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. TERRICHELLI (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. COVERDALE, Mr. SESSIONS, Mr. CLELAND, Mr. HOLLINGS, Mr. SHELBY, Mr. ROHR, and Mr. HUTTENRICH):

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. FEIST, Mr. GHORGI, Mr. JOHNSON, Mr. WARNER, Mr. CLELAND, Mr. SCHUMER, Mr. ALLARD, Mr. JEFFFORDS, Mr. AKAKA, Mrs. FEINSTEIN, Mr. ENZI, Mr. PUDLACK, Mrs. BOXER, Mr. LUGAR, Ms. LANDRIEU, Mr. COCHRAN, Mrs. MURRAY, Mr. INHOFE, Mr. MACK, Mr. TERRICHELLI, Mr. BINGAMAN, Mr. THURSDAY, Mr. CAMPBELL, Mr. KENNEDY, Mr. HELMS, Mr. DURBIN, Mr. SANTORUM, Mr. LAUTENBERG, Mr. Bunning, Mr. MOTYNIAK, 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 importation, 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. TERRICHELLI):

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

S. Res. 105. A resolution expressing the sense of the Senate relating to 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.

By Mr. WARNER:

S. Res. 106. A resolution to express the sense of the Senate regarding Social Security plus other languages; to the Committee on Environment and Public Works.

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. SPECKERT):

S. Con. Res. 33. A concurrent resolution expressing the sense of the Senate regarding English plus other languages; 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 the Social Security Act in full with an accurate and impartially calculated 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 about 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, secure 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 our 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. According to the government, 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
Constituents, who call Social Security taxes “contributions” and make Social Security sound like it is a regular insurance program, are mistaken. 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 all federal 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 impose a premium 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 only 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 significant case. Ephram Nestor was a Bulgarian immigrant who paid Social Security taxes from 1936 until he retired in 1955. He received a $35.60-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 conception 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 rights to income are from a given date to a given future term.

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 will shake 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 Americans full property rights to their retirement investment.

Not only could personal retirement account, or IRA, 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 reintroducing 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 risky. However, my proposal 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 doesn't accumulate sufficient funds to provide minimum survivor and disability benefits, the government would make up the shortfall.

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 and other retirement programs he had only 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 assets 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 would provide for 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 an 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 are safe in banks; the same thing would happen 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 five 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 everyone, 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 regarding their 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 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 the likely Social Security benefits, which, bottom line, threatens their quality of life throughout their retirement years.

Social Security taxes are the largest tax on any family and every family 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 social programs, 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 this 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 $38,000 a year in retirement benefits. You say, that is great, 80,000 a year; but if you take in the inflation-adjusted amount 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 the 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 plan for their 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 ensure that we can 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 in 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 revitalize 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 these expenses are for 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 minimis amount of hazardous waste—presumed to be less than 100 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 minimis 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 minimis exemption, and for public 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 a site, 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 should get relief.

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 bill, municipalities and municipal entities 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 materials”—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 a need for a better 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 the firewall, 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, it is 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 chairman of the Environment and Public Works Committee and its Superfund Subcommittee, Senators Chafee and Smith, also introduced a Superfund reauthorization 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, Bayh, 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 that program 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 of court. But some of 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, and I strongly supported. 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 remediation 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 senseless litigation, and making the environment.

EPA has negotiated more than 400 diminimis 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 settlers and reduce litigation, both with the government, and with other private parties.

There 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 introduced 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 ask unanimous consent that the bill be printed in the Record.

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.”

(2) TABLES 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. Audit.

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 IX—PROTECTION OF MUNICIPAL SAFETY NET

Sec. 901. Municipalities.

Sec. 902. Municipalities and other public entities.

Sec. 903. Municipal obligations.

TITLE X—FEDERAL OWNERS AND FIRST-TIME PURCHASERS

Sec. 1001. Review and settlement.

Sec. 1002. Good faith purchasers.

Sec. 1003. Conditions.

Sec. 1004. Protection.

TITLE XI—CONCLUSION

Sec. 1101. Conclusions.

Sec. 1102. Repeal.

Sec. 1103. Effective date.

Sec. 1104. Repeal of the Superfund Act.
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
by other entities and designated by regulation by the President or issued or developed
by the President under any Federal, State, or local law.

(b) LIMITATION ON LIABILITY FOR CONTIGUOUS PROPERTY OWNERS.—Section 107 of the
was amended by adding at the end the following:

1) IN GENERAL.—A site assessment meets the requirements of this clause if the assess-
mnt is conducted in accordance with the standards set forth in the American Society
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) REVIEW OF RECORDS.—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.

(iii) CONSIDERATIONS IN ISSUING STANDARDS.—In issuing or designating any stand-
arounds under clause (iv), the President shall consider requirements governing each of
the following:

(A) Conduct of an inquiry by an environmental professional;

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

(C) Review of historical sources as necessary to determine each previous use and
occupation of any property, including an investigation of any hazardous substances,
property tax file, United States Geological Survey 7.5 minutes topographic map, local
street directory, building department record, zoning/land use record, and any other
source that identifies a past use or occupancy of the property.

(b) any record of activities likely to cause or contribute to contamination at the real
property, including any landfill or other disposal location record, underground stor-
age tank record, hazardous waste handler and generator record, and spill reporting
and generator record, and spill reporting
and

(c) any other reasonably ascertainable
Federal, State, and local government environ-
mental record that could reflect an inci-
dent 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 site that was the subject of the site
inspection of each immediately adjacent
property, including an investigation of any hazardous
substance use, storage, treatment, or dis-
posal practice on the property.

(VII) Any specialized knowledge or expe-
rience on the part of the person that ac-
quired the property.

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

(IX) Commonly known or reasonably as-
certainable 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.

