bear organs was documented last month in affidavits filed in U.S. District Court in Roanoke in support of search warrants and signaled to the close of a three-year state and federal investigation into what authorities said was a highly profitable loosely organized bear-poaching ring operating in Virginia's Blue Ridge mountains. Instead of killing the bears just for their meat and fur, officials said, poachers were harvesting the animals for their paws and gallbladders, which can sell for hundreds of dollars in this country and thousands of dollars in Asia.

No charges have been filed against Presgraves.

As bear populations dwindle in other parts of the world—victims of excessive hunting and disappearing habitats—poaching has become increasingly lucrative in North America, where an estimated 400,000 bears live. Each year, hundreds of bear carcasses turn up, intact except for missing gallbladders, paws and claws, according to testimony given to Congress.

Gallbladders and the green bile they store are prized in Asia, where they are used in medicine to treat a variety of ailments, including heart disease and hangovers. Bear paw soup is considered a delicacy in some Asian cultures and is sold—off the menu—in some restaurants for as much as $60 a bowl, investigators say.

''People are willing to pay any amount of money [for a bear product] if they want it really bad,'' said Andrea Gaski of the World Wildlife Fund, which monitors bear poaching.

While bear hunting is legal in Virginia, it is illegal, as in most states, to sell the animal's body parts—including gallbladders, heads, hides, claws or teeth. Bear hunting is not permitted in Maryland. Last year, Congress considered, but did not pass, legislation aimed at halting the trade in bear organs.

In Virginia, hunters legally kill 600 to 900 bears each hunting season. Officials say it is unclear how many more of the population of about 4,000 bears are taken by poachers. In the most recent investigation, law enforcement officials seized about 300 gallbladders and arrested 25 people. They have been charged with offenses ranging from illegally buying wildlife parts, a felony, to misdemeanor hunting violations. Authorities said that some of the charges stem from selling jewelry made with bear claws or teeth, while others target alleged traffickers in the bear organs. Officials say that some of the parts sold in Virginia are hunted legally. The federal investigation is continuing.

The state and federal investigation in Virginia began in 1996 when investigators began receiving tips from hunters about poaching in and around Shenandoah National Park, officials said.

Agents ultimately infiltrated the local ring, accompanying poachers on hunts and posed as middlemen.

''Some of those people were blatant enough that if you left a business card saying, ''I want to buy gallbladders,' at a hunting lodge, they would call you back,'' said Don Patterson, a supervisor with the U.S. Fish and Wildlife Service who helped lead the investigation.

According to documents filed in U.S. District Court in Roanoke, Pascale met six times during 1997 and 1998 with Bonnie Sue and Danny Ray Baldwin at their home in Sperryville, Va., to purchase bear gallbladders and paws.

During the course of his investigation, according to the affidavit filed in support of a search warrant application, the Baldwins told Pascale they had been in business for 13 years, selling about 300 gallbladders annually to customers in Maryland, New York and the District.

According to court records, the Baldwins said they obtained their bear parts from several sources including hunt clubs, farmers and orchards, as well as from the bears that Danny Baldwin bagged by hunting or trapping.

No charges have been filed against the Baldwins.

Investigators compare the illegal trade in bear parts to drug trafficking, saying the poachers typically work through a middleman who delivers the gallbladders and paws to either local or overseas Asian markets.

Nationwide, federal authorities have intercepted 70 shipments of bear parts headed to Asian markets in the past five years, according to U.S. Fish and Wildlife officials.

''If you don't watch this situation and keep your fingers on the pulse, you can quickly look at it and say, 'Where did [the bears] all go?' '' said William Woodfin, director of the Virginia Department of Game and Inland Fisheries. ''We have an obligation to future generations to make sure the black bear will be there for them to enjoy.''

CONF. 10.8—CONSERVATION OF AND TRADE IN BEARS

Aware that all populations of bear species are included either in Appendix I or Appendix II of the Convention;

Recognizing that bears are native to Asia, Europe, North America and South America and, therefore, the issue of bear conservation is a global one;

Noting that the continued illegal trade in parts and derivatives of bear species undermines the effectiveness of the Convention and that if CITES Parties and States not-party do not take action to eliminate such trade, poaching may cause declines of wild bears that could lead to the extirpation of certain populations or even species;

Recognizing that long-term solutions for the protection and conservation of bears require the adoption of substantive and measurable actions;

The Conference of the Parties to the Convention urges all Parties, particularly bear range and consuming countries, to take immediate action in order to demonstrably reduce the illegal trade in bear parts and derivatives by the 11th meeting of the Conference of the Parties, by:

(a) confirming, adopting or improving their national legislation to control the import and export of bear parts and derivatives, ensuring that the penalties for violations are sufficient to deter illegal trade;

(b) increasing CITES enforcement by providing additional resources, nationally and internationally, for wildlife trade controls;

(c) strengthening measures to control illegal export as well as import of bear parts and derivatives;

(d) initiating or encouraging new national efforts in key producers and consumer countries to identify, target and eliminate illegal markets;

(e) developing international training programmes on enforcement of wildlife laws for field personnel, with a specific focus on bear parts and derivatives, and exchanging field techniques and intelligence; and

(f) developing bilateral and regional agreements for conservation and law enforcement efforts;

Recommends that all Parties review and strengthen measures, where necessary, to enforce the provisions of the Convention relating to specimens of species included in Appendices I and II, where bear parts and derivatives are concerned;

Recommends further that Parties and States not-party, as a matter of urgency, address the issues of illegal trade in bear parts and derivatives by:

(a) strengthening dialogue between government agencies, industry, consumer groups and conservation organizations to ensure that legal trade does not provide a conduit for illegal trade in parts and derivatives of Appendix-I bears and to increase public awareness of CITES trade controls;

(b) encouraging bear range and consumer countries that are not party to CITES to accede to the Convention as a matter of urgency;

(c) providing funds for research on the status of endangered bears, especially Asian species;

(d) working with traditional-medicine communities to reduce demand for bear parts and derivatives, including the active promotion of research on and use of alternatives and substitutes that do not endanger other wild species; and

(e) developing programmes in co-operation with traditional-medicine communities and conservation organizations to increase public awareness and industry knowledge about the conservation concerns associated with the trade in bear specimens and the need for stronger domestic trade controls and conservation measures; and

Calls upon all governments and intergovernmental organizations, international aid agencies and non-governmental organizations to provide, as a matter of urgency, funds and other assistance to stop the illegal trade in bear parts and derivatives and to ensure the survival of all bear species.

