

S. 397

At the request of Mr. ENSIGN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 397, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for the old-age, survivors, and disability insurance taxes paid by employees and self-employed individuals, and for other purposes.

S.J. RES. 3

At the request of Mr. MCCAIN, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S.J. Res. 3, a joint resolution expressing the sense of Congress with respect to human rights in Central Asia.

S. CON. RES. 7

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. Con. Res. 7, a concurrent resolution expressing the sense of Congress that the sharp escalation of anti-Semitic violence within many participating States of the Organization for Security and Cooperation in Europe (OSCE) is of profound concern and efforts should be undertaken to prevent future occurrences.

S. CON. RES. 7

At the request of Mr. CAMPBELL, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. Con. Res. 7, *supra*.

S. RES. 46

At the request of Mr. BINGAMAN, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from Mississippi (Mr. COCHRAN), the Senator from Idaho (Mr. CRAIG), the Senator from North Carolina (Mr. EDWARDS), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Maryland (Mr. SARBANES), the Senator from Michigan (Ms. STABENOW) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. Res. 46, a resolution designating March 31, 2003, as "National Civilian Conservation Corps Day".

S. RES. 48

At the request of Mr. AKAKA, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. Res. 48, a resolution designating April 2003 as "Financial Literacy for Youth Month".

S. RES. 52

At the request of Mr. CAMPBELL, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. Res. 52, a resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of the problem.

S. RES. 54

At the request of Mr. MCCAIN, the names of the Senator from Texas (Mr. CORNYN) and the Senator from Wisconsin (Mr. FEINGOLD) were added as

cosponsors of S. Res. 54, a resolution to provide Internet access to certain Congressional documents, including certain Congressional Research Service publications, certain Senate gift reports, and Senate and Joint Committee documents.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA:

S. 427. A bill to amend the Homeland Security Act of 2002 to assist States and communities in preparing for and responding to threats to the agriculture of the United States; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. AKAKA:

S. 430. A bill to amend the Homeland Security Act of 2002 to enhance agricultural biosecurity in the United States through increased prevention, preparation, and response planning; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. AKAKA. Mr. President, I rise today to address the threat of bioterrorist attacks on American agriculture by introducing the Agriculture Security Preparedness Act, ASPA, and the Agriculture Security Assistance Act, ASAA.

Thomas Jefferson described the four pillars of American prosperity as agriculture, manufacturing, commerce and navigation. Two hundred years later, our government is working to protect and defend all critical sectors of our society. But are we doing enough to protect American agriculture from either deliberate or naturally occurring disease outbreaks?

Secretary of Health and Human Services Tommy Thompson stated in September 2002 that the administration has not paid enough attention to protecting agriculture while Secretary of Agriculture Ann Venneman stated that agricultural biosecurity is her highest priority.

What is at risk when I speak of "agricultural security?" Quite simply, a threat to agriculture is a threat to the Nation. My legislation will assist efforts by the U.S. Department of Agriculture, USDA, new Department of Homeland Security, DHS, to ensure the first pillar of American prosperity.

Agriculture terrorism can impact the safety of our food supply and public health. A large scale agricultural disaster, much like risks to our information and communication systems, also would undermine American economic security. Agricultural activity accounts for approximately 13 percent of the U.S. gross domestic product and nearly 17 percent of domestic employment. Based on the economic damage caused by the 2001 foot and mouth disease, FMD, epidemic in Great Britain, a single outbreak of FMD could cost the U.S. economy over \$10 billion.

Every State has its own agricultural strengths and economy. My State of Hawaii generates more than \$1.9 billion

in agricultural sales. The agriculture sector employs, either directly or indirectly, 38,000 people in Hawaii. The State's crops range from sugarcane and pineapple to coffee and macadamia nuts. However, Hawaii also has to \$28 million milk industry and nearly \$25 million worth of cattle and hogs. When the additional losses in tourism and travel are considered, we can see the economic impact on Hawaii or any State from an agricultural disease emergency would be devastating.

Pests and diseases are difficult to control when they are introduced accidentally. According to a National Academy of Sciences study on agricultural security, a deliberate infestation demands even more precautions and research and development.

The Agriculture Security Preparedness Act and the Agriculture Security Assistance Act give Federal and State partners responsible for responding to threats against our agriculture the tools they need to operate efficiently and effectively. Moreover, my legislation amends the Homeland Security Act to give agriculture security the attention it deserves as a component of our critical infrastructure.

An agricultural disease outbreak, whether of natural or deliberate origin, will require coordinated efforts by the USDA, the Federal Emergency Management Agency, FEMA, and DHS, the Environmental Protection Agency, EPA, and the Departments of Health and Human Services, HHS, Defense, Transportation, and Justice. USDA is the lead agency in responding to agricultural emergencies and has created a homeland defense council and increased border inspection and research activities. These are promising steps. I am happy to see that the USDA and FEMA are in the process of drafting a national response plan for emerging agriculture diseases. My legislation will compliment these efforts and encourage coordination and preparedness on the Federal, State, regional, and local level.

The Agriculture Security Preparedness Act will enhance agricultural biosecurity through strengthened inter-agency and international coordination. The Act will establish senior level liaisons in DHS and HHS to coordinate with USDA on agriculture disease emergency management and response. My legislation also tasks DHS and USDA to work with the Department of Transportation to address one of the largest risk factors in controlling the spread of a plant or animal disease—the movement of animals, plants, and people between and around farms.

Agricultural disease outbreaks will continue to be rare occurrences in the United States. However, high-risk animal and plant diseases are endemic in some part of the world. The Agriculture Security Preparedness Act will help train American veterinarians and emergency responders, and provide much needed help overseas, through bilateral mutual aid agreements. The

Act also directs the Department of Justice and USDA to take a long-overdue look at local and State laws that may impede or contradict response plans for an agricultural disease emergency.

The Agricultural Security Assistance Act will assist States and communities preparing for and responding to threats to the Nation's agriculture. Rapid detection and swift response is imperative to contain the spread of any disease, and my bill will help remove delays and impediments for local and state officials responding to outbreaks.

The bill directs USDA to work with each State to develop and implement response plans. My legislation establishes grant programs for communities and states to incorporate modeling and geographic information systems into planning and response activities totaling over \$15 million. This funding also will help animal health professionals participate in community emergency planning activities and assist farmers and ranchers strengthen the biosecurity measures on their own property.

In most cases of a suspected or actual agricultural disease outbreak, initial response will come from the impacted community and State. Federal resources, coordinated by USDA, will augment State capabilities. Federal assistance and guidance also is needed long before an outbreak occurs. My legislation will increase Federal, State, and local abilities to develop resources and response mechanisms to contain and eradicate agricultural diseases when they are discovered on U.S. soil.

I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 427

*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 "Agriculture Security Assistance Act".

#### SEC. 2. FINDINGS.

Congress finds that—

- (1) some agricultural diseases pose a direct threat to human health;
- (2) economic sabotage, in the form of agroterrorism, is also a concern;
- (3) the United States has an \$80,000,000,000 livestock industry;

(4) an outbreak of an agricultural disease, whether naturally occurring or intentionally introduced, could—

(A) have a profound impact on the infrastructure, economy, and export markets of the United States; and

(B) erode consumer confidence in the Federal Government and the safety of the food supply of the United States;

(5) as with human health and bioterrorism preparedness, enhancing current monitoring and response mechanisms to deal with a deliberate act of agricultural terrorism would strengthen the ability of the United States to diagnose and respond quickly to any animal health crisis;

(6)(A) activities to ensure the biosecurity of farms are an important tool in preventing—

(i) the intentional or accidental introduction of an agricultural disease; and

(ii) the spread of an introduced agricultural disease into an outbreak; and

(B) most surveys of producers indicate discouraging and dangerous trends in basic elements of farm security activities;

(7)(A) a national response plan, developed by the Department of Agriculture and the Federal Emergency Management Agency, would determine how interdependent agricultural health and emergency management response functions will be coordinated to ensure an orderly, immediate, and unified response to all aspects of an outbreak of an agricultural disease;

(B) the Department of Agriculture, in cooperation with State and industry partners, would implement the plan as needed; and

(C) State and local partners would need assistance to implement their shares of the plan;

(8) States and communities also require assistance to prepare and plan for agricultural disasters;

(9)(A) rapid detection of an agricultural disease is imperative in containing the spread of the agricultural disease; and

(B) potential delays and difficulty in detection may complicate decisions regarding appropriate control measures; and

(10)(A) planning for a response to an outbreak of an agricultural disease will vary from State to State, reflecting—

(i) the level of awareness;

(ii) the perception of risk;

(iii) competing time demands; and

(iv) the availability of resources; and

(B) State response capability would be significantly enhanced if State agricultural and emergency management officials were to jointly develop a comprehensive agricultural disease response plan.

#### SEC. 3. AGRICULTURE SECURITY ASSISTANCE.

(a) IN GENERAL.—Title VIII of the Homeland Security Act of 2002 (Public Law 107-296; 116 Stat. 2220) is amended by adding at the end the following:

##### "Subtitle J—Agriculture Security Assistance

##### "SEC. 899A. DEFINITIONS.

"In this subtitle:

"(1) AGRICULTURAL DISEASE.—The term 'agricultural disease' means an outbreak of a plant or animal disease, or a pest infestation, that requires prompt action in order to prevent injury or damage to people, plants, livestock, property, the economy, or the environment.

"(2) AGRICULTURAL DISEASE EMERGENCY.—The term 'agricultural disease emergency' means an outbreak of a plant or animal disease, or a pest infestation, that requires prompt action in order to prevent injury or damage to people, plants, livestock, property, the economy, or the environment, as determined by the Secretary of Agriculture under—

"(A) section 415 of the Plant Protection Act (7 U.S.C. 7715); or

"(B) section 10407(b) of the Animal Health Protection Act (7 U.S.C. 8306(b)).

"(3) AGRICULTURE.—The term 'agriculture' includes—

"(A) the science and practice of activities relating to food, feed, and fiber production, processing, marketing, distribution, use, and trade;

"(B) family and consumer science, nutrition, food science and engineering, agricultural economics, and other social sciences; and

"(C) forestry, wildlife science, fishery science, aquaculture, floraculture, veterinary medicine, and other environmental and natural resource sciences.

"(4) AGROTERRORISM.—The term 'agroterrorism' means the commission of an agroterrorist act.

"(5) AGROTERRORIST ACT.—The term 'agroterrorist act' means a criminal act consisting of causing or attempting to cause damage or harm to, or destruction or contamination of, a crop, livestock, farm or ranch equipment, a material, any other property associated with agriculture, or a person engaged in agricultural activity, that is committed with the intent—

"(A) to intimidate or coerce a civilian population; or

"(B) to influence the policy of a government by intimidation or coercion.

"(6) BIOSECURITY.—

"(A) IN GENERAL.—The term 'biosecurity' means protection from the risks posed by biological, chemical, or radiological agents to—

"(i) plant or animal health;

"(ii) the agricultural economy;

"(iii) the environment; and

"(iv) human health.

"(B) INCLUSIONS.—The term 'biosecurity' includes the exclusion, eradication, and control of biological agents that cause agricultural diseases.

##### "SEC. 899B. RESPONSE PLANS.

"(a) IN GENERAL.—

"(1) STATE PLANS.—The Secretary of Agriculture, in consultation with the Director of the Federal Emergency Management Agency, shall assist States in developing and implementing State plans for responding to outbreaks of agricultural diseases.

"(2) REQUIRED ELEMENTS.—Each State response plan shall include—

"(A) identification of available authorities and resources within the State that are needed to respond to an outbreak of an agricultural disease;

"(B) identification of—

"(i) potential risks and threats due to agricultural activity in the State; and

"(ii) the vulnerabilities to those risks and threats;

"(C) potential emergency management assistance compacts and other mutual aid agreements with neighboring States; and

"(D) identification of local and State legal statutes or precedents that may affect the implementation of a State response plan.

"(3) REGIONAL AND NATIONAL RESPONSE PLANS.—The Secretary of Agriculture shall work with States in developing regional and national response plans to carry out this subsection.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as are necessary for fiscal year 2004 and each fiscal year thereafter.