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

APPROPRIATE.—A person shall not be treated as having made all appro-
priate inquiry under clause (ii)(I) unless

(1) the person has maintained a compila-
tion of the information reviewed and gath-
ered in the course of any site assessment;

(II) with respect to hazardous substances
found at the facility, the person, at a min-
um, takes reasonable steps to

(a) stop ongoing releases of hazardous
substances;

(bb) prevent threatened future releases of hazardous substances;

(cc) prevent or limit human, environ-
mental, or natural resource exposure to haz-
ardous substances previously released into the environment;

(III) the person provides full cooperation,
assistance, and facility access to such per-
sons as are authorized to conduct response
actions at the facility, including the co-
coperation and access necessary for the in-
stallation, integrity, operation, and mainte-
nance 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 es-
tablished or relied on in connection with a
response action at the facility, including in-
foming any other party that the person al-
lows to occupy or use the property of such
restrictions and taking prompt action to cor-
rect any noncompliance by such parties.

(VIII) SITE INSPECTION AND TITLE SEARCH.—In the case of property for residential use or
a similar use purchased for governmental or noncommercial entity, a site in-
spection and title search that reveal no basis for further investigation shall satisfy the re-
quirements of clause (v).

(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:

(1) CONTIGUOUS PROPERTY.—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 fa-
cility 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 facility, the person, at a
minimum, takes reasonable steps to—
TITLE II—SMALL BUSINESS LIABILITY

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 of this Act) is amended by striking at the end the following:

"'(r) DE MICROMIS EXEMPTION.—
"'(I) 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 any entity that—
"'(A) limits defenses to liability that otherwise may be available to persons described in this subsection; and
"'(B) imposes liability not otherwise imposed by section 107(a) on such persons.''.

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. 9222(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.—
"'(I) Parties Eligible.—
"'(A) A person may be considered to be de minimis only if the person—

(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 Administrator 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, 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 to the facility is less than the 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, unless the Administrator identifies a different threshold based on site-specific factors.

(c) Reduction in Settlement Amount Based on Limited Ability to Pay—

(ii) the condition stated in this subparagraph is that the potentially responsible party—

(i) is a small business;

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

SEC. 103. REGULATORY AUTHORITY.

(a) In General.—The Administrator may—

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

(2) assign any duties or powers imposed on or assumed by 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 any term defined in this title, and to implement any provision of the amendments made by this title.

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...
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[(II) the municipality, during the period of ownership 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 with 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 5 percent of the total response costs incurred with respect to the facility.]

[(C) 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.]

[(D) OWNERSHIP OR OPERATION BY 2 OR MORE MUNICIPALITIES.—A combination of 2 or more municipalities that jointly own or operate (or own or operate a facility at which waste is received for disposal or treatment of, or accepted for transport for disposal or treatment of, municipal solid waste or municipal sewage sludge and other material containing hazardous substances shall be considered to be a single owner or operator for the purpose of calculating a settlement offer under this subsection.]

[(E) WAIVER OF CLAIMS.—The President shall require, as a condition of a settlement under this subparagraph, 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.]

[(F) EXCEPTIONS.—The President may decline to offer a settlement under this subparagraph that a municipality or combination of 2 or more municipalities waive all or some 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, if the President determines that making an offer of settlement with respect to such claims would be inconsistent with the public interest.]

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 of, 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 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.—

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

"(b) BASIS.—A revised settlement amount under item (aa) shall reflect the estimated costs incurred with respect to hazardous substances contributed by the party, the material other than a municipal solid waste or municipal sewage sludge contributed by the party, the material other than a municipal solid waste or municipal sewage sludge in an expedited settlement under this subparagraph, and any remaining settled costs contributed by the party.

"(II) OTHER MATERIAL.—

"(d) 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 of, municipal solid waste or municipal sewage sludge and other material containing hazardous substances shall be considered to be a single owner or operator for the purpose of calculating a settlement offer under this subparagraph.

"(E) MINIMIS SETTLEMENT.—If a potentially responsible party demonstrates to the President's satisfaction that, with respect to the material other than a municipal solid waste or municipal sewage sludge contributed by the party, the party qualifies 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 subparagraph.

"(F) APPLICABILITY OF EXPEDITED SETTLEMENTS TO THE FEDERAL GOVERNMENT.—

"(1) 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 subparagraphs (F) and (G).

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 arranges for recycling of recyclable material shall not be liable under paragraph (3) or (4) of section 107(a) with respect to the material unless the title of ownership of the material is transferred to another person.

"(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, 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 any capacity, from any items or containers, 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, 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 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 concerning its handling, processing, reclamation, or other management 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’ includes all metal pieces and pieces of a metal part (such as a bar, a turnbuckle, a rod, a sheet, and a wire) or a metal piece that may be combined together (or in combination with other materials, such as other metals) for purposes of this subsection and with regard to transactions occurring after the effective date of the regulations or standards; and

(C) the person failed to exercise reasonable care with respect to a transaction involving the recyclable material or otherwise arranging for the recycling of recyclable material; and

(D) the ability of the person to detect 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.

(f) Exclusions.—

(1) In general.—The exceptions provided under this paragraph, 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.

(2) Transactions Involving Scrap Metals.—

(i) 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 concerning its handling, processing, reclamation, or other management 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’ includes all metal pieces and pieces of a metal part (such as a bar, a turnbuckle, a rod, a sheet, and a wire) or a metal piece that may be combined together (or in combination with other materials, such as other metals) for purposes of this subsection and with regard to transactions occurring after the effective date of the regulations or standards; and

(D) the ability of the person to detect 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.

(f) Exclusions.—

(1) In general.—The exceptions provided under this paragraph, 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.

(2) Transactions Involving Scrap Metals.—

(i) 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 concerning its handling, processing, reclamation, or other management 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’ includes all metal pieces and pieces of a metal part (such as a bar, a turnbuckle, a rod, a sheet, and a wire) or a metal piece that may be combined together (or in combination with other materials, such as other metals) for purposes of this subsection and with regard to transactions occurring after the effective date of the regulations or standards; and

(D) the ability of the person to detect 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.
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.".

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**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:

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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:

"(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 as of the date of the application, which shall be used—

"(i) to establish a grant application procedure for this section;

"(ii) to 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 nature and extent of any known or suspected environmental contamination within the areas in which eligible brownfield sites are situated.

"(II) 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.

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

"(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 redevelopment will be implemented, including—

"(I) an environmental plan that ensures the use of appropriate procedures; and

"(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.