By Mr. LOTT:

S. 1110. A bill to amend the Public Health Service Act to establish the National Institute of Biomedical Imaging and Engineering; to the Committee on Health, Education, Labor, and Pensions.

NATIONAL INSTITUTE OF BIOMEDICAL IMAGING AND ENGINEERING ESTABLISHMENT ACT

Mr. LOTT. Mr. President, I am pleased to introduce today the National Institute of Biomedical Imaging and Engineering Establishment Act. The bill would create a concentrated focus at the National Institutes of Health (NIH) on biomedical imaging and bioengineering.

Imaging has been on the forefront of many of our advances in early diagnosis and treatment of disease. Innovative technologies have greatly reduced the need for invasive surgery and provided a remarkable tool for early detection of disease. Breakthroughs in imaging research have direct application to advances in molecular biology and molecular genetics, accelerating the development of new gene therapies and genetic screening.

Despite the revolutionary influence of imaging on both research and treatment, the NIH traditionally has not concentrated basic research efforts on the imaging sciences. The bill I am introducing today ensures that research is not only focused in this important field, but that its applications are disseminated across disease fields. The bill also encourages information sharing among federal agencies. Many agencies, such as NASA, do basic imaging research. We should be committed to ensuring that all advances that have applications in our fight against disease are shared with our medical community.

I am proud of the commitment that this Congress has made to the National Institutes of Health. We have demonstrated our determination to provide increased federal resources in the fight against disease. I believe that the establishment of a National Institute of Biomedical Imaging and Engineering will compliment those efforts.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Institute of Biomedical Imaging and Engineering Establishment Act''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Basic research in imaging, bioengineering, computer science, informatics, and related fields is critical to improving health care but is fundamentally different from the research in molecular biology on which the current national research institutes at the National Institutes of Health (referred to in this section as the ''NIH'') are based. To ensure the development of new techniques and technologies for the 21st century, these disciplines therefore require an identity and research home at the NIH that is independent of the existing institute structure.

(2) Advances based on medical research promise new, more effective treatments for a wide variety of diseases, but the development of new, noninvasive imaging techniques for earlier detection and diagnosis of disease is essential to take full advantage of such new treatments and to promote the general improvement of health care.

(3) The development of advanced genetic and molecular imaging techniques is necessary to continue the current rapid pace of discovery in molecular biology.

(4) Advances in telemedicine, and teleradiology in particular, are increasingly important in the delivery of high quality, reliable medical care to rural citizens and other underserved populations. To fulfill the promise of telemedicine and related technologies fully, a structure is needed at the NIH to support basic research focused on the acquisition, transmission, processing, and optimal display of images.

(5) A number of Federal departments and agencies support imaging and engineering research with potential medical applications, but a central coordinating body, preferably housed at the NIH, is needed to coordinate these disparate efforts and facilitate the transfer of technologies with medical applications.

(6) Several breakthrough imaging technologies, including magnetic resonance imaging (MRI) and computed tomography (CT), have been developed primarily abroad, in large part because of the absence of a home at the NIH for basic research in imaging and related fields. The establishment of a central focus for imaging and bioengineering research at the NIH would promote both scientific advance and U.S. economic development.

(7) At a time when a consensus exists to add significant resources to the NIH in coming years, it is appropriate to modernize the structure of the NIH to ensure that research dollars are expended more effectively and efficiently and that the fields of medical science that have contributed the most to the detection, diagnosis, and treatment of disease in recent years receive appropriate emphasis.

(8) The establishment of a National Institute of Biomedical Imaging and Engineering at the NIH would accelerate the development of new technologies with clinical and research applications, improve coordination and efficiency at the NIH and throughout the Federal Government, reduce duplication and waste, lay the foundation for a new medical

information age, promote economic development, and provide a structure to train the young researchers who will make the path-breaking discoveries of the next century.

SEC. 3. ESTABLISHMENT OF NATIONAL INSTITUTE OF BIOMEDICAL IMAGING AND ENGINEERING.

(a) IN GENERAL.—Part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following:

''Subpart 18—National Institute of Biomedical Imaging and Engineering

''SEC. 464Z. PURPOSE OF THE INSTITUTE.

''(a) IN GENERAL.—The general purpose of the National Institute of Biomedical Imaging and Engineering (in this section referred to as the 'Institute') is the conduct and support of research, training, the dissemination of health information, and other programs with respect to biomedical imaging, biomedical engineering, and associated technologies and modalities with biomedical applications (in this section referred to as 'biomedical imaging and engineering').

''(b) NATIONAL BIOMEDICAL IMAGING AND ENGINEERING PROGRAM.—

''(1) ESTABLISHMENT.—The Director of the Institute, with the advice of the Institute's advisory council, shall establish a National Biomedical Imaging and Engineering Program (in this section referred to as the 'Program').

''(2) ACTIVITIES.—Activities under the Program shall include the following with respect to biomedical imaging and engineering:

''(A) Research into the development of new techniques and devices.

''(B) Related research in physics, engineering, mathematics, computer science, and other disciplines.

''(C) Technology assessments and outcomes studies to evaluate the effectiveness of biologics, materials, processes, devices, procedures, and informatics.

''(D) Research in screening for diseases and disorders.

''(E) The advancement of existing imaging and engineering modalities, including imaging, biomaterials, and informatics.

''(F) The development of target-specific agents to enhance images and to identify and delineate disease.

''(G) The development of advanced engineering and imaging technologies and techniques for research from the molecular and genetic to the whole organ and body levels.

''(H) The development of new techniques and devices for more effective interventional procedures (such as image-guided interventions).

''(3) PLAN.—

''(A) IN GENERAL.—With respect to the Program, the Director of the Institute shall prepare and transmit to the Secretary and the Director of NIH a plan to initiate, expand, intensify, and coordinate activities of the Institute with respect to biomedical imaging and engineering. The plan shall include such comments and recommendations as the Director of the Institute determines appropriate. The Director of the Institute shall periodically review and revise the plan and shall transmit any revisions of the plan to the Secretary and the Director of NIH.

''(B) RECOMMENDATIONS.—The plan under subparagraph (A) shall include the recommendations of the Director of the Institute with respect to the following:

''(i) Where appropriate, the consolidation of programs of the National Institutes of Health for the express purpose of enhancing support of activities regarding basic biomedical imaging and engineering research.

''(ii) The coordination of the activities of the Institute with related activities of the other agencies of the National Institutes of Health and with related activities of other Federal agencies.

''(c) ADVISORY COUNCIL.—The establishment under section 406 of an advisory council for the Institute is subject to the following:

''(1) The number of members appointed by the Secretary shall be 12.