"(b) MODELING AND STATISTICAL ANALYSES.—

"(1) IN GENERAL.—In consultation with the Steering Committee of the National Animal Health Emergency Management System and other stakeholders, the Secretary of Agriculture shall conduct a study—

"(A) to determine the best use of epidemiologists, computer modelers, and statisticians as members of emergency response task forces that handle foreign or emerging agricultural disease emergencies; and

"(B) to identify the types of data that are not collected but that would be necessary for proper modeling and analysis of agricultural disease emergencies.

"(2) REPORT.—Not later than 180 days after the date of enactment of this subtitle, the Secretary of Agriculture shall submit a report that describes the results of the study to—

"(A) the Secretary of Homeland Security; and

"(B) the heads of other appropriate governmental agencies involved in response planning for agricultural disease emergencies.

“(c) GEOGRAPHIC INFORMATION SYSTEM GRANTS.—

“(1) IN GENERAL.—The Secretary of Agriculture, in consultation with the Secretary of Homeland Security and the Secretary of the Interior, shall establish a program to provide grants to States to develop capabilities to use geographic information systems and statistical models for epidemiological assessments in the event of agricultural disease emergencies.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection—

“(A) \$2,500,000 for fiscal year 2004; and

“(B) such sums as are necessary for each fiscal year thereafter.

“(d) GRANTS TO FACILITATE PARTICIPATION OF STATE AND LOCAL ANIMAL HEALTH CARE OFFICIALS.—

“(1) IN GENERAL.—The Secretary of Homeland Security, in coordination with the Secretary of Agriculture, shall establish a program to provide grants to communities to facilitate the participation of State and local animal health care officials in community emergency planning efforts.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$5,000,000 for fiscal year 2004.

“**SEC. 899C. BIOSECURITY AWARENESS AND PROGRAMS.**

“(a) IN GENERAL.—The Secretary of Agriculture shall implement a public awareness campaign for farmers, ranchers, and other agricultural producers that emphasizes—

“(1) the need for heightened biosecurity on farms; and

“(2) the reporting of agricultural disease anomalies.

“(b) ON-FARM BIOSECURITY.—

“(1) IN GENERAL.—Not later than 240 days after the date of enactment of this subtitle, in consultation with associations of agricultural producers and taking into consideration research conducted under the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.), the Secretary of Agriculture shall—

“(A) develop guidelines—

“(i) to improve monitoring of vehicles and materials entering or leaving farm or ranch operations; and

“(ii) to control human traffic entering or leaving farm or ranch operations; and

“(B) disseminate the guidelines to agricultural producers through agricultural education seminars and biosecurity training sessions.

“(2) AUTHORIZATION OF APPROPRIATIONS.—

“(A) IN GENERAL.—There are authorized to be appropriated to carry out this subsection—

“(i) \$5,000,000 for fiscal year 2004; and

“(ii) such sums as are necessary for each fiscal year thereafter.

“(B) EDUCATION PROGRAM.—Of the amounts made available under subparagraph (A), the Secretary of Agriculture may use such sums as are necessary to establish in each State an education program to distribute the biosecurity guidelines developed under paragraph (1).

“(c) BIOSECURITY GRANT PILOT PROGRAM.—

“(1) IN GENERAL.—Not later than 240 days after the date of enactment of this subtitle, the Secretary of Agriculture shall develop a pilot program to provide incentives, in the forms of grants or low-interest loans, each in an amount not to exceed \$10,000, for agricultural producers to restructure farm and ranch operations (based on the biosecurity guidelines developed under subsection (b)(1))—

“(A) to control access to farms or ranches by persons intending to commit an agroterrorist act;

“(B) to prevent the introduction and spread of agricultural diseases; and

“(C) to take other measures to ensure biosecurity.

“(2) REPORT.—Not later than 3 years after the date of enactment of this subtitle, the Secretary of Agriculture shall submit to the appropriate committees of Congress a report that—

“(A) describes the implementation of the pilot program; and

“(B) makes recommendations on expansion of the pilot program.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection—

“(A) \$5,000,000 for fiscal year 2004; and

“(B) such sums as are necessary for each of fiscal years 2005 through 2007.”

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (Public Law 107-296; 116 Stat. 2135) is amended by adding at the end of the items relating to title VIII the following:

“Subtitle J—Agriculture Security Assistance

“Sec. 899A. Definitions.

“Sec. 899B. Response plans.

“Sec. 899C. Biosecurity awareness and programs.”

—  
S. 430

*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 “Agriculture Security Preparedness Act”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Agricultural biosecurity.

“Subtitle J—Agricultural Biosecurity

“Sec. 899A. Definitions.

“CHAPTER 1—INTERAGENCY COORDINATION

“Sec. 899D. Agricultural disease liaisons.

“Sec. 899E. Transportation.

“Sec. 899F. Regional, State, and local preparation.

“Sec. 899G. Study on feasibility of establishing a national plant disease laboratory.

“CHAPTER 2—INTERNATIONAL ACTIVITIES

“Sec. 899J. International agricultural disease surveillance.

“Sec. 899K. Inspections of imported agricultural products.

“Sec. 899L. Bilateral mutual assistance agreements.

“CHAPTER 3—RESPONSE ACTIVITIES

“Sec. 899O. Study on feasibility of establishing a national agroterrorism and ecoterrorism incident clearinghouse.

“Sec. 899P. Review of legal authority.

“Sec. 899Q. Information sharing.

Sec. 4. Inclusion of agroterrorism in terrorist acts involving weapons of mass destruction.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the intentional use of agricultural disease agents to attack United States agriculture threatens an industry that accounts for approximately 13 percent of the gross domestic product of the United States;

(2) the economic impact of a worst-case agricultural disease affecting multiple farms in multiple States could be measured in billions of dollars, including the costs of eradication, production losses, and other market repercussions;

(3) agricultural diseases can be naturally occurring (such as the outbreak of foot-and-mouth disease in Great Britain during 2001) or intentionally created by malicious actors;

(4) risk factors affecting the spread of a plant or animal disease include—

(A) animal density;

(B) animal and plant concentration points (such as auction markets, sale barns, and grain lots);

(C) plant and animal movement;

(D) individuals moving on and off farms;

(E) wildlife; and

(F) weather conditions;

(5) the rapid and widespread movement of animals and crops is an integral part of United States agriculture and the principle means by which an agricultural disease will spread if an agricultural disease occurs;

(6) response planning and mitigation requires the coordination between the animal health and agricultural community, transportation officials, and representatives of the shipping and trucking industry;

(7) the United States Department of Agriculture and State departments of agriculture have responsibility for the protection of the agricultural resources of the United States;

(8) in the event of an agricultural disease, the Department of Agriculture and State departments of agriculture will need the support and resources of other Federal, State, and local agencies that carry out traditional emergency management and response functions;

(9) while the introduction of an infectious foreign animal disease (such as foot-and-mouth disease) will be the primary threat addressed by an agricultural security plan, the principles used to prevent, detect, control, or eradicate such a disease will apply to large-scale outbreaks of other diseases and other agricultural diseases that affect agriculture;

(10) numerous Federal agencies have authorities and responsibilities relating to public, animal, and wildlife health, safety, and management;

(11) the highest priority of the United States, in connection with agricultural diseases, is to prevent the introduction of, detect, control, and eradicate an agricultural disease as quickly as practicable and return the United States to a disease-free status;

(12)(A) the Incident Command System was adopted by the National Fire Academy as the model system of the Academy in 1987 and was later endorsed by the International Association of Chiefs of Police and the American Public Works Association;

(B) the Incident Command System is used by many Federal agencies, such as the Environmental Protection Agency and the United States Fire Administration, while responding to emergencies; and

(C) the Secretary of Agriculture, acting through the Animal and Plant Health Inspection Service, should incorporate the Incident Command System in all agricultural disaster emergency response plans; and

(13) since agricultural diseases will continue to be rare occurrences in the United States, the Department of Agriculture and Federal, State, and local partners will need to reinforce preparedness, training, and response mechanisms—

(A) through an all-hazard approach to all agricultural disaster emergencies; and

(B) by gaining field experience in foreign countries where high-risk agricultural diseases are endemic.

**SEC. 3. AGRICULTURAL BIOSECURITY.**

(a) IN GENERAL.—Title VIII of the Homeland Security Act of 2002 (Public Law 107-296; 116 Stat. 2220) is amended by adding at the end the following:

**“Subtitle J—Agricultural Biosecurity****“SEC. 899A. DEFINITIONS.**

“In this subtitle:

“(1) **AGRICULTURAL DISEASE.**—The term ‘agricultural disease’ means an outbreak of a plant or animal disease, or a pest infestation, that requires prompt action in order to prevent injury or damage to people, plants, livestock, property, the economy, or the environment.

“(2) **AGRICULTURE.**—The term ‘agriculture’ includes—

“(A) the science and practice of activities relating to food, feed, and fiber production, processing, marketing, distribution, use, and trade;

“(B) family and consumer science, nutrition, food science and engineering, agricultural economics, and other social sciences; and

“(C) forestry, wildlife science, fishery science, aquaculture, floraculture, veterinary medicine, and other environmental and natural resource sciences.

“(3) **AGROTERRORISM.**—The term ‘agroterrorism’ means the commission of an agroterrorist act.

“(4) **AGROTERRORIST ACT.**—The term ‘agroterrorist act’ means a criminal act consisting of causing or attempting to cause damage or harm to, or destruction or contamination of, a crop, livestock, farm or ranch equipment, a material, any other property associated with agriculture, or a person engaged in agricultural activity, that is committed with the intent—

“(A) to intimidate or coerce a civilian population; or

“(B) to influence the policy of a government by intimidation or coercion.

“(5) **BIOSECURITY.**—

“(A) **IN GENERAL.**—The term ‘biosecurity’ means protection from the risks posed by biological, chemical, or radiological agents to—

“(i) plant or animal health;

“(ii) the agricultural economy;

“(iii) the environment; and

“(iv) human health.

“(B) **INCLUSIONS.**—The term ‘biosecurity’ includes the exclusion, eradication, and control of biological agents that cause plant or animal diseases.

“(6) **ECOTERRORISM.**—The term ‘ecoterrorism’ means the use of force or violence against a person or property to intimidate or coerce all or part of a government or the civilian population, in furtherance of a social goal in the name of an environmental cause.

**“CHAPTER 1—INTERAGENCY COORDINATION****“SEC. 899D. AGRICULTURAL DISEASE LIAISONS.**

“(a) **AGRICULTURAL DISEASE MANAGEMENT LIAISON.**—The Secretary shall establish a senior level position within the Federal Emergency Management Agency to serve, as a primary responsibility, as a liaison for agricultural disease management between—

“(1) the Department; and

“(2)(A) the Federal Emergency Management Agency;

“(B) the Department of Agriculture;

“(C) other Federal agencies responsible for agricultural disease emergency response;

“(D) the emergency management community;

“(E) State emergency officials and agricultural officials; and

“(F) affected industries.

“(b) **ANIMAL HEALTH CARE LIAISON.**—The Secretary of Health and Human Services shall establish within the Department of Health and Human Services a senior level position to serve, as a primary responsibility, as a liaison between—

“(1) the Department of Health and Human Services; and

“(2)(A) the Department of Agriculture;

“(B) the animal health community;

“(C) the emergency management community; and

“(D) affected industries.

**“SEC. 899E. TRANSPORTATION.**

“The Secretary of Transportation, in consultation with the Secretary of Agriculture and the Secretary, shall—

“(1) publish in the Federal Register proposed guidelines for restrictions on interstate transportation of an agricultural commodity or product in response to an agricultural disease;

“(2) provide for a comment period for the proposed guidelines of not less than 90 days;

“(3) establish the final guidelines, taking into consideration any comments received under paragraph (2); and

“(4) provide the guidelines to officers and employees of—

“(A) the Department of Agriculture;

“(B) the Department of Transportation; and

“(C) the Department .

**“SEC. 899F. REGIONAL, STATE, AND LOCAL PREPARATION.**

“(a) **ENVIRONMENTAL PROTECTION AGENCY.**—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Agriculture, shall cooperate with regional, State, and local disaster preparedness officials to include consideration of potential environmental impacts of response activities in planning responses to agricultural diseases.