"(b) 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 as of the date of the application, which shall be used—

"(i) to establish a grant application procedure for this section;

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

"(III) 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—

"(ii) consider the application 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.

"(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 (A), the Administrator may terminate the grant made to the State or local government and require full or partial repayment of the grant.

"(h) 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 of a brownfield site (including a local government) at which a cleanup is being conducted or is proposed to be conducted.

"(3) DESTRUCTION.—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 brownfield cleanups.

"(4) SCOPE OF PROGRAM.—

"(A) IN GENERAL.—

"(i) GRANTS.—In carrying out this subsection, the Administrator shall—

"(I) provide for financial assistance to inventory brownfield sites; and

"(II) the benefits of a revolving loan program described in paragraph (1)(A) in promoting the long-term availability of funding for brownfield cleanups.

"(B) GRANT APPLICATION PROCEDURE.—

"(i) In General.—The Administrator shall establish an 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 grant 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 to the grant applicant's ability to carry out the plans for loan recipients.

"(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.
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(5) Grant Approval.—In determining whether a grant made under this subsection, the Administrator shall consider, as applicable—

   (A) the need of the State or local government 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 cleanups; and
   (E) the demonstrated ability of the State or local government to administer such a loan program.

(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 under paragraph (1)(B) shall not exceed $200,000.

(B) the amount of a grant to capitalize a revolving loan made to a State or local governmental subdivision, as designated by State law, in which the real property subject to the lien is located.

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

(D) Limitations on Use of Funds.—

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

   (i) 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 determined that the facility no longer poses a threat to human health or the environment and has decided not to take further response action, including cost recovery action;

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

   (2) 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.

   (3) Repayment of Funds.—For grants made under paragraph (1)(A), the State or local government shall require repayment of the loan consistent with this subsection and of cleaning up the environmental contamination at the brownfield site or sites.

   (i) Compliance with Law.—The grant recipient shall comply with all laws applicable to the cleanup and shall ensure that the cleanup is protective of human health and the environment.

   (ii) Repayment.—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.

   (iii) 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.

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

   (v) Use of Funds.—

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

      (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) 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.

   (E) Liens.—

      (i) Definitions.—In this subparagraph, the terms security interest and purchaser have the meanings given the terms in section 6623(h) of the Internal Revenue Code of 1986.

      (ii) Liens.—A lien in favor of the grant recipient arising 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 which the loan agreement provided for in this subsection is situated, 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.

   (F) 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.

   (G) Reports.—

      (i) 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;

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

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

      (iv) the allocation of assistance under subsections (a) and (b) among the States and local governments.
United States, except for land held in trust by the Federal Government for an Indian tribe, Indian tribe, or Indian tribe or Alaska Native group or corporation 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, under- going voluntary cleanup, including a separate description of the number of sites in each stage of voluntary cleanup; and

(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.

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

"(c) 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 cleanup of brownfield sites; and

(2) conduct response actions under this Act."

SEC. 502. STATE VOLUNTARY CLEANUP PROGRAMS.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by striking subsection (c) and inserting the following:

"(c) Regulations.—

(1) In general.—The Administrator may issue 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.

(3) Effective date.—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. 503. FAIRNESS IN SETTLEMENTS.

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

"(c) Fairness in Settlements.—

(1) Assistance for cleanup settlements.—An agreement under subsection (a) may, in the discretion of the President, provide for the proceeds of settlements in a manner that is fair and reasonable, including, as appropriate, the placement of proceeds in an interest-bearing account to enable other persons to conduct response actions at the facility.

(2) Application toward cleanup settlements of sums recovered in other settlements.—The President may order into settlements under paragraphs (3), subparagraphs (B), (C), (D), and (E) of section 122(g)(1), and section 109(a) 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 proceeds in an interest-bearing account to 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 such party on that party’s ability to pay.

Title VII—Funding

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

Title VII of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622) is amended by striking sub- section (a) and inserting the following:

"(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 sub- section (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, for providing technical assistance under this subsection to a State, Indian tribe, consortium of Indian tribes, interstate agency, political subdivision of a State, education agency, or other agency or organization for the development and implementation of training, technology transfer, and information dissemination programs to strengthen voluntary response activities, including enforcement, at the Federal, State, tribal and local levels.

(3) Requirements.—The Administrator may establish such requirements for grants made under this section as the Administrator considers to be appropriate.

(4) Technical and Financial Assistance.—

Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) is amended by striking subsection (b) and 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 cleanup of brownfield sites; and

(2) conduct response actions under this Act."

SEC. 129. SUPPORT FOR STATE VOLUNTARY CLEANUP PROGRAMS.

(1) Grants to States for State Voluntary Cleanup Programs.—The Administrator shall provide grants to States to develop or enhance State voluntary cleanup programs.

(2) Opportunities for technical assistance.—The Administrator shall provide technical assistance to States for the development and implementation of technical assistance programs and reporting requirements.

(3) Appointment of State voluntary cleanup programs and reporting requirements.—

(1) Grants to States.—The Administrator shall provide grants to States to develop or enhance State voluntary cleanup programs described in subsection (a).

(2) Public record.—To assist the Administrator in meeting the needs of States for assistance under this section, the Administrator shall encourage the States to main-
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 1/2 of the amounts made available under paragraph (1) for the next fiscal year may be obligated.

"(4) 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 from appropriations for Toxic Substances and Disease Registry to be used for the purpose of carrying out activities described in subsection (c)(4) and section 104(c) not less than $470,000,000 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) is amended by striking subsection (n) and inserting the following:

"(n) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out section 129(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 129(b) $60,000,000 for each of fiscal years 2000 through 2004.

"(3) VOLUNTARY RESPONSE PROGRAMS.—There is authorized to be appropriated for assistance for voluntary cleanup 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) OTHER FUNDS.—The amounts appropriated under this subsection shall remain available until expended.

SEC. 705. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL REVENUES.