''(2) Of such members—

''(A) 6 members shall be scientists, engineers, physicians, and other health professionals who represent disciplines in biomedical imaging and engineering and who are not officers or employees of the United States; and

''(B) 6 members shall be scientists, engineers, physicians, and other health professionals who represent other disciplines and are knowledgeable about the applications of biomedical imaging and engineering in medicine, and who are not officers or employees of the United States.

''(3) EX OFFICIO MEMBERS.—In addition to the ex officio members specified in section 406(b)(2), the ex officio members of the advisory council shall include the Director of the Centers for Disease Control and Prevention, the Director of the National Science Foundation, and the Director of the National Institute of Standards and Technology (or the designees of such officers).

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), for the purpose of carrying out this section:

''(A) For fiscal year 2000, there is authorized to be appropriated an amount equal to the amount obligated by the National Institutes of Health during fiscal year 1999 for biomedical imaging and engineering, except that such amount shall be adjusted to offset any inflation occurring after October 1, 1998.

''(B) For each of the fiscal years 2001 and 2002, there is authorized to be appropriated an amount equal to the amount appropriated under subparagraph (A) for fiscal year 2000, except that such amount shall be adjusted for the fiscal year involved to offset any inflation occurring after October 1, 1999.

''(2) REDUCTION.—The authorization of appropriations for a fiscal year under paragraph (1) is hereby reduced by the amount of any appropriation made for such year for the conduct or support by any other national research institute of any program with respect to biomedical imaging and engineering.''.

(b) USE OF EXISTING RESOURCES.—In providing for the establishment of the National Institute of Biomedical Imaging and Engineering pursuant to the amendment made by subsection (a), the Director of the National Institutes of Health (referred to in this subsection as the ''NIH'')—

(1) may transfer to the National Institute of Biomedical Imaging and Engineering such personnel of the NIH as the Director determines to be appropriate;

(2) may, for quarters for such Institute, utilize such facilities of the NIH as the Director determines to be appropriate; and

(3) may obtain administrative support for the Institute from the other agencies of the NIH, including the other national research institutes.

(c) CONSTRUCTION OF FACILITIES.—None of the provisions of this Act or the amendments made by the Act may be construed as authorizing the construction of facilities, or the acquisition of land, for purposes of the establishment or operation of the National Institute of Biomedical Imaging and Engineering.

(d) DATE CERTAIN FOR ESTABLISHMENT OF ADVISORY COUNCIL.—Not later than 90 days after the effective date of this Act, the Secretary of Health and Human Services shall complete the establishment of an advisory council for the National Institute of Biomedical Imaging and Engineering in accordance with section 406 of the Public Health Service Act and in accordance with section 464Z of such Act (as added by subsection (a) of this section).

(e) CONFORMING AMENDMENT.—Section 401(b)(1) of the Public Health Service Act (42 U.S.C. 281(b)(1)) is amended by adding at the end the following:

''(R) The National Institute of Biomedical Imaging and Engineering.''.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect on October 1, 1999, or upon the date of the enactment of this Act, whichever occurs later.

By Mr. BOND:

S. 1111. A bill to provide continuing authorization for a National Conference on Small Business, and for other purposes; to the Committee on Small Business.

NATIONAL CONFERENCE ON SMALL BUSINESS ACT

Mr. BOND. Mr. President, it is with great pleasure that I am introducing the ''National Conference on Small Business Act.'' This bill is designed to create a permanent independent commission that will carry-on the extraordinary work that has been accomplished by three White House Conferences on Small Business.

For the past 15 years, small businesses have been the fastest growing sector of the U.S. economy. When large businesses were restructuring and laying off significant numbers of workers, small businesses not only filled the gap, but their growth actually caused a net increase in new jobs. Today, small businesses employ 55% of all workers in the United States and they generate 50% of the gross domestic product. Were it not for small businesses, our country could not have experienced the sustained economic upsurge that has been ongoing since 1992.

Because small businesses play such a significant role in our economy, in both rural towns and bustling inner cities, I believe it is important that the Federal government sponsor a national conference every four years to highlight the successes of small businesses and to focus national attention on the problems that may be hindering the ability of small businesses to start up and grow.

Small business ownership is, has been, and will continue to be the dream of millions of Americans. Countries from all over the world send delegations to the United States to study why our system of small business ownership is so successful, all the while looking for a way to duplicate our success in their countries. Because we see and experience the successes of small businesses on a daily basis, it is easy to lose sight of the very special thing we have going for us in the United States—where each of us can have the opportunity to own and run our own business.

The ''National Conference on Small Business Act'' is designed to capture and focus our attention on small business every four years. In this way, we

will take the opportunity to study what is happening throughout the United States to small businesses. In one sense, the bill is designed to put small business on a pinnacle so we can appreciate what they have accomplished. At the same time, and just as important, every four years we will have an opportunity to learn from small businesses in each state what is not going well for them—such as, actions by the Federal government that hinder small business growth or state and local regulations that are a deterrent to starting a business.

My bill creates an independent, bipartisan National Commission on Small Business, which will be made up of 8 small business advocates and the Small Business Administration's Chief Counsel for Advocacy. Every four years, during the first year following a presidential election, the President will name two National Commissioners. In the U.S. Senate and the House of Representatives, the Majority Leader of each body will name two National Commissioners and the Minority Leaders will each name one.

Widespread participation from small businesses in each state will contribute to the work leading up to the National Conference. Under the bill, the National Conference will take place one year after the National Commissioners are appointed. The first act of the Commissioners will be to request that each Governor and each U.S. Senator name a small business delegate and alternate delegate from their respective states to the National Convention. Each U.S. Representative will name a small business delegate and alternative from his or her Congressional district. And the President will name a delegate and alternate from each state.

The small business delegates will play a major role leading up to the National Conference on Small Business. There will be at least one meeting of the delegates at their respective State Conferences. We will be looking to the small business delegates to develop and highlight issues of critical concern to small businesses. The work at the state level by the small business delegates will need to be thorough and thoughtful to make the National Conference a success.

My goal will be for the small business delegates to think broadly, that is, to think ''out of the box.'' Their attention should include but not be restricted to the traditional issues associated with small business concerns, such as access to capital, tax reform and regulatory reform. In my role as Chairman of the Committee on Small Business, I will urge the delegates to focus on a wide array of issues that impact significantly on small businesses, including the importance of a solid education and the need for skilled, trained workers.