“(b) **DEPARTMENT OF AGRICULTURE.**—The Secretary of Agriculture, in consultation with the Secretary, shall—

“(1) develop and implement information-sharing procedures to provide information to and share information among Federal, regional, State, and local officials regarding agricultural threats, risks, and vulnerabilities; and

“(2) cooperate with State agricultural officials, State and local emergency managers, representatives from State land grant colleges and research universities, agricultural producers, and agricultural trade associations to establish local response plans for agricultural diseases.

“(c) **FEDERAL EMERGENCY MANAGEMENT AGENCY.**—The Director of the Federal Emergency Management Agency, in consultation with the Secretary of Agriculture, shall—

“(1) establish a task force, consisting of agricultural producers and State and local emergency response officials, to identify best practices for regional and State agricultural disease programs;

“(2) distribute to States and localities a report that describes the best practices; and

“(3) design and distribute packages containing exercises for training, based on the identified best practices, in the form of printed materials and electronic media, for distribution to State and local emergency managers and State agricultural officials.

**“SEC. 899G. STUDY ON FEASIBILITY OF ESTABLISHING A NATIONAL PLANT DISEASE LABORATORY.**

“Not later than 270 days after the date of enactment of this subtitle, the Secretary of Agriculture shall submit to the appropriate committees of Congress a report on the feasibility of establishing a national plant disease laboratory, based on the model of the Centers for Disease Control and Prevention, with the primary task of—

“(1) integrating and coordinating a nationwide system of independent plant disease diagnostic laboratories, including plant clinics maintained by land grant colleges and universities; and

“(2) increasing the capacity, technical infrastructure, and information-sharing capabilities of laboratories described in paragraph (1).

**“CHAPTER 2—INTERNATIONAL ACTIVITIES****“SEC. 899J. INTERNATIONAL AGRICULTURAL DISEASE SURVEILLANCE.**

“Not later than 1 year after the date of enactment of this subtitle, the Secretary of Agriculture, in consultation with the Secretary of State and the Administrator of the United States Agency for International Development, shall submit to the appropriate committees of Congress a report on measures taken by the Secretary of Agriculture—

“(1) to streamline the process of notification by the Secretary of Agriculture to Federal agencies in the event of agricultural diseases in foreign countries; and

“(2) to cooperate with representatives of foreign countries, international organizations, and industry to devise and implement methods of sharing information on international agricultural diseases and unusual agricultural activities.

**“SEC. 899K. INSPECTIONS OF IMPORTED AGRICULTURAL PRODUCTS.**

“The Secretary shall—

“(1) cooperate with the Secretary of Agriculture and appropriate Federal intelligence officials to improve the ability of the Department of Agriculture to identify agricultural commodities and products, livestock, and other goods imported from suspect locations recognized by the intelligence community as having—

“(A) experienced agricultural terrorist activities or unusual agricultural diseases; or

“(B) harbored agroterrorists; and

“(2) use the information collected under paragraph (1) to establish inspection priorities.

**“SEC. 899L. BILATERAL MUTUAL ASSISTANCE AGREEMENTS.**

“The Secretary of State, in coordination with the Secretary of Agriculture and the Secretary, shall—

“(1) enter into mutual assistance agreements with other countries for assistance in the event of an agricultural disease—

“(A) to provide training to veterinarians and agriculture specialists of the United States in the identification, diagnosis, and control of foreign agricultural diseases;

“(B) to provide resources and personnel to foreign governments with limited resources to respond to agricultural diseases; and

“(C) to participate in bilateral training programs and exercises; and

“(2) provide funding for personnel to participate in related exchange and training programs.

**“CHAPTER 3—RESPONSE ACTIVITIES****“SEC. 899O. STUDY ON FEASIBILITY OF ESTABLISHING A NATIONAL AGROTERRORISM AND ECOTERRORISM INCIDENT CLEARINGHOUSE.**

“Not later than 240 days after the date of enactment of this subtitle, the Attorney General, in conjunction with the Secretary of Agriculture, shall submit to the appropriate committees of Congress a report on the feasibility and estimated cost of establishing and maintaining a national agroterrorism incident clearinghouse to gather information for use in coordinating and assisting investigations on incidents of—

“(1) agroterrorism committed against or directed at—

“(A) any plant or animal enterprise; or

“(B) any person, because of any actual or perceived connection of the person with, or support by the person of, agriculture; and

“(2) ecoterrorism.

**SEC. 899P. REVIEW OF LEGAL AUTHORITY.**

“(a) IN GENERAL.—The Attorney General, in consultation with the Secretary of Agriculture, shall conduct a review of State and local laws relating to agroterrorism and biosecurity to determine—

“(1) the extent to which those laws facilitate or impede the implementation of current or proposed response plans with respect to agricultural diseases;

“(2) whether an injunction issued by a State court could—

“(A) delay the implementation of a Federal response plan; or

“(B) affect the extent to which an agricultural disease spreads; and

“(3) the types and extent of legal evidence that may be required by State courts before a response plan may be implemented.

“(b) REPORT.—Not later than 1 year after the date of enactment of this subtitle, the Attorney General shall submit to the appropriate committees of Congress a report that describes the results of the review conducted under subsection (a) (including any recommendations of the Attorney General).

**SEC. 899Q. INFORMATION SHARING.**

“The Secretary of Agriculture, in cooperation with the Attorney General, shall develop and implement a system to share information during all stages of an agroterrorist act.”

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (Public Law 107-296; 116 Stat. 2135) is amended by adding at the end of the items relating to title VIII the following:

“Subtitle J—Agricultural Biosecurity

“Sec. 899A. Definitions.

**CHAPTER 1—INTERAGENCY COORDINATION**

“Sec. 899D. Agricultural disease liaisons.

“Sec. 899E. Transportation.

“Sec. 899F. Regional, State, and local preparation.

“Sec. 899G. Study on feasibility of establishing a national plant disease laboratory.

**CHAPTER 2—INTERNATIONAL ACTIVITIES**

“Sec. 899J. International agricultural disease surveillance.

“Sec. 899K. Inspections of imported agricultural products.

“Sec. 899L. Bilateral mutual assistance agreements

**CHAPTER 3—LEGAL DEFINITIONS AND RESPONSE ACTIVITIES**

“Sec. 899O. Study on feasibility of establishing a national agroterrorism and ecoterrorism incident clearinghouse.

“Sec. 899P. Review of legal authority.

“Sec. 899Q. Information sharing.”

**SEC. 4. INCLUSION OF AGROTERRORISM IN TERRORIST ACTS INVOLVING WEAPONS OF MASS DESTRUCTION.**

Section 2332a(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking “or” at the end;

(2) in paragraph (3), by striking the comma at the end and inserting “; or”; and

(3) by inserting after paragraph (3) the following:

“(4) against private property, including property used for agricultural or livestock operations;”.

By Mr. BAUCUS:

S. 428. A bill to provide for the distribution of judgment funds to the Assiniboine and Sioux Tribes of the Fort Peck Reservation; to the Committee on Indian Affairs.

Mr. BAUCUS. Mr. President, I rise today to reintroduce a bill I had intro-

duced during the 107th Congress, which will provide for the use and distribution of judgment funds awarded to the Assiniboine and Sioux Tribes of the Fort Peck Reservation in northeast Montana.

In 1987, the Assiniboine and Sioux Tribes of the Fort Peck Reservation brought suit against the United States to recover interest earned on their trust funds while those funds were in Special Deposit and IMPL-Agency accounts. The case was filed in the U.S. Claims court, and docketed as No. 773-87-L.

After the court ruled that the United States was liable to the Fort Peck Tribes and individual Indians for interest on those funds, the tribes and the United States reached an agreement for settling the claims in the case, for the sum of \$4,522,551.84. The court approved the settlement agreement.

The settlement agreement further provided that the judgment be divided between the Fort Peck Tribes and those individual Indians who are found to be eligible to share in the judgment. On January 31, 2001, the court approved a stipulation between the parties that defined the procedures by which the Fort Peck Tribes' and individual Indians' respective shares in the judgment would be determined and distributed to them.

Pursuant to the court-approved stipulation in the case, on February 14, 2001, a portion of the tribe's share of the judgment was deposited into an account in Treasury for the use of the Fort Peck Tribes. As provided by the court-approved stipulation, those funds are to be available for immediate use by the tribe pursuant to a plan adopted under the Indian Tribal Judgment Funds Use or Distribution Act, 25 U.S.C. 1401 et seq. The court-approved stipulation further recognized that the tribe will most likely receive additional payments from this settlement once the work identifying all individuals eligible to share in the judgment is complete and the pro rata shares are finally computed. Those funds, too, are to be available for use by the tribe in accord with a plan adopted under the Tribal Judgment Funds Use or Distribution Act.

As required by the stipulation and the Tribal Judgment Funds Use or Distribution Act, the tribe developed a plan for the use of the tribe's share of the settlement. Under the plan, the Tribe's share of the judgment will be used for tribal health, education, housing, and social services programs.

The tribe submitted its plan to the Department of the Interior for review and approval. Public hearings were held during which the views and recommendations of tribal members were heard regarding the plan. The tribe has been advised that the Department of Interior has no objection to the tribe's plan and can approve it. However, although the plan was developed and public hearing held during 2001, the Interior Department did not complete its

review of the plan, nor submit the approved plan to Congress within the 1-year deadline imposed by the Tribal Judgment Funds Use or Distribution Act. As a result, in order for the Fort Peck Tribe to make use of the judgment awarded to the tribe, it is necessary for Congress to formally adopt legislation approving the tribe's plan. The proposed bill language, would serve this purpose.

This judgment is based on money that rightfully belongs to the Fort Peck tribes and should be moved expeditiously through Congress. I look forward to working with the Committee on Indian Affairs to move this legislation forward.

By Mrs. FEINSTEIN (for herself, Mr. KENNEDY, Mr. SCHUMER, Mr. CORZINE, Mr. LAUTENBERG, Mr. DURBIN, and Mr. LEVIN):

S. 429. A bill to amend the Internal Revenue Code of 1986 to regulate certain 50 caliber sniper weapons in the same manner as machine guns and other firearms, and for other purposes; to the Committee on Finance.

Mrs. FEINSTEIN. Mr. President, I rise on behalf of myself and Senators KENNEDY, SCHUMER, CORZINE, LAUTENBERG, DURBIN, and LEVIN to introduce the “Anti-Terrorism Military Sniper Weapon Reclassification Act of 2003.”

This bill, identical to legislation I have introduced in the last two Congresses, will reclassify powerful fifty-caliber military sniper rifles under the National Firearms Act, thus making it much more difficult for terrorists, doomsday cults, and criminals to obtain these guns for illegitimate use.

Fifty-caliber sniper rifles, manufactured by a small handful of companies and individuals, are deadly, military style assault weapons, designed for armed combat with wartime enemies. They weigh up to 28 pounds and are capable of piercing light armor at more than 4 miles. The guns enable a single shooter to destroy enemy aircraft, jeeps, tanks, personnel carriers, bunkers, fuel stations, and even communication centers. As a result, their use by military organizations worldwide has been spreading rapidly.

But along with the increasing military use of the gun, we have also seen increased use of the weapon by violent criminals and terrorists around the world.

These weapons are deadly accurate up to 2,000 yards. This means that a shooter using a 50-caliber weapon can reliably hit a target more than a mile away. In fact, according to a training manual for military and police snipers published in 1993, a bullet from this gun “even at one and a half miles crashes into a target with more energy than Dirty Harry's famous .44 magnum at point-blank” range.

And the gun is “effective” up to 7,500 yards. In other words, although it may be hard to aim at this distance, the gun will have its desired destructive effect at that distance—more than 4 miles from the target.

The weapon can penetrate several inches of steel, concrete, or even light armor. In fact, many ranges used for target practice do not even have enough safety features to accommodate these guns—they are just too powerful.

Recent advances in weapons technology allow this gun to be used by civilians against armored limousines, bunkers, individuals, and even aircraft—in fact, one advertisement for the gun apparently promoted the weapon as able to “wreck several million dollars’ worth of jet aircraft with one or two dollars worth of cartridge.”