Section 111(p) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) 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 OF 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:

"(49) AFFILIATE; AFFILIATED.—The terms "affiliate" and "affiliated" mean—

"(A) included—

"(i) the term "commercial, institutional, or industrial source", for purposes of subparagraph (A) the term "residential property" means a single or multifamily residential property; and

"(ii) the term "solid waste", for purposes of subparagraph (A) the term "solid waste" means—

"(I) an offsite evaluation, if appropriate.

"(II) a municipal solid waste landfill.

"(B) 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 minimis exemption under section 107(r).

"(C) 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 secondary laboratory waste, and household hazardous waste.

"(D) EXCLUSIONS.—The term "municipal solid waste" does not include—

"(i) combustion ash generated by resource recovery facilities or municipal incinicators; or

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

"(E) 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, sanitary 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).

"(F) 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.

"(G) 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 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.

"(1) AFFILIATE; AFFILIATED.—The terms "affiliate" and "affiliated" have the meanings...
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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. 1108—SUMMARY

1. BROWNFIELDS LIABILITY RELIEF

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

Finality for Owners and Sellers (liability relief for inipient owners 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 less than 1000 cubic yards of solid material, 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 on 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 by 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 1996 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 required, including Brownfields, to assess conditions at brownfields sites.

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

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

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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. TERRICELLI (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 provide for pollution prevention and clean technology, improved 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 Pen-
(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.

(E) 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 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, 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:

Title XXVII of the Public Health Service Act

[PAGE]

``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 radiostereometric procedure or other procedure endorsed as due 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 glucocorticoid (steroid) therapy;

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

'(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(r)(3) of the Social Security Act, the Secretary shall establish standards regarding the frequency with which an 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 requiring a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to bone mass measurement 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 persuade 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 any 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) FEES.—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.

(b) 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.

'(1) PREEMPTION.—

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

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

'(c) CONFORMING AMENDMENT.—Section 2723(c) of such Act (42 U.S.C. 300gg-23(c)) is amended by striking ‘‘section 2701’’ and inserting ‘‘sections 2701 and 2707’’.

'(d) 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 radiostereometric 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 glucocorticoid (steroid) therapy;

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

'(E) is being monitored to assess the response to or efficacy of approved osteoporosis drug therapy;
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Section 714 Standards relating to benefits for bone mass measurement.

(a) In general.—The provisions of section 7207 (other than subsection (g)) shall apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan.

(b) Individual health insurance.—

(1) In general.—Part B of title XXVII of the Employee Retirement Income Security Act of 1974 with respect to such requirements shall be provided under the last sentence of section 713 the following new section:

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

(a) In general.—The provisions of such Act are amended by inserting after section 713 the following new section:

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

(b) Individual health insurance.—

(1) In general.—Part B of title XXVII of the Employee Retirement Income Security Act of 1974 with respect to such 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).

(C) Effective dates.—

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

(2) Individual market.—The amendments made by subsection (a) shall have effect 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 1989

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 a half billion dollars 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 at Coven Council 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 the 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 the "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 process, 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 "blatantly unconstitutional" measure—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. One 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 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 for corporations and unions would 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 the SEC’s 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 have not included 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, the increased $10,000, 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 have evolved 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.

**Solution:** 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, an 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 some low-income 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.

**Solution:** 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 candidates 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 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 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 remove Fundraising take place on federal property.

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

**Solution:** 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.

**Solution:** 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.
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Solutions: The investigations of contested elections in Louisiana and California point to 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 may vote and only once. To prove this 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 identity 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 (criminals, felons) from making contributions (‘hard money’) or donations (‘soft money’). Also bans foreign aliens making independent expenditures and codifies FEC functions on foreign control of domestic donations.

Section 102: Updates maximum individual contribution limit to $200 per election (primary and general) and reduces 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. Candidates may use personal funds to avoid PACs.

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

TITLE III—WISDOM 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. Establish 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: Soft money contributions must disclose soft money donations in annual reports.

TITLE IV—ELIMINATION OF CAMPAIGN EXCESSSES

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

Section 420: 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 430: ‘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 $20,000 to $50,000 per individual per year with no sub-limit to party committees.

Section 440: 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 10 days before election, daily report 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 10 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

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 than $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 must sign 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. COVERDILL, Mr. SESSIONS, Mr. CLELAND, Mr. HOLLINGS, Mr. SHELBY, Mr. ROBB, and Mr. HUTCHISON):

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. COVERDILL, Mr. SESSIONS, Mr. CLELAND, Mr. HOLLINGS, Mr. SHELBY, Mr. ROBB, and Mr. HUTCHISON.

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 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 premiums will be re-evaluated by the Department of Agriculture to determine factors not currently considered. This may lower crop insurance rates for some commodities. However, because all current rating methodologies are financially 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 protected planting, quality losses, and cost of production coverage.

Mr. President, this bill raises the basic coverage level for the lowest crop insurance unit—catastrophic. Let me assure you 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 crop insurance program. It protects new farmers or those who rent new land or produce new crops by ensuring they are assessed 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 apprms 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 sound proposal which Senators will find good reason to support, to be printed in the Record.

There being no objection, the matter 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. Limitation on premiums included in underwriting gains.

TITLe ii—ADMinISTRATION

Sec. 201. Board of Directors of Corporation.


Sec. 203. Office of Private Sector Partnership.

Sec. 204. Penalties for false information.

Sec. 205. Regulations.

Sec. 206. Reinsurance agreements.

Sec. 207. Payments by cooperative associations.

Sec. 208. Limitation on double insurance.

Sec. 209. Consultation with State committees of Farm Service Agency.


Sec. 211. Fees for reinsurance.

Sec. 212. Flexible subsidy pilot program.

Sec. 213. Reinsurance agreements.

Sec. 214. Fees.

TITLe iii—qUASI-FEDERAL INSURANCE COVERAGE

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"(ii) update the manner in which rates are applied to 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 (a);"

"(E) 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 agricultural commodity not meeting the quality standards established in the policy.