Once the small business delegates are selected, the National Commission on Small Business will serve as a resource to the delegates for issue development and for planning the State Conferences. The National Commission will have a modest staff, including an Executive Director, that will work full time to make the State and National Conferences successes. A major resource to the National Commission and its staff will be the Chief Counsel for Advocacy from SBA. The Chief Counsel and the Office of Advocacy will serve as a major resource to the National Commission, and in turn, to the small business delegates, by providing them with both substantive background information and other administrative materials in support of the State and National Conferences.

Mr. President, small businesses generally do not have the resources to maintain full time representatives to lobby our Federal government. They are too busy running their businesses to devote much attention to educating government officials as to what is going well, what is going poorly, and what needs improvement for the small business community. The National Conference on Small Business will give small businesses an opportunity every four years to make its mark on the Congress and the Executive Branch. I urge each of my colleagues to review this proposal, and I hope they will agree to join me as cosponsors of the ''National Conference on Small Business Act.''

I ask unanimous consent that the full text of the bill and the section-by-section analysis be printed in the RECORD.

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Conference on Small Business Act''.

SEC. 2. DEFINITIONS.

In this Act—

(1) the term ''Administrator'' means the Administrator of the Small Business Administration;

(2) the term ''Chief Counsel'' means the Chief Counsel for Advocacy of the Small Business Administration;

(3) the term ''National Commission'' means the National Commission on Small Business established under section 6;

(4) the term ''National Conference''—

(A) means the National Conference on Small Business conducted under section 3(a); and

(B) includes the last White House Conference on Small Business occurring before 2002;

(5) the term ''small business'' has the meaning given the term ''small business concern'' under section 3 of the Small Business Act;

(6) the term ''State'' means any of the 50 States of the United States; and

(7) the term ''State Conference'' means a State Conference on Small Business conducted under section 3(b).

SEC. 3. NATIONAL AND STATE CONFERENCES ON SMALL BUSINESS.

(a) NATIONAL CONFERENCES.—There shall be a National Conference on Small Business once every 4 years, to be held during the second year following each Presidential election, to carry out the purposes specified in section 4.

(b) STATE CONFERENCES.—Each National Conference referred to in subsection (a) shall be preceded by a State Conference on Small Business, with not fewer than 1 such conference held in each State, and with not fewer than 2 such conferences held in any State having a population of more than 10,000,000.

SEC. 4. PURPOSES OF NATIONAL CONFERENCES.

The purposes of each National Conference shall be—

(1) to increase public awareness of the contribution of small business to the Nation's economy;

(2) to identify the problems of small business;

(3) to examine the status of minorities and women as small business owners;

(4) to assist small business in carrying out its role as the Nation's job creator;

(5) to assemble small businesses to develop such specific and comprehensive recommendations for legislative and regulatory action as may be appropriate for maintaining and encouraging the economic viability of small business and thereby, the Nation; and

(6) to review the status of recommendations adopted at the immediately preceding National Conference on Small Business.

SEC. 5. CONFERENCE PARTICIPANTS.

(a) IN GENERAL.—To carry out the purposes specified in section 4, the National Commission shall conduct National and State Conferences to bring together individuals concerned with issues relating to small business.

(b) CONFERENCE DELEGATES.—

(1) APPOINTMENTS.—Only individuals who are owners or officers of a small business shall be eligible for appointment as delegates (or alternates) to the National and State Conferences pursuant to this subsection, and such appointments shall consist of—

(A) 1 delegate (and 1 alternate) appointed by each Governor of each State;

(B) 1 delegate (and 1 alternate) appointed by each Member of the House of Representatives, from the congressional district of that Member;

(C) 1 delegate (and 1 alternate) appointed by each Member of the Senate from the home State of that Member; and

(D) 50 delegates (and 50 alternates) appointed by the President, 1 from each State.

(2) POWERS AND DUTIES.—Delegates to each National Conference—

(A) shall attend the State conferences in his or her respective State;

(B) shall conduct meetings and other activities at the State level before the date of the National Conference, subject to the approval of the National Commission; and

(C) shall direct such State level conferences, meetings, and activities toward the consideration of the purposes of the National Conference specified in section 4, in order to prepare for the next National Conference.

(3) ALTERNATES.—Alternates shall serve during the absence or unavailability of the delegate.

(c) ROLE OF THE CHIEF COUNSEL.—The Chief Counsel for Advocacy of the Small Business Administration shall, after consultation and in coordination with the National Commission, assist in carrying out the National and State Conferences required by this Act by—

(1) preparing and providing background information and administrative materials for use by participants in the conferences;

(2) distributing issue information and administrative communications, electronically where possible through an Internet web site and e-mail, and in printed form if requested; and

(3) maintaining an Internet site and regular e-mail communications after each National Conference to inform delegates and

the public of the status of recommendations and related governmental activity.

(d) EXPENSES.—Each delegate (and alternate) to each National and State Conference shall be responsible for his or her expenses related to attending the conferences, and shall not be reimbursed either from funds appropriated pursuant to this section or the Small Business Act.

(e) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The National Commission shall appoint a Conference Advisory Committee consisting of 10 individuals who were participants at the last preceding National Conference.

(2) PREFERENCE.—Preference for appointment under this subsection shall be given to those who have been active participants in the implementation process following the prior National Conference.

(f) PUBLIC PARTICIPATION.—National and State Conferences shall be open to the public, and no fee or charge may be imposed on such attendee, other than an amount necessary to cover the cost of any meal provided, plus a registration fee to defray the expense of meeting rooms and materials of not to exceed $15 per person.

SEC. 6. NATIONAL COMMISSION ON SMALL BUSINESS.

(a) ESTABLISHMENT.—There is established the National Commission on Small Business.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The National Commission shall be composed of 9 members, including—

(A) the Chief Counsel for Advocacy of the Small Business Administration;

(B) 2 members appointed by the President;

(C) 2 members appointed by the majority leader of the Senate;

(D) 1 member appointed by the minority leader of the Senate;

(E) 2 members appointed by the majority leader of the House of Representatives; and

(F) 1 member appointed by the minority leader of the House of Representatives.

(2) SELECTION.—Members of the National Commission shall be selected among distinguished individuals noted for their knowledge and experience in fields relevant to the issue of small business and the purposes of this Act.

(3) TIME OF APPOINTMENT.—The appointments required by paragraph (1) shall be made 1 year before the opening date of each National Conference, and shall expire 9 months after the date on which each National Conference is convened.

(c) ELECTION OF CHAIRPERSON.—At the first meeting of each National Commission, a majority of the members of the National Commission present and voting shall elect the Chairperson of the National Commission.