This gun is so powerful that one dealer told undercover GAO investigators “You’d better buy one soon. It’s only a matter of time before someone lets go a round on a range that travels so far, it hits a school bus full of kids. The government will definitely ban .50-calibers. This gun is just too powerful.”

When I first introduced this bill, I commented that a study by the General Accounting Office revealed some eye-opening facts about how and where this gun is used, and how easily it is obtained. The GAO reports that many of these guns wind up in the hands of domestic and international terrorists, religious cults, outlaw motorcycle gangs, drug traffickers, and violent criminals.

According to a special agent at ATF’s Atlanta Field Division, the Barrett .50-caliber rifle is “a devastatingly powerful weapon against which most troops, most law enforcement and no civilians have any means of defense.” He added that the rifle is “a tremendous threat” for “those most shocking and horrifying crimes, assassinations, murders, assaults on law enforcement officers.”

In 1998, Federal law enforcement apprehended three men belonging to a radical Michigan militia group. The three were charged with plotting to bomb Federal office buildings, destroy highways and utilities. They were also charged with plotting to assassinate the State’s Governor, a U.S. Senator and Federal judges. A .50-caliber sniper rifle was found in their possession along with a cache of weapons that included three illegal machine guns.

One doomsday cult headquartered in Montana purchased 10 of these guns and stockpiled them in an underground bunker, along with thousands of rounds of ammunition and other guns.

At least one .50-caliber gun was recovered by Mexican authorities after a shoot-out with an international drug cartel in that country. The gun was originally purchased in Wyoming, so it is clear that the guns are making their way into the hands of criminals worldwide.

Another .50-caliber sniper rifle, smuggled out of the United States, was used by the Irish Republican Army to kill a large number of British soldiers.

Even more recently we have learned that Al Qaeda has received .50-caliber sniper rifles—rifles that were manufac-

ured right here in the United States. Nearly 2 years ago today, Essam al Ridi, a U.S. agent for Al Qaeda, testified that he acquired 25 Barrett .50-caliber sniper rifles and shipped them to Al Qaeda members in Afghanistan. We have no way of knowing whether Al Qaeda has obtained more or who has supplied them with these weapons, but we can be sure that any .50-caliber weapon in the hands of Al Qaeda will almost certainly be used against Americans or American interests.

Ammunition for these guns is also readily available, even over the Internet. Bullets for these guns include “armor piercing incendiary” ammunition that explodes on impact, and even “armor piercing tracing” ammunition reminiscent of the ammunition that lit up the skies over Baghdad during the Persian Gulf war.

Several ammunition dealers were willing to sell armor piercing ammunition to an undercover GAO investigator even after the investigator said he wanted the ammunition to pierce an armored limousine or maybe to “take down” a helicopter. In fact, our own military helps to provide thousands of rounds of .50-caliber ammunition, by essentially giving away tons of spent cartridges, many of which are then refurbished and sold on the civilian market.

This bill will begin the process of making these guns harder to get and easier to track.

Current law classifies .50-caliber guns as “long guns,” subject to the least government regulation for any firearm. Sawed-off shotguns, machine guns, and even handguns are more highly regulated than this military sniper rifle. In fact, many States allow possession of .50-caliber guns by those as young as 14 years old, and there is no regulation on second-hand sales.

Essentially, this bill would reclassify .50-caliber guns under the National Firearms Act, which imposes far stricter standards on powerful and destruction weapons. For instance: NFA guns may only be purchased from a licensed dealer, and not second-hand. This will prevent the sale of these guns at gun shows and in other venues that make it hard for law enforcement to track the weapons.

Second, purchasers of NFA guns must fill out license transfer applications and provide fingerprints to be processed by the FBI in detailed criminal background checks. By reclassifying the .50-caliber, Congress will be making a determination that sellers should be more careful about to whom they give these powerful, military guns.

ATF reports that this background check process takes about 60 days, so prospective gun buyers will face some delay. However, legitimate purchasers of this \$7,000 gun can certainly wait that long.

Clearly, placing a few more restrictions on who can get these guns and how is simply common sense. This bill

will not ban the sale, use or possession of .50-caliber weapons. The .50-caliber shooting club will not face extinction, and “legitimate” purchasers of these guns will not lose their access—even though that, too, might be a reasonable step, since I cannot imagine a legitimate use of this gun.

I do not view the reclassification of .50-caliber weapons so much as an issue of firearm safety, but rather as a matter of national security. And I can say for a fact that I am not alone in that view.

Indeed the U.S. Air Force has studied the scenario of a potential terrorist attack with a .50-caliber weapon. According to a November 2001 article in the Air Force’s official magazine, *Airman*, an antisniper assessment claimed that planes parked on a fully protected U.S. airbase are as vulnerable as “ducks on a pond” because the weapons can shoot from beyond most airbase perimeters. The Air Force has addressed the issue and the effectiveness of specially trained countersnipers to respond to a .50-caliber weapon attack on aircraft, fuel tanks, control towers, and personnel.

While I am glad to know our military has given due consideration to the threats posed by .50-caliber weapons, I have real concerns over the threats posed to civilian aviation.

Our Nation’s airports in no way match the security measures at air force bases. These commercial facilities handle millions of passengers and tons of cargo each day and are especially vulnerable to the threats posed by .50-caliber weapons.

The threats to civilian aviation have been made abundantly clear over the last year and a half. The events of September 11 certainly showed the ability of terrorists to find loopholes in aviation security.

The recent attack on an Israeli airliner last November in Kenya serves as an example of the threat these weapons pose. Less than 4 months ago, an Israeli airliner, loaded with hundreds of innocent civilians, became the target of a terrorist attack. Two heat-seeking, Russian-made missiles known as SA-7s were launched at Arkia Flight 582 a few minutes after it took off from the Mombasa airport bound for Israel.

Fortunately, the two missiles passed by the jet, and the flight, with 271 people on board, was able to land safely in Tel Aviv a few hours later. A shoulder-fire missile launcher was found on the ground near the airport.

A previously unknown group calling itself the Army of Palestine claimed responsibility for the attacks, but government officials in Kenya and Israel, along with terrorism experts, said the operation was well coordinated and bore the trademarks of Al Qaeda or an affiliated group.

This type of attack, one on civilian aircraft, is exactly the sort that a .50-caliber weapon is capable of. Experts have agreed that .50-caliber weapons aimed at a plane while stationary, or

taking off or arriving could be just as disastrous as a hit from a missile launcher. Gal Luft, co-Director of the Institute for the Analysis of Global Security has described .50-caliber weapons as "lethal to slow moving planes."

For further assurance of the potential destruction of these weapons, simply listen to the manufacturers themselves. According to a Barrett Firearms Manufacturing Model 82A1 .50 caliber sniper rifle brochure.

"The cost effectiveness of the Model 82A1 cannot be overemphasized when a round of ammunition purchased for less than 10 U.S. dollars can be used to destroy or disable a modern jet aircraft. The compressor sections of jet engines or the transmissions of helicopters are likely targets for the weapon, making it capable of destroying multimillion dollar aircraft with a single hit delivered to a vital area."

The Nordic Ammunition Company is the developer of the Raufoss multipurpose ammunition for .50-caliber weapons that combines armor-piercing, incendiary, and explosive features and was used by U.S. forces during the gulf war. According to the company, the ammunition can ignite military jet fuel and has "the equivalent firing power of a 20-mm projectile to include such targets as helicopters, aircrafts, light armor vehicles, ships, and light fortifications."

The bill will simply place stricter requirements on the way in which these guns can be sold, and to whom. The measure is meant to offer a reasoned solution to making it harder for terrorists, assassins, and other criminals to obtain these powerful weapons. If we are to continue to allow private citizens to own and use guns of this caliber, range, and destructive power, we should at the very least take greater care in making sure that these guns do no fall into the wrong hands.

I urge my colleagues to support this bill.

By Mr. VOINOVICH:

S. 431. A bill to amend the Solid Waste Disposal Act to impose certain limits on the receipt of out-of-State municipal solid waste; to the Committee on Environment and Public Works.

Mr. VOINOVICH. Mr. President, I rise today to introduce legislation that will allow States to finally obtain relief from the seemingly endless stream of solid waste that is flowing into States like Ohio, Pennsylvania, Indiana, Michigan, Virginia and many others.

My bill, "the Municipal Solid Waste Interstate Transportation and Local Authority Act," gives State and local governments the tools they need to limit garbage imports from other States and manage their own waste within their own States.

Ohio receives more than 1.5 million tons of municipal solid waste annually from other States and this number has been increasing regularly. In fact, esti-

mates for 2001 indicate that Ohio imported almost 2 million tons of municipal solid waste, which is almost 600,000 more tons of waste than Ohio imported in 1997. While I am pleased that these shipments have been reduced since our record high of 3.7 million tons in 1989, I believe it is still entirely too high.

Because it is cheap and because it is expedient, communities in other States have simply put their garbage on trains or on trucks and shipped it to be landfilled in States like Ohio, Indiana, Michigan, Pennsylvania and Virginia. This is wrong and it has to stop.

Many State and local governments in importing States have worked hard to develop strategies to reduce waste and plan for future disposal needs. As Governor of Ohio, I worked aggressively to limit shipments of out-of-state waste into Ohio through voluntary cooperation of Ohio landfill operators and agreements with other States. We saw limited relief. Ohio has no assurance that our out-of-state waste numbers won't rise significantly, particularly in light of the closure of the Fresh Kills landfill on Staten Island in 2001. Unfortunately, the Federal courts have prevented States from enacting laws to protect our natural resources from being utilized as landfill space. What has emerged is an unnatural pattern where Ohio and other States—both importing and exporting—have tried to take reasonable steps to encourage conservation and local disposal, only to be undermined by a barrage of court decisions at every turn.

Quite frankly, State and local governments' hands are tied. Lacking a specific delegation of authority from Congress, States that have acted responsibly to implement environmentally sound waste disposal plans and recycling programs are still being subjected to a flood of out-of-state waste. In Ohio, this has undermined our recycling efforts because Ohioans continue to ask why they should recycle to conserve landfill space when it is being used for other States' trash. Our citizens already have to live with the consequences of large amounts of out-of-state waste—increased noise, traffic, wear and tear on our roads and litter that is blown onto private homes, schools and businesses.

Ohio and many other States have taken comprehensive steps to protect our resources and address a significant environmental threat. However, excessive, uncontrolled waste disposal from other States has limited the ability of Ohioans to protect their environment, health and safety. I do not believe the Commerce Clause requires us to service other States at the expense of our own citizens' efforts.

A national solution is long overdue. When I became Governor of Ohio in 1991, I joined a coalition with other Midwest Governors—Governor Bayh, now Senator BAYH, of Indiana, Governor Engler of Michigan and Governor Casey, and later Governors Ridge and O'Bannon, of Pennsylvania—to try to

pass effective interstate waste and flow control legislation.

In 1996, Midwest Governors were asked by Congress to reach an agreement with Governors Whitman and Pataki on interstate waste provisions. Our States quickly came to an agreement with New Jersey—the second largest exporting State—on interstate waste provisions. We began discussions with New York, but these were put on hold indefinitely in the wake of their May, 1996 announcement to close the Fresh Kills landfill.

The bill that I am introducing today reflects the agreement that my State, along with Indiana, Michigan and Pennsylvania, reached with then-Governor Whitman.

For Ohio, the most important aspect of this bill is the ability for States to limit future waste flows. For instance, they would have the option to set a "permit cap," which would allow a State to impose a percentage limit on the amount of out-of-state waste that a new facility or expansion of an existing facility could receive annually. Or, a State could choose a provision giving them the authority to deny a permit for a new facility if it is determined that there is not a local or in-state regional need for that facility.

These provisions provide assurances to Ohio and other States that new facilities will not be built primarily for the purpose of receiving out-of-state waste. For instance, in 1996, Ohio EPA had to issue a permit for a landfill that was bidding to take 5,000 tons of garbage a day—approximately 1.5 million tons a year—from Canada alone, which would have doubled the amount of out-of-state waste entering Ohio. Thankfully this landfill lost the Canadian bid. Ironically though, the waste company put their plans on hold to build the facility because there is not enough need for the facility in the State and they need to ensure a steady out-of-state waste flow to make the plan feasible.