"(F) 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."
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(a) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) is amended by striking paragraph (9) and inserting in its place the following:

"(9) the amount of operating and administrative expenses determined under subsection (d)(2)(B);"

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 in its place the following:

"(5) EXPECTED MARKET PRICE.—"

"(A) IN GENERAL.—For 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 advertised by the Corporation shall be not less than the projected market price of the agricultural commodity for which insurance is being given in the United States for the crop year and shall be determined by the Corporation;"

"(i) except as otherwise provided in this subparagraph, shall be based on the actual market price of the agricultural commodity at the time of harvest, as determined by the Corporation; or

"(ii) may be based on the actual market price of the agricultural commodity at the time of harvest, as determined by the Corporation;"

"(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)(B)(i); and

"(ii) the amount of operating and administrative expenses determined under subsection (d)(2)(B)(i)."

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:

"(1) by striking paragraph (9); and

"(2) by redesignating paragraph (10) as paragraph (9)."

SEC. 109. ADJUSTMENTS TO SUBSIDY LEVELS.

(a) In General.—Section 508(e)(2)(A) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)(2)) is amended by striking subparagraph (B) and inserting in its place the following:

"(B) In the case of additional coverage under subparagraph (A) for a unit comprised of all insurable acres of an agricultural commodity for which insurance is offered."

"(ii) 11 percent; and all that follows through the end of paragraph and inserting "$50 for each claim that is adjusted by striking "11 percent" and all that follows through the end of the paragraph and inserting "$50 for each claim that is adjusted"

SEC. 112. ACTUAL PRODUCTION HISTORY ADJUSTMENT FOR DISASTERS.

Section 508(h)(2) of the Federal Crop Insurance Act (7 U.S.C. 1508(h)) is amended by inserting in the second sentence by inserting before the period at the end the following: "shall provide a discount in the premium pay-"

"(ii) the portion of the premium or indemnity, the Corporation shall pay any por-"

"(a) BOARD OF DIRECTORS OF CORPORATION.

Section 505 of the Federal Crop Insurance Act (7 U.S.C. 1505) is amended by adding at the end the following:

"(B) 1 member who is active in the crop insurance business;"

"(C) 1 member who is active in the reinsur-"

"(D) The Under Secretary for Farm and Foreign Agricultural Services;

"(E) The Under Secretary for Rural Develop-"

"(F) The Chief Economist of the Depart-"
SEC. 202. OFFICE OF RISK MANAGEMENT.
(a) ESTABLISHMENT.—Section 226A(a) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 9693(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. 9693(b)) is amended by striking paragraph (2) 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 specialty crop) is adequately served by plans of insurance.”

SEC. 203. OFFICE OF PRIVATE SECTOR PART- NERSHIP.

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 PART- NERSHIP.

“(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;

“(2A) 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(b); 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 “non-insured 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) in paragraph (1), by inserting “The Secretary” and inserting the following:

“(1) IN GENERAL.—The Secretary;” and

(2) by adding at the end the following:

“(2) IN GENERAL.—Regulations issued by the Secretary and the Corporation specifying the terms of insurance under section 508 shall be issued—

“(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;”

(3) the Actuarial Research Council; and

“(4) the Federal Crop Insurance Act.

“(b) NONINSURED CROP DISASTER ASSISTANCE

Section 207 of the Federal Crop Insurance Act (7 U.S.C. 1506(q)) is amended—

(1) by striking paragraph (2) and inserting the following:

“(2) IN GENERAL.—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 the Corporation is established, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

“(2) PROGRAM REVIEW.—Not later than 90 days after the date the Corporation is established, the Secretary shall submit to the Board and the Office of Private Sector Partnership a program for monitoring compliance with this title by all Federal crop insurance participants, including producers, approved insurance providers, and approved insurance providers.

“(3) CONSULTATION.—The Corporation shall consult with the Farm Service Agency and the members of the association all or part of the insurance offered under this title may provide to approved insurance providers with respect to any plan of insurance that elects to sell the plan of insurance.

“(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 a program for monitoring compliance with this title by all Federal crop insurance participants, including producers, approved insurance providers, and approved insurance providers.

“(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 ASSOCIA- TIONS.

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 by the Corporation, the Secretary, and the Farm Service Agency, records of crop acreage, acreage yields, and production for each eligible crop,”; and

(3) in paragraph (3), by inserting “annual” after “shall provide.”

SEC. 211. FEES FOR PLANS OF INSURANCE.

Section 506(h)(5) of the Federal Crop Insurance Act (7 U.S.C. 1506(h)(5)) is amended—

(1) by striking “Any policy” and inserting the following:

“(A) IN GENERAL.—Any policy”;

(2) by adding at the end the following:

“(B) FEE 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.—

“(1) IN GENERAL.—Subject to subsection (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 the Secretary determines is necessary and appropriate to cover all or in part of any fees received from the Corporation under this title.

“(B) FEES FOR 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; and

(2) by adding at the end the following:

“(B) APPROVAL.—The Board shall not approve a plan of insurance 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—

“(D) TERMINATION.—The fees under subsection (a) shall cease to apply to plans of insurance effective the date that is 10 years after the date of the last required payment by the Corporation for a given plan of insurance.”

“(E) LIMITATION ON DOUBLE INSURANCE.—

“(1) IN GENERAL.—There is an established practice of double-cropping in an area, as determined by the Corporation;

“(2) IN GENERAL.—The additional plan of insurance is offered with respect to an agricultural commodity that is customarily double-cropped in the area; and

“(F) TERMINATION.—The Corporation shall not pay a fee—

“(1) in the area; and

“(2) in the area.”
May 24, 1999

CONGRESSIONAL RECORD—SENATE

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:

"(D) salaries and expenses of the Office of Private Sector Partnership, not to exceed $5,000,000 for each fiscal year;

"(E) administrative expenses of collecting information under section 508(h)(3); and

"(F) expenses of administering the program 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(h)(3)(B)(ii)", after "premium income".

CROP INSURANCE EQUITY ACT OF 1999—

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 allowing producers who are prevented from planting their insured commodity to receive the prevented planting indemnity but still plant another, uninsured commodity on the same land at a lower premium cost. 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 are outdated. The bill directs FCIC to develop and implement alternative methodologies for rating insurance plans by September 30, 2000, that takes into account (1) the necessary adjustments so participants in the Federal crop insurance program, and (2) producers that elect 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 highest level of participation in buy-up coverage plans.