(d) POWERS AND DUTIES OF COMMISSION.—The National Commission—

(1) may enter into contracts with public agencies, private organizations, and academic institutions to carry out this Act;

(2) shall consult, coordinate, and contract with an independent, nonpartisan organization that—

(A) has both substantive and logistical experience in developing and organizing conferences and forums throughout the Nation with elected officials and other government and business leaders;

(B) has experience in generating private resource from multiple States in the form of event sponsorships; and

(C) can demonstrate evidence of a working relationship with Members of Congress from the majority and minority parties, and at least 1 Federal agency; and

(3) shall prescribe such financial controls and accounting procedures as needed for the handling of funds from fees and charges and the payment of authorized meal, facility, travel, and other related expenses.

(e) PLANNING AND ADMINISTRATION OF CONFERENCES.—In carrying out the National and State Conferences required by this Act, the National Commission shall consult with the Office of Advocacy of the Small Business Administration, the Congress, and such other Federal agencies as it deems appropriate.

(f) REPORTS REQUIRED.—Not later than 6 months after the date on which each National Conference is convened, the National Commission shall submit to the President and to the chairpersons and ranking minority Members of the Committees on Small Business of the Senate and the House of Representatives a final report, which shall—

(1) include the findings and recommendations of the National Conference and any proposals for legislative action necessary to implement those recommendations; and

(2) be made available to the public.

(g) QUORUM.—4 voting members of the National Commission shall constitute a quorum for purposes of transacting business.

(h) MEETINGS.—The National Commission shall meet not later than 20 calendar days after the appointment of all members, and at least every 30 calendar days thereafter.

(i) VACANCIES.—Any vacancy of the National Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(j) EXECUTIVE DIRECTOR AND STAFF.—The National Commission may appoint and compensate an Executive Director and such other personnel to conduct the National and State Conferences as it may deem advisable, without regard to title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that the rate of pay for the Executive Director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(k) FUNDING.—Members of the National Commission shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the National Commission.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS; AVAILABILITY OF FUNDS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out each National and State Conference required by this Act, $5,000,000, which shall remain available until expended. New spending authority or authority to enter contracts as provided in this Act shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

(b) SPECIFIC EARMARK.—No amount made available to the Small Business Administration may be made available to carry out this Act, other than amounts made available specifically for the purpose of conducting the National Conferences.

NATIONAL CONFERENCE ON SMALL BUSINESS ACT—SECTION-BY-SECTION

Section 1. Short Title.

The name of the Act will be the ''National Conference on Small Business Act.''

Section 2. Definitions.

This section defines key words and terms included in the bill.

Section 3. National And State Conferences on Small Business.

This section states that a National Conference on Small Business will occur every four years during the second year after a presidential election. Prior to the National Conference, there will be State Conferences for the delegates in each state.

Section 4. Purposes of National Conferences.

This section sets forth the reasons for having a National Conference on Small Business.

Section 5. Conference Participants.

Subsection (a) directs the National Commission to conduct National and State Conferences to bring together individuals interested in issues affecting small businesses.

Subsection (b) sets forth the procedures for selecting delegates to the State and National Conferences. A delegates must be an owner or officer of a small business. The Governors and U.S. Senators will each appoint a delegate and alternative delegate from their respective states. U.S. Representatives will each appoint a delegate and alternate from their respective congressional districts, and the President will appoint a delegate and alternate from each state. The delegates will be able to conduct meetings and will attend a State Conference in their respective states before the National Conference is held.

Subsection (c) describes the role of SBA's Chief Counsel for Advocacy.

Subsection (d) explains that the delegates will be responsible for their own expenses and will not be reimbursed from appropriated funds.

Subsection (e) directs the National Commission to appoint an Advisory Committee of 10 persons who were participants at the last preceding National Conference.

Subsection (f) states that all State and National Conferences will be open to the public and no fee greater than $15 can be charged to people who wish to attend a conference.

Section 6. National Commission on Small Business.

Subsection (a) authorizes the establishment of a National Commission on Small Business.

Subsection (b) defines the membership of the National Commission. It will include the SBA Chief Counsel for Advocacy, 2 members appointed by the President, 3 members from the Senate (2 majority, 1 minority), and 3 members from the House of Representatives (2 majority, 1 minority). The appointments will be made 1 year before the opening date of the National Conference and will expire 9 months after the National Conference has concluded.

Subsection (c) sets forth the election of a Chairperson.

Subsection (d) permits the National Commission to enter into contracts with public agencies, private organizations, academic institutions, and independent, nonpartisan organizations to carry out the State and National Conferences.

Subsection (e) directs the National Commission to consult with the Office of Advocacy at SBA, Congress, and Federal agencies in carrying out the State and National Conferences.

Subsection (f) requires that the National Commission submit a report to the Chairmen and Ranking minority Members of the Senate and House Committees on Small Business within 6 months after the conclusion of the National Conference.

Subsection (g) establishes a quorum of 4 members of the National Commission for purposes of transacting business.

Subsection (h) requires the National Commission to hold its first meeting within 20 days after the appointment of all members and at least every 30 days thereafter.

Subsection (i) states that vacancies on the National Commission will be filled in the same manner as the original appointments were made.

Subsection (j) authorizes the National Commission to hire an Executive Director

and the staff necessary to conduct the State and National Conferences.

Subsection (k) authorizes the National Commission to reimburse its members for travel expenses, including per diem.

Section 7. Authorization of Appropriations; Availability of Funds.

This section authorizes $5 million to cover all expense incurred under this Act. It states that funds from SBA may not support the Act unless specifically earmarked for that purpose.

By Mrs. BOXER (for herself and Mr. LAUTENBERG):

S. 1112. A bill to protect children and other vulnerable subpopulations from exposure to environmental pollutants, to protect children from exposure to pesticides in schools, and to provide parents with information concerning toxic chemicals that pose risks to children, and for other purposes; to the Committee on Environment and Public Works.

CHILDREN'S ENVIRONMENTAL PROTECTION ACT

Mrs. BOXER. Mr. President, today I am pleased to introduce a bill to protect children from the dangers posed by pollution and toxic chemicals in our environment. My Children's Environmental Protection Act (CEPA) is based on the understanding that children are more vulnerable to those dangers than adults, and require special protection.

In fact, we know that the physiology of children and their exposure patterns to toxic and harmful substances differ from that of adults, and make them more susceptible to the dangers posed by those substances than adults. Children face greater exposure to such substances because they eat more food, drink more water, and breathe more air as a percentage of their body weight than adults. Children are also rapidly growing, and therefore physiologically more vulnerable to such substances than adults.

How is this understanding that children suffer higher risks from the dangers posed by toxic and harmful substances than adults taken into account in our environmental and public health standards? Do we gather and consider data that specifically evaluates how those substances affect children?