In addition, this bill would ensure that landfills and incinerators could not receive trash from other States until local governments approve its receipt. States could also freeze their out-of-state waste at 1993 levels, while some States would be able to reduce these levels to 65 percent by the year 2008. This bill also allows States to reduce the amount of construction and demolition debris they receive by 50 percent in 2014 at the earliest.

States also could impose up to a \$3-per-ton cost recovery surcharge on out-of-state waste. This fee would help provide States with the funding necessary to implement solid waste management programs.

Unfortunately, efforts to place reasonable restrictions on out-of-state waste shipments have been perceived by some as an attempt to ban all out-of-state trash. On the contrary, I am not asking for outright authority for States to prohibit all out-of-state waste, nor am I seeking to prohibit

waste from any one State. I am merely asking for reasonable tools that will enable State and local governments to act responsibly to manage their own waste and limit unreasonable waste imports from other States. Such measures would give substantial authority to limit imports and plan facilities around each States' needs.

I believe the time is right to consider and pass an effective interstate waste bill. The bill I am introducing today is a consensus of importing and exporting States—States that have willingly come forward to offer a reasonable solution.

Congress must act this year to give citizens in Ohio and other affected States the relief they need from the truckloads of waste that daily pass through their communities. We have waited too long for a solution. Congress must act now to prevent this problem from spreading further to our neighbors out West and to help our neighbors in the East better manage the trash they generate.

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. 431

*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 "Municipal Solid Waste Interstate Transportation and Local Authority Act of 2003".

**SEC. 2. AUTHORITY TO PROHIBIT OR LIMIT RECEIPT OF OUT-OF-STATE MUNICIPAL SOLID WASTE AT EXISTING FACILITIES.**

(a) IN GENERAL.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following:

**"SEC. 4011. AUTHORITY TO PROHIBIT OR LIMIT RECEIPT OF OUT-OF-STATE MUNICIPAL SOLID WASTE AT EXISTING FACILITIES.**

"(a) DEFINITIONS.—In this section:

"(1) AFFECTED LOCAL GOVERNMENT.—The term 'affected local government', with respect to a facility, means—

"(A) the public body authorized by State law to plan for the management of municipal solid waste for the area in which the facility is located or proposed to be located, a majority of the members of which public body are elected officials;

"(B) in a case in which there is no public body described in subparagraph (A), the elected officials of the city, town, township, borough, county, or parish selected by the Governor and exercising primary responsibility over municipal solid waste management or the use of land in the jurisdiction in which the facility is located or proposed to be located; or

"(C) in a case in which there is in effect an agreement or compact under section 105(b), contiguous units of local government located in each of 2 or more adjoining States that are parties to the agreement, for purposes of providing authorization under subsection (b), (c), or (d) for municipal solid waste generated in the jurisdiction of 1 of those units of local government and received in the jurisdiction of another of those units of local government.

"(2) AUTHORIZATION TO RECEIVE OUT-OF-STATE MUNICIPAL SOLID WASTE.—

"(A) IN GENERAL.—The term 'authorization to receive out-of-State municipal solid waste' means a provision contained in a host community agreement or permit that specifically authorizes a facility to receive out-of-State municipal solid waste.

"(B) SPECIFIC AUTHORIZATION.—

"(i) SUFFICIENT FORMULATIONS.—For the purposes of subparagraph (A), only the following, shall be considered to specifically authorize a facility to receive out-of-State municipal solid waste:

"(I) an authorization to receive municipal solid waste from any place within a fixed radius surrounding the facility that includes an area outside the State;

"(II) an authorization to receive municipal solid waste from any place of origin in the absence of any provision limiting those places of origin to places inside the State;

"(III) an authorization to receive municipal solid waste from a specifically identified place or places outside the State; or

"(IV) a provision that uses such a phrase as 'regardless of origin' or 'outside the State' in reference to municipal solid waste.

"(ii) INSUFFICIENT FORMULATIONS.—For the purposes of subparagraph (A), either of the following, by itself, shall not be considered to specifically authorize a facility to receive out-of-State municipal solid waste:

"(I) A general reference to the receipt of municipal solid waste from outside the jurisdiction of the affected local government.

"(II) An agreement to pay a fee for the receipt of out-of-State municipal solid waste.

"(C) FORM OF AUTHORIZATION.—To qualify as an authorization to receive out-of-State municipal solid waste, a provision need not be in any particular form; a provision shall so qualify so long as the provision clearly and affirmatively states the approval or consent of the affected local government or State for receipt of municipal solid waste from places of origin outside the State.

"(3) DISPOSAL.—The term 'disposal' includes incineration.

"(4) EXISTING HOST COMMUNITY AGREEMENT.—The term 'existing host community agreement' means a host community agreement entered into before January 1, 2003.

"(5) FACILITY.—The term 'facility' means a landfill, incinerator, or other enterprise that received municipal solid waste before the date of enactment of this section.

"(6) GOVERNOR.—The term 'Governor', with respect to a facility, means the chief executive officer of the State in which a facility is located or proposed to be located or any other officer authorized under State law to exercise authority under this section.

"(7) HOST COMMUNITY AGREEMENT.—The term 'host community agreement' means a written, legally binding agreement, lawfully entered into between an owner or operator of a facility and an affected local government that contains an authorization to receive out-of-State municipal solid waste.

"(8) MUNICIPAL SOLID WASTE.—

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

"(i) material discarded for disposal by—

"(I) households (including single and multifamily residences); and

"(II) public lodgings such as hotels and motels; and

"(ii) material discarded for disposal that was generated by commercial, institutional, and industrial sources, to the extent that the material—

"(I) is essentially the same as material described in clause (i); or

"(II) is collected and disposed of with material described in clause (i) as part of a normal municipal solid waste collection service.

"(B) INCLUSIONS.—The term 'municipal solid waste' includes—

"(i) appliances;

"(ii) clothing;

"(iii) consumer product packaging;

"(iv) cosmetics;

"(v) disposable diapers;

"(vi) food containers made of glass or metal;

"(vii) food waste;

"(viii) household hazardous waste;

"(ix) office supplies;

"(x) paper; and

"(xi) yard waste.

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

"(i) solid waste identified or listed as a hazardous waste under section 3001, except for household hazardous waste;

"(ii) solid waste resulting from—

"(I) a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9604, 9606);

"(II) a response action taken under a State law with authorities comparable to the authorities contained in either of those sections; or

"(III) a corrective action taken under this Act;

"(iii) recyclable material—

"(I) that has been separated, at the source of the material, from waste destined for disposal; or

"(II) that has been managed separately from waste destined for disposal, including scrap rubber to be used as a fuel source;

"(iv) a material or product returned from a dispenser or distributor to the manufacturer or an agent of the manufacturer for credit, evaluation, and possible potential reuse;

"(v) solid waste that is—

"(I) generated by an industrial facility; and

"(II) transported for the purpose of treatment, storage, or disposal to a facility (which facility is in compliance with applicable State and local land use and zoning laws and regulations) or facility unit—

"(aa) that is owned or operated by the generator of the waste;

"(bb) that is located on property owned by the generator of the waste or a company with which the generator is affiliated; or

"(cc) the capacity of which is contractually dedicated exclusively to a specific generator;

"(vi) medical waste that is segregated from or not mixed with solid waste;

"(vii) sewage sludge or residuals from a sewage treatment plant; or

"(viii) combustion ash generated by a resource recovery facility or municipal incinerator.

"(9) NEW HOST COMMUNITY AGREEMENT.—The term 'new host community agreement' means a host community agreement entered into on or after the date of enactment of this section.

"(10) OUT-OF-STATE MUNICIPAL SOLID WASTE.—

"(A) IN GENERAL.—The term 'out-of-State municipal solid waste', with respect to a State, means municipal solid waste generated outside the State.

"(B) INCLUSION.—The term 'out-of-State municipal solid waste' includes municipal solid waste generated outside the United States.

"(11) RECEIVE.—The term 'receive' means receive for disposal.

"(12) RECYCLABLE MATERIAL.—

"(A) IN GENERAL.—The term 'recyclable material' means a material that may feasibly be used as a raw material or feedstock in place of or in addition to, virgin material in the manufacture of a usable material or product.

"(B) VIRGIN MATERIAL.—In subparagraph (A), the term 'virgin material' includes petroleum.

“(b) PROHIBITION OF RECEIPT FOR DISPOSAL OF OUT-OF-STATE WASTE.—No facility may receive for disposal out-of-State municipal solid waste except as provided in subsections (c), (d), and (e).

“(c) EXISTING HOST COMMUNITY AGREEMENTS.—

“(1) IN GENERAL.—Subject to subsection (f), a facility operating under an existing host community agreement may receive for disposal out-of-State municipal solid waste if—

“(A) the owner or operator of the facility has complied with paragraph (2); and

“(B) the owner or operator of the facility is in compliance with all of the terms and conditions of the host community agreement.

“(2) PUBLIC INSPECTION OF AGREEMENT.—Not later than 90 days after the date of enactment of this section, the owner or operator of a facility described in paragraph (1) shall—

“(A) provide a copy of the existing host community agreement to the State and affected local government; and

“(B) make a copy of the existing host community agreement available for inspection by the public in the local community.

“(d) NEW HOST COMMUNITY AGREEMENTS.—

“(1) IN GENERAL.—Subject to subsection (f), a facility operating under a new host community agreement may receive for disposal out-of-State municipal solid waste if—

“(A) the agreement meets the requirements of paragraphs (2) through (5); and

“(B) the owner or operator of the facility is in compliance with all of the terms and conditions of the host community agreement.

“(2) REQUIREMENTS FOR AUTHORIZATION.—

“(A) IN GENERAL.—Authorization to receive out-of-State municipal solid waste under a new host community agreement shall—

“(i) be granted by formal action at a meeting;

“(ii) be recorded in writing in the official record of the meeting; and

“(iii) remain in effect according to the terms of the new host community agreement.

“(B) SPECIFICATIONS.—An authorization to receive out-of-State municipal solid waste shall specify terms and conditions, including—

“(i) the quantity of out-of-State municipal solid waste that the facility may receive; and

“(ii) the duration of the authorization.

“(3) INFORMATION.—Before seeking an authorization to receive out-of-State municipal solid waste under a new host community agreement, the owner or operator of the facility seeking the authorization shall provide (and make readily available to the State, each contiguous local government and Indian tribe, and any other interested person for inspection and copying) the following:

“(A) A brief description of the facility, including, with respect to the facility and any planned expansion of the facility, a description of—

“(i) the size of the facility;

“(ii) the ultimate municipal solid waste capacity of the facility; and

“(iii) the anticipated monthly and yearly volume of out-of-State municipal solid waste to be received at the facility.

“(B) A map of the facility site that indicates—

“(i) the location of the facility in relation to the local road system;

“(ii) topographical and general hydrogeological features;

“(iii) any buffer zones to be acquired by the owner or operator; and

“(iv) all facility units.

“(C) A description of—

“(i) the environmental characteristics of the site, as of the date of application for authorization;

“(ii) ground water use in the area, including identification of private wells and public drinking water sources; and

“(iii) alterations that may be necessitated by, or occur as a result of, operation of the facility.

“(D) A description of—

“(i) environmental controls required to be used on the site (under permit requirements), including—

“(I) run-on and run off management;

“(II) air pollution control devices;

“(III) source separation procedures;

“(IV) methane monitoring and control;

“(V) landfill covers;

“(VI) landfill liners or leachate collection systems; and

“(VII) monitoring programs; and

“(ii) any waste residuals (including leachate and ash) that the facility will generate, and the planned management of the residuals.

“(E) A description of site access controls to be employed by the owner or operator and road improvements to be made by the owner or operator, including an estimate of the timing and extent of anticipated local truck traffic.

“(F) A list of all required Federal, State, and local permits.

“(G) Estimates of the personnel requirements of the facility, including—

“(i) information regarding the probable skill and education levels required for job positions at the facility; and

“(ii) to the extent practicable, a distinction between preoperational and postoperational employment statistics of the facility.