Sec. 103.—Quality Adjustment. Ensures that quality adjustment coverage is offered at optimal coverage.

Sec. 104.—Low-risk producer pilot program. Establishes a pilot program designed to encourage participation in crop insurance by producers who rarely suffer insurance losses. Participating producers would receive a reduction in their premium payable 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. Otherwise, the catastrophic insurance program underwriting gains and unearned loss adjustment expenses being generated as a result of CAT-coverages.

Sec. 106.—Quality 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 reinsure risk experience discounts and to provide discounts for production practices that reduce the risk of loss and for insurance covering larger, more cost-effective insurable units.

Sec. 109.—Adjustment to Subsidy Levels. The bill provides for 50% subsidization of all levels of buy-up coverages in 783.

Sec. 110.—Sales Closing Dates. The bill restores flexibility to FCIC in determining sales closing dates.

Sec. 111.—Annual Yield. 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 AIP yields for producers who suffer multi-year 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 use 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 Undersecretary 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 reinsurers and review and make recommendations concerning subsidy for new crop policies and, with board concurrence, approve new rating structures.

Sec. 204.—Penalties 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 co-ops who engage in the sale of crop insurance.

Sec. 208.—Limitation on Double Insurance. Prohibits purchasing insurance for two crops on the same land or produce new crops will be assigned a fair yield.

Sec. 209.—Consortium with state committees. 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 record-keeping 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—Reinsurance Agreements. Provides for the creation of a flexible subsidy pilot program for the 2000-2012 crop years. Allows for the creation of a flexible subsidy program. Provides for the establishment of a federal reinsurance program that is necessary to make crop insurance more affordable and effective.

Sec. 213—Funding. Makes necessary adjustments in funding provisions to take into account the current financial position of the Office of Private Sector Partnership.

Mrs. LINCOLN. Mr. President, I am pleased to be here today with my colleagues from Mississippi, Senator COCHRAN, and Senator HARKIN, to introduce the Crop Insurance Equity Act of 1999. We believe this bill makes improvements in the delivery of the Existing Federal Crop Insurance Program that are necessary to make crop insurance more affordable and effective across the nation.

As we all know, the government’s role in crop insurance 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 that the effort to make crop insurance equitable 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 Kansas is currently 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 stocks 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 simple and well understood discount program is a chance for producers who have not filed claims in the last years. This simple and well understood discount program is a chance for producers who have not filed claims in the last years to have reduced premiums. Such a plan is fair and sensible to all producers.

In attempts 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 process within USDA, this legislation is a necessary step toward making the process more efficient and easier for 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 policy was offered. This left producers with no choice but to accept the lower premium level of a hassle for already overburdened producers.

In addition, this bill also provides for a more equitable subsidy program by setting the level of coverage for 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 sure the record keeping level of a hassle for already overburdened producers.

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and would like to reserve the option to make additional recommendations 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 competitiveness, and should increase participation as well.

The profitability crisis we are experiencing in American agriculture and the policy direction we have taken on farm programs over the last several years 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 system that will significantly improve 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 for the cotton industry. We look forward to working with you in any way we can to insure passage of your bill.

Sincerely,

RON RAYNER,
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 Act of 1999 which represents a positive step in addressing concerns that U.S. rice producers have had with the existing crop insurance program.

As you probably are aware, most rice producers have not participated in the Federal crop insurance program because premiums have been viewed as too high relative to the minimal coverage the program offers. 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; ari-yield data is not 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 TERRISTA,
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 reasonable prices. 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 396,000 members of the Alabama Farmers and Ranchers, we are pleased to introduce 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 disaster currently享受 thereof, thereby increasing producer participation.

The Federation is also pleased to note that your bill restores the provision in law that makes multiple year disasters remedies the problem that producers who experience multiple years of disaster currently享受 thereof, as the bill 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. 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. TERRICELLI, Mr. BINGAMAN, Mr. THOMAS, Mr. LEAHY, Mr. CAMPBELL, Mr. KENNEDY, Mr. HELMS, Mr. DURBIN, Mr. SANTORUM, Mr. LAUTENBERG, Mr. BUNNING, Mr. MOYNIHAN, Mr. BURBERRY, Mr. WYDEN, Mr. GRAHAM, Mr. REID, Mr. LEVIN, and Mr. LIEBERMAN):

S. 1109. A bill to conserve global bear populations by prohibiting the importation, 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 visceras, 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 for profit. As you may know, bear parts, such as gall bladders and bile, which are commonly referred to as visceras, 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 for profit.

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

CONGRESSIONAL RECORD—SENATE
Mr. President, 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 laws in addressing 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,

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 upon the rights of hunters to legally hunt bears. These sportsmen will still be allowed to keep trophies and furs of bears killed during legal hunts.

The Bear Protection Act will also bolster the 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 countries 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 bear gall 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 be printed in the RECORD.

There being no objection, the material was ordered to be 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 1067; TIAS 8249) (referred to in this section as "CITES");

(2) Article XIV of CITES provides that Parties to CITES may adopt 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 and intrastate commerce of bear viscera 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 American bear populations 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 parts, organs, or products containing such; and
(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) a natural person, partnership, corporation, trust, or any other private entity;

(B) an officer, employee, agent, department, or instrumentality of:

(i) a Federal department;

(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 located in 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, 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) of this section, no person shall:

(1) import into, or export from, the United States any 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 is for a lawful wildlife law enforcement purpose; 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 collected, 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 Secretaries shall issue such regulations as are necessary to carry out this section.

(e) ENFORCEMENT.—The Secretary, the Secretaries of the State 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. 3377d(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 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, the state's commercial center. SOUP is expected to yield one of the largest proceeds 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 paws 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 three years, 12 state and federal officers 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 bladder and paws of bears exists, including from bears within and around Shenandoah National Park.