If that data is lacking, do we apply extra caution when we determine the amount of toxics that can be released into the air and water, the level of harmful contaminants that may be present in our drinking water, or the amount of pesticides that may be present in our food?

In most cases, the answer to all of these questions is ''no.''

In fact, most of these standards are designed to protect adults rather than children. In most cases, we don't even have the data that would allow us to measure how those substances specifically affect children. And, finally, in the face of that uncertainty, we generally assume that what we don't know about the dangers toxic and harmful substances pose to our children won't hurt them.

We generally don't apply extra caution to take account of that uncertainty.

CEPA would change the answers to those questions from ''no'' to ''yes.'' It would childproof our environmental laws. CEPA is based on the premise that what we don't know about the dangers toxic and harmful substances pose to our children may very well hurt them.

CEPA would require the Environmental Protection Agency (EPA) to set environmental and public health standards to protect children. It would specifically require EPA to explicitly consider the dangers that toxic and harmful substances pose to children when setting those standards. Finally, if EPA discovers that it does not have specific data that would allow it to measure those dangers, EPA would be required to apply an additional safety factor—an additional measure of caution—to account for that lack of information.

As work would move forward under CEPA to childproof our environmental standards, CEPA would provide parents and teachers with a number of tools to immediately protect their children from toxic and harmful substances.

First, CEPA would require EPA to provide all schools and day care centers that receive federal funding a copy of EPA's guide to help schools adopt a least toxic pest management policy. CEPA would also prohibit the use of dangerous pesticides—those containing known or probable carcinogens, reproductive toxins, acute nerve toxins and endocrine disrupters—in those areas. Under CEPA, parents would also receive advance notification before pesticides are applied on school or day care center grounds.

Second, CEPA would expand the federal Toxics Release Inventory (TRI) to require the reporting of toxic chemical releases that may pose special risks to children. In particular, CEPA provides that releases of small amounts of lead, mercury, dioxin, cadmium and chromium be reported under TRI. These chemicals are either highly toxic, persist in the environment or can accumulate in the human body over many years—all features which render them particularly dangerous to children.

Lead, for example, will seriously affect a child's development, but is still released into the environment through lead smelting and waste incineration. CEPA would then require EPA to identify other toxic chemicals that may present special risks to children, and to provide that releases of those chemicals be reported under TRI.

Finally, CEPA would direct EPA to create a list of recommended safer-for-children products that minimize potential risks to children. CEPA would also require EPA to create a family right-to-know information kit that would include practical suggestions to help parents reduce their children's exposure to toxic and harmful substances in the environment.

My CEPA bill is based on the premise that what we don't know about the dangers toxic and harmful substances pose to our children may very well hurt them. It would require EPA to apply caution in the face of that uncertainty. And, ultimately, it would childproof our environmental laws to ensure that those laws protect the most vulnerable among us—our children.

I am hopeful that my House and Senate colleagues can act quickly to ensure the passage of my legislation.

I ask unanimous consent that the full text of my legislation be printed in the RECORD.

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

S. 1112

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Children's Environmental Protection Act.''

SEC. 2. ENVIRONMENTAL PROTECTION FOR CHILDREN AND OTHER VULNERABLE SUBPOPULATIONS.

The Toxic Substances Control Act (15 U.S.C. 2601 et. seq.) is amended by adding at the end the following:

''TITLE V—ENVIRONMENTAL PROTECTION FOR CHILDREN AND OTHER VULNERABLE SUBPOPULATIONS

''SEC. 501. FINDINGS AND POLICY.

''(a) FINDINGS.—Congress finds that—

''(1) the protection of public health and safety depends on individuals and government officials being aware of the pollution dangers that exist in their homes, schools, and communities, and whether those dangers present special threats to the health of children and other vulnerable subpopulations;

''(2) children spend much of their young lives in schools and day care centers, and may face significant exposure to pesticides and other environmental pollutants in those locations;

''(3) the metabolism, physiology, and diet of children, and exposure patterns of children to environmental pollutants differ from those of adults and can make children more susceptible than adults to the harmful effects of environmental pollutants;

''(4) a study conducted by the National Academy of Sciences that particularly considered the effects of pesticides on children concluded that current approaches to assessing pesticide risks typically do not consider risks to children and, as a result, current standards and tolerances often fail to adequately protect children;

''(5) there are often insufficient data to enable the Administrator, when establishing a environmental and public health standard for an environmental pollutant, to evaluate the special susceptibility or exposure of children to environmental pollutants;

''(6) when data are lacking to evaluate the special susceptibility or exposure of children to an environmental pollutant, the Administrator generally does not presume that the environmental pollutant presents a special risk to children and generally does not apply a special or additional margin of safety to protect the health of children in establishing an environmental or public health standard for that pollutant; and

''(7) safeguarding children from environmental pollutants requires the systematic collection of data concerning the special susceptibility and exposure of children to those pollutants, and the adoption of an additional safety factor of at least 10-fold in the establishment of environmental and public health

standards where reliable data are not available.

''(b) POLICY.—It is the policy of the United States that—

''(1) the public has the right to be informed about the pollution dangers to which children are being exposed in their homes, schools and communities, and how those dangers may present special health threats to children and other vulnerable subpopulations;

''(2) each environmental and public health standard for an environmental pollutant established by the Administrator must, with an adequate margin of safety, protect children and other vulnerable subpopulations;

''(3) where data sufficient to evaluate the special susceptibility and exposure of children (including exposure in utero) to an environmental pollutant are lacking, the Administrator should presume that the environmental pollutant poses a special risk to children and should apply an appropriate additional margin of safety of at least 10-fold in establishing an environmental or public health standard for that environmental pollutant;

''(4) since it is difficult to identify all conceivable risks and address all uncertainties associated with pesticide use, the use of dangerous pesticides in schools and day care centers should be eliminated; and

''(5) the Environmental Protection Agency, the Department of Health and Human Services (including the National Institute of Environmental Health Sciences and the Agency for Toxic Substances and Disease Registry), the National Institutes of Health, and other Federal agencies should support research on the short-term and long-term health effects of cumulative and synergistic exposures of children and other vulnerable subpopulations to environmental pollutants.

''SEC. 502. DEFINITIONS.

''In this title:

''(1) CHILD.—The term 'child' means an individual 18 years of age or younger.

''(2) DAY CARE CENTER.—The term 'day care center' means a center-based child care provider that is licensed, regulated, or registered under applicable State or local law.