“(H) Any information that is required by State or Federal law to be provided with respect to—

“(i) any violation of environmental law (including regulations) by the owner or operator or any subsidiary of the owner or operator;

“(ii) the disposition of any enforcement proceeding taken with respect to the violation; and

“(iii) any corrective action and rehabilitation measures taken as a result of the proceeding.

“(I) Any information that is required by Federal or State law to be provided with respect to compliance by the owner or operator with the State solid waste management plan.

“(J) Any information that is required by Federal or State law to be provided with respect to gifts and contributions made by the owner or operator.

“(4) ADVANCE NOTIFICATION.—Before taking formal action to grant or deny authorization to receive out-of-State municipal solid waste under a new host community agreement, an affected local government shall—

“(A) notify the State, contiguous local governments, and any contiguous Indian tribes;

“(B) publish notice of the proposed action in a newspaper of general circulation at least 15 days before holding a hearing under subparagraph (C), except where State law provides for an alternate form of public notification; and

“(C) provide an opportunity for public comment in accordance with State law, including at least 1 public hearing.

“(5) SUBSEQUENT NOTIFICATION.—Not later than 90 days after an authorization to receive out-of-State municipal solid waste is granted under a new host community agreement, the affected local government shall give notice of the authorization to—

“(A) the Governor;

“(B) contiguous local governments; and

“(C) any contiguous Indian tribes.

“(e) RECEIPT FOR DISPOSAL OF OUT-OF-STATE MUNICIPAL SOLID WASTE BY FACILITIES

NOT SUBJECT TO HOST COMMUNITY AGREEMENTS.—

“(1) PERMIT.—

“(A) IN GENERAL.—Subject to subsection (f), a facility for which, before the date of enactment of this section, the State issued a permit containing an authorization may receive out-of-State municipal solid waste if—

“(i) not later than 90 days after the date of enactment of this section, the owner or operator of the facility notifies the affected local government of the existence of the permit; and

“(ii) the owner or operator of the facility complies with all of the terms and conditions of the permit after the date of enactment of this section.

“(B) DENIED OR REVOKED PERMITS.—A facility may not receive out-of-State municipal solid waste under subparagraph (A) if the operating permit for the facility (or any renewal of the operating permit) was denied or revoked by the appropriate State agency before the date of enactment of this section unless the permit or renewal was granted, renewed, or reinstated before that date.

“(2) DOCUMENTED RECEIPT DURING 1993.—

“(A) IN GENERAL.—Subject to subsection (f), a facility that, during 1993, received out-of-State municipal solid waste may receive out-of-State municipal solid waste if the owner or operator of the facility submits to the State and to the affected local government documentation of the receipt of out-of-State municipal solid waste during 1993, including information about—

“(i) the date of receipt of the out-of-State municipal solid waste;

“(ii) the volume of out-of-State municipal solid waste received in 1993;

“(iii) the place of origin of the out-of-State municipal solid waste received; and

“(iv) the type of out-of-State municipal solid waste received.

“(B) FALSE OR MISLEADING INFORMATION.—Documentation submitted under subparagraph (A) shall be made under penalty of perjury under State law for the submission of false or misleading information.

“(C) AVAILABILITY OF DOCUMENTATION.—The owner or operator of a facility that receives out-of-State municipal solid waste under subparagraph (A)—

“(i) shall make available for inspection by the public in the local community a copy of the documentation submitted under subparagraph (A); but

“(ii) may omit any proprietary information contained in the documentation.

“(3) BI-STATE METROPOLITAN STATISTICAL AREAS.—

“(A) IN GENERAL.—A facility in a State may receive out-of-State municipal solid waste if the out-of-State municipal solid waste is generated in, and the facility is located in, the same bi-State level A metropolitan statistical area (as defined and listed by the Director of the Office of Management and Budget as of the date of enactment of this section) that contains 2 contiguous major cities, each of which is in a different State.

“(B) GOVERNOR AGREEMENT.—A facility described in subparagraph (A) may receive out-of-State municipal solid waste only if the Governor of each State in the bi-State metropolitan statistical area agrees that the facility may receive out-of-State municipal solid waste.

“(f) REQUIRED COMPLIANCE.—A facility may not receive out-of-State municipal solid waste under subsection (c), (d), or (e) at any time at which the State has determined that—

“(1) the facility is not in compliance with applicable Federal and State laws (including regulations) relating to—

“(A) facility design and operation; and

“(B) facility design and operation; and

“(C) facility design and operation; and

“(D) facility design and operation; and

“(E) facility design and operation; and

“(F) facility design and operation; and

“(G) facility design and operation; and

“(H) facility design and operation; and

“(I) facility design and operation; and

“(J) facility design and operation; and

“(K) facility design and operation; and

“(L) facility design and operation; and

“(M) facility design and operation; and

“(N) facility design and operation; and

“(B)(i) in the case of a landfill—

“(I) facility location standards;

“(II) leachate collection standards;

“(III) ground water monitoring standards; and

“(IV) standards for financial assurance and for closure, postclosure, and corrective action; and

“(ii) in the case of an incinerator, the applicable requirements of section 129 of the Clean Air Act (42 U.S.C. 7429); and

“(2) the noncompliance constitutes a threat to human health or the environment.

“(g) AUTHORITY TO LIMIT RECEIPT OF OUT-OF-STATE MUNICIPAL SOLID WASTE.—

“(I) LIMITS ON QUANTITY OF WASTE RECEIVED.—

“(A) LIMIT FOR ALL FACILITIES IN THE STATE.—

“(i) IN GENERAL.—A State may limit the quantity of out-of-State municipal solid waste received annually at each facility in the State to the quantity described in paragraph (2).

“(ii) NO CONFLICT.—

“(I) IN GENERAL.—A limit under clause (i) shall not conflict with—

“(aa) an authorization to receive out-of-State municipal solid waste contained in a permit; or

“(bb) a host community agreement entered into between the owner or operator of a facility and the affected local government.

“(II) CONFLICT.—A limit shall be treated as conflicting with a permit or host community agreement if the permit or host community agreement establishes a higher limit, or if the permit or host community agreement does not establish a limit, on the quantity of out-of-State municipal solid waste that may be received annually at the facility.

“(B) LIMIT FOR PARTICULAR FACILITIES.—

“(i) IN GENERAL.—An affected local government that has not executed a host community agreement with a particular facility may limit the quantity of out-of-State municipal solid waste received annually at the facility to the quantity specified in paragraph (2).

“(ii) NO CONFLICT.—A limit under clause (i) shall not conflict with an authorization to receive out-of-State municipal solid waste contained in a permit.

“(C) EFFECT ON OTHER LAWS.—Nothing in this subsection supersedes any State law relating to contracts.

“(2) LIMIT ON QUANTITY.—

“(A) IN GENERAL.—For any facility that commenced receiving documented out-of-State municipal solid waste before the date of enactment of this section, the quantity referred to in paragraph (1) for any year shall be equal to the quantity of out-of-State municipal solid waste received at the facility during calendar year 1993.

“(B) DOCUMENTATION.—

“(i) CONTENTS.—Documentation submitted under subparagraph (A) shall include information about—

“(I) the date of receipt of the out-of-State municipal solid waste;

“(II) the volume of out-of-State municipal solid waste received in 1993;

“(III) the place of origin of the out-of-State municipal solid waste received; and

“(IV) the type of out-of-State municipal solid waste received.

“(ii) FALSE OR MISLEADING INFORMATION.—Documentation submitted under subparagraph (A) shall be made under penalty of perjury under State law for the submission of false or misleading information.

“(3) NO DISCRIMINATION.—In establishing a limit under this subsection, a State shall act in a manner that does not discriminate against any shipment of out-of-State municipal solid waste on the basis of State of origin.

“(h) AUTHORITY TO LIMIT RECEIPT OF OUT-OF-STATE MUNICIPAL SOLID WASTE TO DECLINING PERCENTAGES OF QUANTITIES RECEIVED DURING 1993.—

“(I) IN GENERAL.—A State in which facilities received more than 650,000 tons of out-of-State municipal solid waste in calendar year 1993 may establish a limit on the quantity of out-of-State municipal solid waste that may be received at all facilities in the State described in subsection (e)(2) in the following quantities:

“(A) In calendar year 2004, 95 percent of the quantity received in calendar year 1993.

“(B) In each of calendar years 2005 through 2008, 95 percent of the quantity received in the previous year.

“(C) In each calendar year after calendar year 2008, 65 percent of the quantity received in calendar year 1993.

“(2) UNIFORM APPLICABILITY.—A limit under paragraph (1) shall apply uniformly—

“(A) to the quantity of out-of-State municipal solid waste that may be received at all facilities in the State that received out-of-State municipal solid waste in calendar year 1993; and

“(B) for each facility described in clause (i), to the quantity of out-of-State municipal solid waste that may be received from each State that generated out-of-State municipal solid waste received at the facility in calendar year 1993.

“(3) NOTICE.—Not later than 90 days before establishing a limit under paragraph (1), a State shall provide notice of the proposed limit to each State from which municipal solid waste was received in calendar year 1993.

“(4) ALTERNATIVE AUTHORITIES.—If a State exercises authority under this subsection, the State may not thereafter exercise authority under subsection (g).

“(i) COST RECOVERY SURCHARGE.—

“(1) DEFINITIONS.—In this subsection:

“(A) COST.—The term ‘cost’ means a cost incurred by the State for the implementation of State laws governing the processing, combustion, or disposal of municipal solid waste, limited to—

“(i) the issuance of new permits and renewal of or modification of permits;

“(ii) inspection and compliance monitoring;

“(iii) enforcement; and

“(iv) costs associated with technical assistance, data management, and collection of fees.

“(B) PROCESSING.—The term ‘processing’ means any activity to reduce the volume of municipal solid waste or alter the chemical, biological or physical state of municipal solid waste, through processes such as thermal treatment, bailing, composting, crushing, shredding, separation, or compaction.

“(2) AUTHORITY.—A State may authorize, impose, and collect a cost recovery charge on the processing or disposal of out-of-State municipal solid waste in the State in accordance with this subsection.

“(3) AMOUNT OF SURCHARGE.—The amount of a cost recovery surcharge—

“(A) may be no greater than the amount necessary to recover those costs determined in conformance with paragraph (5); and

“(B) in no event may exceed \$3.00 per ton of waste.

“(4) USE OF SURCHARGE COLLECTED.—All cost recovery surcharges collected by a State under this subsection shall be used to fund solid waste management programs, administered by the State or a political subdivision of the State, that incur costs for which the surcharge is collected.

“(5) CONDITIONS.—

“(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a State may impose and collect a cost recovery surcharge on the

processing or disposal within the State of out-of-State municipal solid waste if—

“(i) the State demonstrates a cost to the State arising from the processing or disposal within the State of a volume of municipal solid waste from a source outside the State;

“(ii) the surcharge is based on those costs to the State demonstrated under subparagraph (A) that, if not paid for through the surcharge, would otherwise have to be paid or subsidized by the State; and

“(iii) the surcharge is compensatory and is not discriminatory.

“(B) PROHIBITION OF SURCHARGE.—In no event shall a cost recovery surcharge be imposed by a State to the extent that—

“(i) the cost for which recovery is sought is otherwise paid, recovered, or offset by any other fee or tax paid to the State or a political subdivision of the State; or

“(ii) to the extent that the amount of the surcharge is offset by voluntary payments to a State or a political subdivision of the State, in connection with the generation, transportation, treatment, processing, or disposal of solid waste.

“(C) SUBSIDY; NON-DISCRIMINATION.—The grant of a subsidy by a State with respect to entities disposing of waste generated within the State does not constitute discrimination for purposes of subparagraph (A).

“(j) IMPLEMENTATION AND ENFORCEMENT.—A State may adopt such laws (including regulations), not inconsistent with this section, as are appropriate to implement and enforce this section, including provisions for penalties.

“(k) ANNUAL STATE REPORT.—

“(1) FACILITIES.—On February 1, 2004, and on February 1 of each subsequent year, the owner or operator of each facility that receives out-of-State municipal solid waste shall submit to the State information specifying—

“(A) the quantity of out-of-State municipal solid waste received during the preceding calendar year; and

“(B) the State of origin of the out-of-State municipal solid waste received during the preceding calendar year.