To further this portion of the investigation, federal searches were executed in Madison and Rappahannock Counties in Virginia, and near Petersburg, West
Virginia. They were issued on a combination of homes and vehicles. The vehicles included five vehicles, several freezers, and an assortment of bear parts, firearms, and cash. Federal felony indictments may be forthcoming in the coming days and months ahead. These arrests were made on Monday following inspections 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 linked to 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 hunting can be legally taken in Virginia by legitimate sportmen, 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 illegal activity has resulted 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 gallbladder trade is a worldwide industry driven by the demand for its use as 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 led to a black market for its parts 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 Leof Smith)

It was early January when the call came in on Jeffrey Pascale's unlisted phone line: "Get your line up, intact except for missing gallbladders, please?" "I don't think so. We are investigating this," 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 30 gall bladders and arrested 25 people. They have been charged with offenses ranging from illegally buying wildlife products to mis-character of ailments hunting convictions. 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 parts business. Officials say that some of the parts sold in Virginia are hunted legally. The federal investigation is continuing.

The state 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 these 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 gall bladders and paws.

During the course of his investigation, according to the affidavit filed in support of a federal search warrant for the Baldwin's home, Special Agent Dan Myers of the Fish and Wildlife Service told Pascale they had been in business for 13 years, selling about 300 gall bladders annually to customers in Maryland, New York and the District of Columbia.

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 trap

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 bear paws to either local or overseas Asian markets.

Nationwide, federal authorities have intercepted 70 shipments of bear parts headed to Asia. Markets in the Pacific region, 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 see how [bear parts] go to [Asia]." 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."
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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 products 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.

Calls upon all governments and intergovernmental organizations, international aid agencies and non-governmental organizations, to coordinate their efforts and fund 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 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 now given the proper emphasis 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 (NIH). For years, NIH has 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 and technologies 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 radiology 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. 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 combating disease, 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 allow the Federal Government, reduce duplication and waste, lay the foundation for a new medical information age, promote economic development, and create 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:

‘‘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, bioengineering, 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, biotechnology, 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) Any other activities that support the development of new techniques and devices for more effective interventional procedures (such as image-guided interventions).

(I) 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 expand, intensify, and coordinate activities of the Institute with respect to biomedical imaging

...
and engineering. The plan shall include such recommendations as the Director of the Institute determines appropriate. The Director of the Institute shall periodically review and revise the plan and shall submit reports on 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 shall have the purpose of enhancing support of activities regarding basic biomedical imaging and engineering research.

(ii) The coordination of the activities of the other agencies of the National Institutes of Health and with related activities of other Federal agencies.

(c) ADVISORY COUNCIL.—Establishment 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, 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), 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) 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 appropriated 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 4612 of such Act (as added by subsection (a) of this section).

(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, who are not officers or employees of the United States.

(2) May, for quarters for such Institute, utilize such funds as the Director determines to be appropriate;

(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 this 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 4612 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:

(1) 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 to carry out 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 35% 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 across the world look at 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, learn from, and help 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 Leaders 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 an 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 each of the 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 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,

SEC. 1. SHORT TITLE. This Act may be cited as the “National Conference on Small Business Act”.

SEC. 2. DEFINITIONS. In this Act—

(i) the term “Administrator” means the Administrator of the Small Business Administration;

(ii) the term “Chief Counsel” means the Chief Counsel for Advocacy of the Small Business Administration;

(iii) the term “National Conference” means the National Conference on Small Business established under section 4;

(iv) the term “National Conference” refers to the National Conference on Small Business conducted under section 3(a); and

(v) the term “State Conference” means a State Conference on Small Business conducted under section 5(b).

SEC. 3. NATIONAL AND STATE CONFERENCES ON SMALL BUSINESS.

(a) NATIONAL CONFERENCES.—There shall be a National Conference on Small Business held 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—

(i) to increase public awareness of the contribution of small business to the Nation’s economy;

(ii) to identify the problems of small business;

(iii) to examine the status of minorities and women as small business owners;

(iv) to assist small business in carrying out its role as the engine of the American economy;

(v) to provide opportunities to meet and to work with other business, government, and labor leaders; and

(vi) 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 state the Member represents; and

(D) 50 delegates (and 50 alternates) appointed by the President, 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 next 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.

(2) ALTERNATES.— Alternates shall serve during the absence or unavailability of the delegate.

(3) 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) preparing and providing recommendations 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 appointments 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.

(b) The appointment shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

(c) PLANNING AND ADMINISTRATION OF CONFERENCES.—In carrying out the National and State Conferences required by this Act, $5,000,000, which shall remain available until expended. New spending authority or authority to enter into contracts with public and private organizations, academic institutions, and independent, nonpartisan organizations to carry out the State and National Conferences.

(d) 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, and (i) VACANCIES.—Any vacancy of the National Commission shall constitute a quorum.

(ii) EXECUTIVE DIRECTOR AND STAFF.—The National Commission may appoint an Executive Director and staff necessary to conduct the National and State Conferences.

(iii) The National Commission shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under 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.

(k) FUNDS.—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 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 this Act, $5,000,000, which shall remain available until expended. New spending authority or authority to enter into contracts with public and private organizations, academic institutions, and independent, nonpartisan organizations to carry out the State and National Conferences.

(b) AVAILABILITY OF FUNDS.—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.

(c) NATIONAL CONFERENCE ON SMALL BUSINESS ACT.—SEC. 2. Definitions.

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 be held every 30 calendar days thereafter.

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.

(i) The delegates will be responsible for their own expenses and will not be reimbursed from appropriated funds.

(ii) The National Commission may appoint and compensate an Executive Director and such other personnel to conduct the National and State Conferences.

The National Commission may appoint and compensate an Executive Director and such other personnel to conduct the National and State Conferences.

(v) The National Commission shall be responsible for the expenses incurred under this Act. It states that the 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.

Section 7. Authorization of Appropriations; Availability of Funds.

This section authorizes $5 million to cover all expenses incurred under this Act. It states that the funds from SBA may not support the Act unless specifically earmarked for that purpose.
from that of adults, and make them more susceptible to the dangers posed by toxic and harmful 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 these substances 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 apply a "proof of environmental law.