''(3) ENVIRONMENTAL POLLUTANT.—The term 'environmental pollutant' includes a hazardous substance subject to regulation under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), a drinking water contaminant subject to regulation under the Safe Drinking Water Act (42 U.S.C. 300f et seq), an air pollutant subject to regulation under the Clean Air Act (42 U.S.C. 7401 et seq.), a water pollutant subject to regulation under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and a pesticide subject to regulation under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

''(4) PESTICIDE.—The term 'pesticide' has the meaning given the term in section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136).

''(5) SCHOOL.—The term 'school' means an elementary school (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)), a secondary school (as defined in section 14101 of that Act), a kindergarten, or a nursery school that is public or receives Federal funding.

''(6) VULNERABLE SUBPOPULATION.—The term 'vulnerable subpopulation' means children, pregnant women, the elderly, individuals with a history of serious illness, and other subpopulations identified by the Administrator as being likely to experience special health risks from environmental pollutants.

''SEC. 503. SAFEGUARDING CHILDREN AND OTHER VULNERABLE SUBPOPULATIONS.

''(a) IN GENERAL.—The Administrator shall—

''(1) ensure that each environmental and public health standard for an environmental pollutant protects children and other vulnerable subpopulations with an adequate margin of safety;

''(2) explicitly evaluate data concerning the special susceptibility and exposure of children to any environmental pollutant for which an environmental or public health standard is established; and

''(3) adopt an additional margin of safety of at least 10-fold in the establishment of an environmental or public health standard for an environmental pollutant in the absence of reliable data on toxicity and exposure of the child to an environmental pollutant or if there is a lack of reliable data on the susceptibility of the child to an environmental pollutant for which the environmental and public health standard is being established.

''(b) ESTABLISHING, MODIFYING, OR REEVALUATING ENVIRONMENTAL AND PUBLIC HEALTH STANDARDS.—

''(1) IN GENERAL.—In establishing, modifying, or reevaluating any environmental or public health standard for an environmental pollutant under any law administered by the Administrator, the Administrator shall take into consideration available information concerning—

''(A) all routes of children's exposure to that environmental pollutant;

''(B) the special susceptibility of children to the environmental pollutant, including neurological differences between children and adults, the effect of in utero exposure to that environmental pollutant, and the cumulative effect on a child of exposure to that environmental pollutant and other substances having a common mechanism of toxicity.

''(2) ADDITIONAL SAFETY MARGIN.—If any of the data described in paragraph (1) are not available, the Administrator shall, in completing a risk assessment, risk characterization, or other assessment of risk underlying an environmental or public health standard, adopt an additional margin of safety of at least 10-fold to take into account potential pre-natal and post-natal toxicity of an environmental pollutant, and the completeness of data concerning the exposure and toxicity of an environmental pollutant to children.

''(c) IDENTIFICATION AND REVISION OF CURRENT ENVIRONMENTAL AND PUBLIC HEALTH STANDARDS THAT PRESENT SPECIAL RISKS TO CHILDREN.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this title and annually thereafter, based on the recommendations of the Children's Environmental Health Protection Advisory Committee established under section 507, the Administrator shall—

''(A) repromulgate, in accordance with this section, at least 3 of the environmental and public health standards identified by the Children's Environmental Health Protection Advisory Committee as posing a special risk to children; or

''(B) publish a finding in the Federal Register that provides the Administrator's basis for declining to repromulgate at least 3 of the environmental and public health standards identified by the Children's Environmental Health Protection Advisory Committee as posing a special risk to children.

''(2) DETERMINATION BY ADMINISTRATOR.—If the Administrator makes the finding described in paragraph (1)(B), the Administrator shall repromulgate in accordance with this section at least 3 environmental and public health standards determined to pose a greater risk to children's health than the environmental and public health standards identified by the Children's Environmental Health Protection Advisory Committee.

''(3) REPORT.—Not later than 1 year after the date of enactment of this title and annually thereafter, the Administrator shall submit a report to Congress describing the progress made by the Administrator in carrying out this subsection.

''SEC. 504. PROTECTING CHILDREN FROM EXPOSURE TO PESTICIDES IN SCHOOLS.

''(a) IN GENERAL.—Each school and day care center that receives Federal funding shall—

''(1) take steps to reduce the exposure of children to pesticides on school grounds, both indoors and outdoors; and

''(2) provide parents with advance notification of any pesticide application on school grounds in accordance with subsection (b).

''(b) LEAST TOXIC PEST CONTROL STRATEGY.—

''(1) IN GENERAL.—The Administrator shall distribute to each school and day care center the current manual of the Environmental Protection Agency that guides schools and day care centers in the establishment of a least toxic pest control strategy.

''(2) LIST.—Not later than 180 days after the date of enactment of this Act and annually thereafter, the Administrator shall provide each school and day care center with a list of pesticides that contain a substance that the Administrator has identified as a known or probable carcinogen, a developmental or reproductive toxin, a category I or II acute nerve toxin, or a known or suspected endocrine disrupter as identified by the endocrine disrupter screening program of the Environmental Protection Agency.

''(3) PROHIBITION OF PESTICIDE APPLICATION.—Effective beginning on the date that is 2 years after the date of enactment of this Act, any school or day care center that receives Federal funding shall not apply any pesticide described in paragraph (2), either indoors or outdoors.

''(4) EMERGENCY EXEMPTION.—

''(A) IN GENERAL.—An administrator of a school or day care center may suspend the prohibition under paragraph (3) for a period of not more than 14 days if the administrator determines that a pest control emergency poses an imminent threat to the health and safety of the school or day care center community.

''(B) NOTICE.—

''(i) IN GENERAL.—Prior to exercising the authority under this paragraph, an administrator shall give notice to the board of the school or day care center of the reasons for finding that a pest control emergency exists.

''(ii) ACTION TAKEN.—An administrator that exercises the authority under subparagraph (A) shall report any action taken by personnel or outside contractors in response to the pest control emergency to the board of the school or day care center at the next scheduled meeting of the board.

''(c) PARENTAL NOTICE PRIOR TO ANY PESTICIDE APPLICATION.—

''(1) IN GENERAL.—An administrator of the school or day care center shall provide written notice to parents not later than 72 hours before any indoor or outdoor pesticide application on the grounds of the school or day care center.

''(2) CONTENTS OF NOTICE.—A notice under this subsection shall include a description of the intended area of application and the name of each pesticide to be applied.

''(3) FORM.—A pesticide notice under this subsection may be incorporated into any notice that is being sent to parents at the time the pesticide notice is required to be sent.