“(2) TRANSFER STATIONS.—

“(A) DEFINITION OF RECEIVE FOR TRANSFER.—In this paragraph, the term ‘receive for transfer’ means receive for temporary storage pending transfer to another State or facility.

“(B) REPORT.—On February 1, 2004, and on February 1 of each subsequent year, the owner or operator of each transfer station that receives for transfer out-of-State municipal solid waste shall submit to the State a report describing—

“(i) the quantity of out-of-State municipal solid waste received for transfer during the preceding calendar year;

“(ii) each State of origin of the out-of-State municipal solid waste received for transfer during the preceding calendar year; and

“(iii) each State of destination of the out-of-State municipal solid waste transferred from the transfer station during the preceding calendar year.

“(3) NO PRECLUSION OF STATE REQUIREMENTS.—The requirements of paragraphs (1) and (2) do not preclude any State requirement for more frequent reporting.

“(4) FALSE OR MISLEADING INFORMATION.—Documentation submitted under paragraphs (1) and (2) shall be made under penalty of perjury under State law for the submission of false or misleading information.

“(5) REPORT.—On March 1, 2004, and on March 1 of each year thereafter, each State to which information is submitted under paragraphs (1) and (2) shall publish and make available to the public a report containing information on the quantity of out-of-State

municipal solid waste received for disposal and received for transfer in the State during the preceding calendar year.”

(b) CONFORMING AMENDMENT.—The table of contents of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 4010 the following:

“Sec. 4011. Authority to prohibit or limit receipt of out-of-State municipal solid waste at existing facilities.”

**SEC. 3. AUTHORITY TO DENY PERMITS FOR OR IMPOSE PERCENTAGE LIMITS ON RECEIPT OF OUT-OF-STATE MUNICIPAL SOLID WASTE AT NEW FACILITIES.**

(a) AMENDMENT.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) (as amended by section 2(a)), is amended by adding after section 4011 the following:

**“SEC. 4012. AUTHORITY TO DENY PERMITS FOR OR IMPOSE PERCENTAGE LIMITS ON RECEIPT OF OUT-OF-STATE MUNICIPAL SOLID WASTE AT NEW FACILITIES.**

“(a) DEFINITIONS.—In this section:

“(1) TERMS DEFINED IN SECTION 4011.—The terms ‘authorization to receive out-of-State municipal solid waste’, ‘disposal’, ‘existing host community agreement’, ‘host community agreement’, ‘municipal solid waste’, ‘out-of-State municipal solid waste’, and ‘receive’ have the meaning given those terms, respectively, in section 4011.

“(2) OTHER TERMS.—The term ‘facility’ means a landfill, incinerator, or other enterprise that receives out-of-State municipal solid waste on or after the date of enactment of this section.

“(b) AUTHORITY TO DENY PERMITS OR IMPOSE PERCENTAGE LIMITS.—

“(1) ALTERNATIVE AUTHORITIES.—In any calendar year, a State may exercise the authority under either paragraph (2) or paragraph (3), but may not exercise the authority under both paragraphs (2) and (3).

“(2) AUTHORITY TO DENY PERMITS.—A State may deny a permit for the construction or operation of or a major modification to a facility if—

“(A) the State has approved a State or local comprehensive municipal solid waste management plan developed under Federal or State law; and

“(B) the denial is based on a determination, under a State law authorizing the denial, that there is not a local or regional need for the facility in the State.

“(3) AUTHORITY TO IMPOSE PERCENTAGE LIMIT.—A State may provide by law that a State permit for the construction, operation, or expansion of a facility shall include the requirement that not more than a specified percentage (which shall be not less than 20 percent) of the total quantity of municipal solid waste received annually at the facility shall be out-of-State municipal solid waste.

“(c) NEW HOST COMMUNITY AGREEMENTS.—

“(1) IN GENERAL.—Notwithstanding subsection (b)(3), a facility operating under an existing host community agreement that contains an authorization to receive out-of-State municipal solid waste in a specific quantity annually may receive that quantity.

“(2) NO EFFECT ON STATE PERMIT DENIAL.—Nothing in paragraph (1) authorizes a facility described in that paragraph to receive out-of-State municipal solid waste if the State has denied a permit to the facility under subsection (b)(2).

“(d) UNIFORM AND NONDISCRIMINATORY APPLICATION.—A law under subsection (b) or (c)—

“(1) shall be applicable throughout the State;

“(2) shall not directly or indirectly discriminate against any particular facility; and

“(3) shall not directly or indirectly discriminate against any shipment of out-of-State municipal solid waste on the basis of place of origin.”

(b) CONFORMING AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) (as amended by section 1(b)) is amended by adding at the end of the items relating to subtitle D the following:

“Sec. 4012. Authority to deny permits for or impose percentage limits on new facilities.”

**SEC. 4. CONSTRUCTION AND DEMOLITION WASTE.**

(a) AMENDMENT.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) (as amended by section 3(a)), is amended by adding after section 4012 the following:

**“SEC. 4013. CONSTRUCTION AND DEMOLITION WASTE.**

“(a) DEFINITIONS.—In this section:

“(1) TERMS DEFINED IN SECTION 4011.—The terms ‘affected local government’, ‘Governor’, and ‘receive’ have the meanings given those terms, respectively, in section 4011.

“(2) OTHER TERMS.—

“(A) BASE YEAR QUANTITY.—The term ‘base year quantity’ means—

“(i) the annual quantity of out-of-State construction and demolition debris received at a State in calendar year 2004, as determined under subsection (c)(2)(B)(i); or

“(ii) in the case of an expedited implementation under subsection (c)(5), the annual quantity of out-of-State construction and demolition debris received in a State in calendar year 2003.

“(B) CONSTRUCTION AND DEMOLITION WASTE.—

“(i) IN GENERAL.—The term ‘construction and demolition waste’ means debris resulting from the construction, renovation, repair, or demolition of or similar work on a structure.

“(ii) EXCLUSIONS.—The term ‘construction and demolition waste’ does not include debris that—

“(I) is commingled with municipal solid waste; or

“(II) is contaminated, as determined under subsection (b).

“(C) FACILITY.—The term ‘facility’ means any enterprise that receives construction and demolition waste on or after the date of enactment of this section, including landfills.

“(D) OUT-OF-STATE CONSTRUCTION AND DEMOLITION WASTE.—The term ‘out-of-State construction and demolition waste’ means—

“(i) with respect to any State, construction and demolition debris generated outside the State; and

“(ii) construction and demolition debris generated outside the United States, unless the President determines that treatment of the construction and demolition debris as out-of-State construction and demolition waste under this section would be inconsistent with the North American Free Trade Agreement or the Uruguay Round Agreements (as defined in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501)).

“(b) CONTAMINATED CONSTRUCTION AND DEMOLITION DEBRIS.—

“(1) IN GENERAL.—For the purpose of determining whether debris is contaminated, the generator of the debris shall conduct representative sampling and analysis of the debris.

“(2) SUBMISSION OF RESULTS.—Unless not required by the affected local government, the results of the sampling and analysis under paragraph (1) shall be submitted to the affected local government for recordkeeping purposes only.

“(3) DISPOSAL OF CONTAMINATED DEBRIS.—Any debris described in subsection (a)(2)(B)(i) that is determined to be contaminated shall be disposed of in a landfill that meets the requirements of this Act.

“(c) LIMIT ON CONSTRUCTION AND DEMOLITION WASTE.—

“(1) IN GENERAL.—A State may establish a limit on the annual amount of out-of-State construction and demolition waste that may be received at landfills in the State.

“(2) REQUIRED ACTION BY THE STATE.—A State that seeks to limit the receipt of out-of-State construction and demolition waste received under this section shall—

“(A) not later than January 1, 2004, establish and implement reporting requirements to determine the quantity of construction and demolition waste that is—

“(i) disposed of in the State; and

“(ii) imported into the State; and

“(B) not later than March 1, 2005—

“(i) establish the annual quantity of out-of-State construction and demolition waste received during calendar year 2004; and

“(ii) report the tonnage received during calendar year 2004 to the Governor of each exporting State.

“(3) REPORTING BY FACILITIES.—

“(A) IN GENERAL.—Each facility that receives out-of-State construction and demolition debris shall report to the State in which the facility is located the quantity and State of origin of out-of-State construction and demolition debris received—

“(i) in calendar year 2003, not later than February 1, 2004; and

“(ii) in each subsequent calendar year, not later than February 1 of the calendar year following that year.

“(B) NO PRECLUSION OF STATE REQUIREMENTS.—The requirement of subparagraph (A) does not preclude any State requirement for more frequent reporting.

“(C) PENALTY.—Each submission under this paragraph shall be made under penalty of perjury under State law.

“(4) LIMIT ON DEBRIS RECEIVED.—

“(A) RATCHET.—A State in which facilities receive out-of-State construction and demolition debris may decrease the quantity of construction and demolition debris that may be received at each facility to an annual percentage of the base year quantity specified in subparagraph (B).

“(B) REDUCED ANNUAL PERCENTAGES.—A limit on out-of-State construction and demolition debris imposed by a State under subparagraph (A) shall be equal to—

“(i) in calendar year 2005, 95 percent of the base year quantity;

“(ii) in calendar year 2006, 90 percent of the base year quantity;

“(iii) in calendar year 2007, 85 percent of the base year quantity;

“(iv) in calendar year 2008, 80 percent of the base year quantity;

“(v) in calendar year 2009, 75 percent of the base year quantity;

“(vi) in calendar year 2010, 70 percent of the base year quantity;

“(vii) in calendar year 2011, 65 percent of the base year quantity;

“(viii) in calendar year 2012, 60 percent of the base year quantity;

“(ix) in calendar year 2013, 55 percent of the base year quantity; and

“(x) in calendar year 2014 and in each subsequent year, 50 percent of the base year quantity.

“(5) EXPEDITED IMPLEMENTATION.—

“(A) RATCHET.—A State in which facilities receive out-of-State construction and demolition debris may decrease the quantity of construction and demolition debris that may be received at each facility to an annual percentage of the base year quantity specified in subparagraph (B) if—

“(i) on the date of enactment of this section, the State has determined the quantity of construction and demolition waste received in the State in calendar year 2003; and  
 “(ii) the State complies with paragraphs (2) and (3).

“(B) EXPEDITED REDUCED ANNUAL PERCENTAGES.—An expedited implementation of a limit on the receipt of out-of-State construction and demolition debris imposed by a State under subparagraph (A) shall be equal to—

“(i) in calendar year 2004, 95 percent of the base year quantity;

“(ii) in calendar year 2005, 90 percent of the base year quantity;

“(iii) in calendar year 2006, 85 percent of the base year quantity;

“(iv) in calendar year 2007, 80 percent of the base year quantity;

“(v) in calendar year 2008, 75 percent of the base year quantity;

“(vi) in calendar year 2009, 70 percent of the base year quantity;

“(vii) in calendar year 2010, 65 percent of the base year quantity;

“(viii) in calendar year 2011, 60 percent of the base year quantity;

“(ix) in calendar year 2012, 55 percent of the base year quantity; and

“(x) in calendar year 2013 and in each subsequent year, 50 percent of the base year quantity.”.

(b) CONFORMING AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) (as amended by section 3(b)), is amended by adding at the end of the items relating to subtitle D the following:

“Sec. 4013. Construction and demolition debris.”.

**SEC. 5. CONGRESSIONAL AUTHORIZATION OF STATE AND LOCAL MUNICIPAL SOLID WASTE FLOW CONTROL.**

(a) AMENDMENT OF SUBTITLE D.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) (as amended by section 4(a)) is amended by adding after section 4013 the following:

**“SEC. 4014. CONGRESSIONAL AUTHORIZATION OF STATE AND LOCAL GOVERNMENT CONTROL OVER MOVEMENT OF MUNICIPAL SOLID WASTE AND RECYCLABLE MATERIALS.**

“(a) FLOW CONTROL AUTHORITY FOR FACILITIES PREVIOUSLY DESIGNATED.—Any State or political subdivision thereof is authorized to exercise flow control authority to direct the movement of municipal solid waste and recyclable materials voluntarily relinquished by the owner or generator thereof to particular waste management facilities, or facilities for recyclable materials, designated as of the suspension date, if each of the following conditions are met:

“(1) The waste and recyclable materials are generated within the jurisdictional boundaries of such State or political subdivision, as such jurisdiction was in effect on the suspension date.