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 these 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 pesticides 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 mining 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 children and the 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 appropriate margin of safety, protect children and other vulnerable subpopulations;

(3) where data sufficient to evaluate the special susceptibility and exposure of children to those pollutants are lacking, the Administrator should apply a 10-fold margin of safety in establishing an environmental or public health standard for that environmental pollutant; and

(4) since it is difficult to identify all conceivable risks and address all uncertainties...
associated with pesticide use, the use of dangerous 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 shall 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 et seq.), a water pollutant subject to regulation under the Safe Drinking Water Act (42 U.S.C. 300 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 pregnant women, the elderly, individuals with a history of serious illness, and other subpopulations identified by the Administrator that are 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 or environmental pollutant protects children and other vulnerable subpopulations with a margin of safety in schools and day care centers; and

(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

(b) establish, modify, or reevaluate environmental and public health standards.

(1) In General.—In establishing, modifying, or reevaluating any environmental or public health standard for an environmental pollutant, if the Administrator determines that an environmental or public health standard for an environmental pollutant, including the margin of safety, is likely to pose a greater risk to children’s health than the environmental or public health standards identified by the Children’s Environmental Health Protection Advisory Committee as posing a special risk to children.

(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.

(3) Prohibition of Certain Environmental and Public Health Standards That Present Special Risks to Children.

(a) In General.—Not later than 1 year after the date of enactment of this Act and annually thereafter, based on the recommendations of the Children’s Environmental Health Protection Advisory Committee established under section 507, the Administrator shall:

(I) 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;

(ii) 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.

(b) Identification and Revision of Environmental and Public Health Standards That Present Special Risks to Children.

If the Administrator makes the finding described in paragraph (1), 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 as posing a special risk to children.

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 advance notification of any pesticide application on school grounds in accordance with subsection (b).

(b) Least Toxic Pest Control Strategies.

(1) In General.—The Administrator shall distribute to each school and day care center the current manual of the Environmental Protection Agency that describes the least toxic pest control strategies for school 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 a list of pesticides that contain a substance identified by the Administrator as a known or suspected carcinogen, a development 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.

(c) Prohibition of Pesticide Application.—Effective beginning on the date that is 2 years after the date of enactment of this Act, each school or day care center that receives Federal funding shall not apply any pesticide described in paragraph (2), other indoors or outdoors.

(d) Emergency Exemption.—

(I) In General.—If the Administrator determines that a pest control emergency 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.

(II) Notice.—

(1) In General.—Prior to exercising the authority under this paragraph, the Administrator shall give notice to the board of the school or day care center for finding that a pest control emergency exists.

(2) 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.

(e) Parental Notice Prior to Pesticide Application.

(I) 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.

(II) 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.

(III) 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.

(f) Warning Sign.—

(I) 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’.

(II) 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 warning sign described in this subsection 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) establish, modify, or reevaluate environmental and public health standards.

(2) The term ‘warning’, ‘danger’, or ‘poison’ includes a development 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.
that are released from a facility, the amount
that shall ensure reporting for at least 80
chemical described in clause (ii) at a level
ed at least for use in areas that are reasonably acces-
sible to children, when applied as rec-
commended by the manufacturer, will mini-
mize potential risks to children from expo-
sure to environmental pollutants;
(4) establish guidelines to help reduce and elimi-
minate exposure of children to environ-
mental pollutants in areas reasonably acces-
sible to children, including advice on how to
establish an integrated pest management
program;
(5) create a family right-to-know informa-
tion kit that includes a summary of help-
ful information and guidance to families,
such as the information created under para-
graphs (1) through (4), the guidelines estab-
lished under paragraph (4), information on the potential
health effects of environmental pollutants,
practical suggestions on how parents may re-
duce their children's exposure to environ-
mental pollutants, and other relevant infor-
mation, as determined by the Administrator in coop-
eration 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 Inter-
et; 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 Plann-
ing and Community Right-to-Know Act of
1986 (42 U.S.C. 11026(f)(1)) is amended by ad-
ding at the end the following:
(C) CHILDREN'S HEALTH.
(1) WITH respect to each of the toxic chemicals described in clause (ii) that are released from a facility, the amount
described in clause (iii).
(2) CHEMICALS.—Not later than 2 years after the date of enactment of this subpara-
gle, the Administrator shall identify each
toxic chemical that the Administrator deter-
mines may present a significant risk to chil-
dren's health or the environment due to the
potential of that chemical to bioaccumulate,
disrupt endocrine systems, remain in the envi-
ronment, or other characteristics, includ-
ing—
(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 bioconcentra-
tion factors greater than 1,000;
(II) any chemical or group of chemicals
that, despite a failure to meet the specific
permanence or bioaccumulation measuring
criteria described in subclause (I), can be
reasonably expected to degrade into a sub-
stance meeting those criteria; and
(III) lead, mercury, dioxin, cadmium, and
chromium and pollutants that are bio-
accumulative chemicals of concern listed in
subpart 6 of part 3 of subpart B of part 330,
section 330.190, 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 19 or more full-time employees; and
(II) are in Standard Industrial Classifica-
tion Codes through 39 or in the Standard
Industrial Classification Codes under sub-
section (b)(1)(B).
(IV) ADDITIONAL FACILITIES.—If the Ad-
ministrator determines that a facility other
than a facility described in clause (III) con-
tributes 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 follow-
ing:

"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 de-
velopment and implementation of basic and applied research initiatives to examine the health effects and toxicity of pesticides (in-
cluding active and inert ingredients) and other environmental pollutants on children and other vulnerable subpopulations, and the exposure of children and vulnerable sub-
populations to environmental pollutants.

(b) BIENNIAL REPORTS.—The Adminis-
trator, the Secretary of Agriculture, and the
Secretary of Health and Human Services
shall submit biennial reports to Congress de-
scribing actions taken to carry out this sec-
tion.

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 follow-
ing:

"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 special-
izing in pediatric health, educators, rep-
resentatives of community groups, rep-
resentatives of environmental and public
health nonprofit organizations, industry rep-
resentatives, and State environmental and
public health department representatives.

(c) DUTIES.—Not later than 2 years after the date of enactment of this title and an-
nually 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 this committee is established.

"SEC. 508. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.".