''(4) WARNING SIGN.—

''(A) IN GENERAL.—An administrator of a school or day care center shall post at any area in the area of the school or day care center where a pesticide is to be applied a warning sign that is consistent with the label of the pesticide and prominently displays the term 'warning', 'danger', or 'poison'.

''(B) PERIOD OF DISPLAY.—During the period that begins not less than 24 hours before the application of a pesticide and ends not less than 72 hours after the application, a sign under this subparagraph shall be displayed in a location where it is visible to all individuals entering the area.

''SEC. 505. SAFER ENVIRONMENT FOR CHILDREN.

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of this title, the Administrator shall—

''(1) identify environmental pollutants commonly used or found in areas that are reasonably accessible to children;

''(2) create a scientifically peer reviewed list of substances identified under paragraph (1) with known, likely, or suspected health risks to children;

''(3) create a scientifically peer reviewed list of safer-for-children substances and products recommended by the Administrator for use in areas that are reasonably accessible to children that, when applied as recommended by the manufacturer, will minimize potential risks to children from exposure to environmental pollutants;

''(4) establish guidelines to help reduce and eliminate exposure of children to environmental pollutants in areas reasonably accessible to children, including advice on how to establish an integrated pest management program;

''(5) create a family right-to-know information kit that includes a summary of helpful information and guidance to families, such as the information created under paragraph (3), the guidelines established under paragraph (4), information on the potential health effects of environmental pollutants, practical suggestions on how parents may reduce their children's exposure to environmental pollutants, and other relevant information, as determined by the Administrator in cooperation with the Director of the Centers for Disease Control and Prevention;

''(6) make all information created pursuant to this subsection available to Federal and State agencies, the public, and on the Internet; and

''(7) review and update the lists created under paragraphs (2) and (3) at least once each year.''.

SEC. 3. ADDITIONAL REPORTING OF TOXIC CHEMICAL RELEASES THAT AFFECT CHILDREN.

Section 313(f)(1) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023(f)(1)) is amended by adding at the end the following:

''(C) CHILDREN'S HEALTH.—

''(i) IN GENERAL.—With respect to each of the toxic chemicals described in clause (ii) that are released from a facility, the amount described in clause (iii).

''(ii) CHEMICALS.—Not later than 2 years after the date of enactment of this subparagraph, the Administrator shall identify each toxic chemical that the Administrator determines may present a significant risk to children's health or the environment due to the potential of that chemical to bioaccumulate, disrupt endocrine systems, remain in the environment, or other characteristics, including—

''(I) any chemical or group of chemicals that persists in any environmental medium for at least 60 days (as defined by half life) or that have bioaccumulation or bioconcentration factors greater than 1,000;

''(II) any chemical or group of chemicals that, despite a failure to meet the specific persistence or bioaccumulation measuring criteria described in subclause (I), can be reasonably expected to degrade into a substance meeting those criteria; and

''(III) lead, mercury, dioxin, cadmium, and chromium and pollutants that are bioaccumulative chemicals of concern listed in subparagraph (A) of table 6 of the tables to part 132 of title 40, Code of Federal Regulations.

''(iii) THRESHOLD.—The Administrator shall establish a threshold for each toxic chemical described in clause (ii) at a level that shall ensure reporting for at least 80 percent of the aggregate of all releases of the chemical from facilities that—

''(I) have 10 or more full-time employees; and

''(II) are in Standard Industrial Classification Codes 20 through 39 or in the Standard Industrial Classification Codes under subsection (b)(1)(B).

''(iv) ADDITIONAL FACILITIES.—If the Administrator determines that a facility other than a facility described in clause (iii) contributes substantially to total releases of toxic chemicals described in clause (ii), the Administrator shall require that facility to comply with clause (iii).''.

SEC. 4. RESEARCH TO IMPROVE INFORMATION ON THE EFFECTS OF ENVIRONMENTAL POLLUTANTS ON CHILDREN.

The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) (as amended by section 2) is amended by adding at the end the following:

''SEC. 506. RESEARCH TO IMPROVE INFORMATION ON THE EFFECTS OF ENVIRONMENTAL POLLUTANTS ON CHILDREN.

''(a) EXPOSURE AND TOXICITY DATA.—The Administrator, the Secretary of Agriculture, and the Secretary of Health and Human Services shall coordinate and support the development and implementation of basic and applied research initiatives to examine the health effects and toxicity of pesticides (including active and inert ingredients) and other environmental pollutants on children and other vulnerable subpopulations, and the exposure of children and vulnerable subpopulations to environmental pollutants.

''(b) BIENNIAL REPORTS.—The Administrator, the Secretary of Agriculture, and the Secretary of Health and Human Services shall submit biennial reports to Congress describing actions taken to carry out this section.''.

SEC. 5. CHILDREN'S ENVIRONMENTAL HEALTH PROTECTION ADVISORY COMMITTEE.

The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) (as amended by section 4) is amended by adding at the end the following:

''SEC. 507. CHILDREN'S ENVIRONMENTAL HEALTH PROTECTION ADVISORY COMMITTEE.

''(a) ESTABLISHMENT.—The Administrator shall establish a Children's Environmental Health Protection Advisory Committee to assist the Administrator in carrying out this title.

''(b) COMPOSITION.—The Committee shall be comprised of medical professionals specializing in pediatric health, educators, representatives of community groups, representatives of environmental and public health nonprofit organizations, industry representatives, and State environmental and public health department representatives.

''(c) DUTIES.—Not later than 2 years after the date of enactment of this title and annually thereafter, the Committee shall develop a list of standards that merit reevaluation by the Administrator in order to better protect children's health.

''(d) TERMINATION.—The Committee shall terminate not later than 15 years after the date on which the Committee is established.

''SEC. 508. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.''.

ADDITIONAL COSPONSORS

S. 285

At the request of Mr. MCCAIN, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 285, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 299

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 299, a bill to elevate the position of Director of the Indian Health Service within the Department of Health and Human Services to Assistant Secretary for Indian Health, and for other purposes.

S. 331

At the request of Mr. JEFFORDS, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 331, a bill to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes.

S. 434

At the request of Mr. BREAUX, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 434, a bill to amend the Internal Revenue Code of 1986 to simplify the method of payment of taxes on distilled spirits.

S. 511

At the request of Mr. MCCAIN, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 511, a bill to amend the Voting Accessibility for the Elderly and Handicapped Act to ensure the equal right of individuals with disabilities to vote, and for other purposes.

S. 512

At the request of Mr. GORTON, the names of the Senator from Utah (Mr. BENNETT), the Senator from Massachusetts (Mr. KERRY), and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 512, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the Department of Health and Human Services with respect to research on autism.