“(2) Such flow control authority is imposed through the adoption or execution of a law, ordinance, regulation, resolution, or other legally binding provision or official act of the State or political subdivision that—

“(A) was in effect on the suspension date;

“(B) was in effect prior to the issuance of an injunction or other order by a court based on a ruling that such law, ordinance, regulation, resolution, or other legally binding provision or official act violated the Commerce Clause of the United States Constitution; or

“(C) was in effect immediately prior to suspension or partial suspension thereof by legislative or official administrative action of the State or political subdivision expressly because of the existence of an injunction or other court order of the type de-

scribed in subparagraph (B) issued by a court of competent jurisdiction.

“(3) The State or a political subdivision thereof has, for one or more of such designated facilities—

“(A) on or before the suspension date, presented eligible bonds for sale;

“(B) on or before the suspension date, issued a written public declaration or regulation stating that bonds would be issued and held hearings regarding such issuance, and subsequently presented eligible bonds for sale within 180 days of the declaration or regulation; or

“(C) on or before the suspension date, executed a legally binding contract or agreement that—

“(i) was in effect as of the suspension date;

“(ii) obligates the delivery of a minimum quantity of municipal solid waste or recyclable materials to one or more such designated waste management facilities or facilities for recyclable materials; and

“(iii) either—

“(I) obligates the State or political subdivision to pay for that minimum quantity of waste or recyclable materials even if the stated minimum quantity of such waste or recyclable materials is not delivered within a required timeframe; or

“(II) otherwise imposes liability for damages resulting from such failure.

“(b) WASTE STREAM SUBJECT TO FLOW CONTROL.—Subsection (a) authorizes only the exercise of flow control authority with respect to the flow to any designated facility of the specific classes or categories of municipal solid waste and voluntarily relinquished recyclable materials to which such flow control authority was applicable on the suspension date and—

“(1) in the case of any designated waste management facility or facility for recyclable materials that was in operation as of the suspension date, only if the facility concerned received municipal solid waste or recyclable materials in those classes or categories on or before the suspension date; and

“(2) in the case of any designated waste management facility or facility for recyclable materials that was not yet in operation as of the suspension date, only of the classes or categories that were clearly identified by the State or political subdivision as of the suspension date to be flow controlled to such facility.

“(c) DURATION OF FLOW CONTROL AUTHORITY.—Flow control authority may be exercised pursuant to this section with respect to any facility or facilities only until the later of the following:

“(1) The final maturity date of the bond referred to in subsection (a)(3)(A) or (B).

“(2) The expiration date of the contract or agreement referred to in subsection (a)(3)(C).

“(3) The adjusted expiration date of a bond issued for a qualified environmental retrofit.

The dates referred to in paragraphs (1) and (2) shall be determined based upon the terms and provisions of the bond or contract or agreement. In the case of a contract or agreement described in subsection (a)(3)(C) that has no specified expiration date, for purposes of paragraph (2) of this subsection the expiration date shall be the first date that the State or political subdivision that is a party to the contract or agreement can withdraw from its responsibilities under the contract or agreement without being in default thereunder and without substantial penalty or other substantial legal sanction. The expiration date of a contract or agreement referred to in subsection (a)(3)(C) shall be deemed to occur at the end of the period of an extension exercised during the term of the original contract or agreement, if the duration of that extension was specified by

such contract or agreement as in effect on the suspension date.

“(d) INDEMNIFICATION FOR CERTAIN TRANSPORTATION.—Notwithstanding any other provision of this section, no State or political subdivision may require any person to transport municipal solid waste or recyclable materials, or to deliver such waste or materials for transportation, to any active portion of a municipal solid waste landfill unit if contamination of such active portion is a basis for listing of the municipal solid waste landfill unit on the National Priorities List established under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 unless such State or political subdivision or the owner or operator of such landfill unit has indemnified that person against all liability under that Act with respect to such waste or materials.

“(e) OWNERSHIP OF RECYCLABLE MATERIALS.—Nothing in this section shall authorize any State or political subdivision to require any person to sell or transfer any recyclable materials to such State or political subdivision.

“(f) LIMITATION ON REVENUE.—A State or political subdivision may exercise the flow control authority granted in this section only if the State or political subdivision limits the use of any of the revenues it derives from the exercise of such authority to the payment of one or more of the following:

“(1) Principal and interest on any eligible bond.

“(2) Principal and interest on a bond issued for a qualified environmental retrofit.

“(3) Payments required by the terms of a contract referred to in subsection (a)(3)(C).

“(4) Other expenses necessary for the operation and maintenance and closure of designated facilities and other integral facilities identified by the bond necessary for the operation and maintenance of such designated facilities.

“(5) To the extent not covered by paragraphs (1) through (4), expenses for recycling, composting, and household hazardous waste activities in which the State or political subdivision was engaged before the suspension date. The amount and nature of payments described in this paragraph shall be fully disclosed to the public annually.

“(g) INTERIM CONTRACTS.—A contract of the type referred to in subsection (a)(3)(C) that was entered into during the period—

“(1) before November 10, 1995, and after the effective date of any applicable final court order no longer subject to judicial review specifically invalidating the flow control authority of the applicable State or political subdivision; or

“(2) after the applicable State or political subdivision refrained pursuant to legislative or official administrative action from enforcing flow control authority expressly because of the existence of a court order of the type described in subsection (a)(2)(B) issued by a court of the same State or the Federal judicial circuit within which such State is located and before the effective date on which it resumes enforcement of flow control authority after enactment of this section, shall be fully enforceable in accordance with State law.

“(h) AREAS WITH PRE-1984 FLOW CONTROL.—

“(1) GENERAL AUTHORITY.—A State that on or before January 1, 1984—

“(A) adopted regulations under a State law that required or directed transportation, management, or disposal of municipal solid waste from residential, commercial, institutional, or industrial sources (as defined under State law) to specifically identified waste management facilities, and applied those regulations to every political subdivision of the State; and

“(B) subjected such waste management facilities to the jurisdiction of a State public utilities commission,

may exercise flow control authority over municipal solid waste in accordance with the other provisions of this section.

“(2) ADDITIONAL FLOW CONTROL AUTHORITY.—A State or any political subdivision of a State that meets the requirements of paragraph (1) may exercise flow control authority over all classes and categories of municipal solid waste that were subject to flow control by that State or political subdivision on May 16, 1994, by directing municipal solid waste from any waste management facility that was designated as of May 16, 1994 to any other waste management facility in the State without regard to whether the political subdivision in which the municipal solid waste is generated had designated the particular waste management facility or had issued a bond or entered into a contract referred to in subparagraph (A) or (B) of subsection (a)(3), respectively.

“(3) DURATION OF AUTHORITY.—The authority to direct municipal solid waste to any facility pursuant to this subsection shall terminate with regard to such facility in accordance with subsection (c).

“(i) EFFECT ON AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS.—Nothing in this section shall be interpreted—

“(1) to authorize a political subdivision to exercise the flow control authority granted by this section in a manner inconsistent with State law;

“(2) to permit the exercise of flow control authority over municipal solid waste and recyclable materials to an extent greater than the maximum volume authorized by State permit to be disposed at the waste management facility or processed at the facility for recyclable materials;

“(3) to limit the authority of any State or political subdivision to place a condition on a franchise, license, or contract for municipal solid waste or recyclable materials collection, processing, or disposal; or

“(4) to impair in any manner the authority of any State or political subdivision to adopt or enforce any law, ordinance, regulation, or other legally binding provision or official act relating to the movement or processing of municipal solid waste or recyclable materials which does not constitute discrimination against or an undue burden upon interstate commerce.

“(j) EFFECTIVE DATE.—The provisions of this section shall take effect with respect to the exercise by any State or political subdivision of flow control authority on or after the date of enactment of this section. Such provisions, other than subsection (d), shall also apply to the exercise by any State or political subdivision of flow control authority before such date of enactment, except that nothing in this section shall affect any final judgment that is no longer subject to judicial review as of the date of enactment of this section insofar as such judgment awarded damages based on a finding that the exercise of flow control authority was unconstitutional.

“(k) STATE SOLID WASTE DISTRICT AUTHORITY.—In addition to any other flow control authority authorized under this section a solid waste district or a political subdivision of a State may exercise flow control authority for a period of 20 years after the enactment of this section, for municipal solid waste and for recyclable materials that is generated within its jurisdiction if—

“(1) the solid waste district, or a political subdivision within such district, is required through a recyclable materials recycling program to meet a municipal solid waste reduction goal of at least 30 percent by the year 2005, and uses revenues generated by the

exercise of flow control authority strictly to implement programs to manage municipal solid waste and recyclable materials, other than incineration programs; and

“(2) prior to the suspension date, the solid waste district, or a political subdivision within such district—

“(A) was responsible under State law for the management and regulation of the storage, collection, processing, and disposal of solid wastes within its jurisdiction;

“(B) was authorized by State statute (enacted prior to January 1, 1992) to exercise flow control authority, and subsequently adopted or sought to exercise the authority through a law, ordinance, regulation, regulatory proceeding, contract, franchise, or other legally binding provision; and

“(C) was required by State statute (enacted prior to January 1, 1992) to develop and implement a solid waste management plan consistent with the State solid waste management plan, and the district solid waste management plan was approved by the appropriate State agency prior to September 15, 1994.

“(1) SPECIAL RULE FOR CERTAIN CONSORTIA.—For purposes of this section, if—

“(1) two or more political subdivisions are members of a consortium of political subdivisions established to exercise flow control authority with respect to any waste management facility or facility for recyclable materials;

“(2) all of such members have either presented eligible bonds for sale or executed contracts with the owner or operator of the facility requiring use of such facility;

“(3) the facility was designated as of the suspension date by at least one of such members;

“(4) at least one of such members has met the requirements of subsection (a)(2) with respect to such facility; and

“(5) at least one of such members has presented eligible bonds for sale, or entered into a contract or agreement referred to in subsection (a)(3)(C), on or before the suspension date, for such facility,

the facility shall be treated as having been designated, as of May 16, 1994, by all members of such consortium, and all such members shall be treated as meeting the requirements of subsection (a)(2) and (3) with respect to such facility.

“(m) RECOVERY OF DAMAGES.—

“(1) PROHIBITION.—No damages, interest on damages, costs, or attorneys' fees may be recovered in any claim against any State or local government, or official or employee thereof, based on the exercise of flow control authority on or before May 16, 1994.

“(2) APPLICABILITY.—Paragraph (1) shall apply to cases commenced on or after the date of enactment of the Municipal Solid Waste Interstate Transportation and Local Authority Act of 2003, and shall apply to cases commenced before such date except cases in which a final judgment no longer subject to judicial review has been rendered.

“(n) DEFINITIONS.—For the purposes of this section—

“(1) ADJUSTED EXPIRATION DATE.—The term ‘adjusted expiration date’ means, with respect to a bond issued for a qualified environmental retrofit, the earlier of the final maturity date of such bond or 15 years after the date of issuance of such bond.

“(2) BOND ISSUED FOR A QUALIFIED ENVIRONMENTAL RETROFIT.—The term ‘bond issued for a qualified environmental retrofit’ means a bond described in paragraph (4)(A) or (B), the proceeds of which are dedicated to financing the retrofitting of a resource recovery facility or a municipal solid waste incinerator necessary to comply with section 129 of the Clean Air Act, provided that such bond is presented for sale before the expiration date

of the bond or contract referred to in subsection (a)(3)(A), (B), or (C) that is applicable to such facility and no later than December 31, 1999.

“(3) DESIGNATED.—The term ‘designated’ means identified by a State or political subdivision for receipt of all or any portion of the municipal solid waste or recyclable materials that is generated within the boundaries of the State or political subdivision. Such designation includes designation through—

“(A) bond covenants, official statements, or other official financing documents issued by a State or political subdivision issuing an eligible bond; and

“(B) the execution of a contract of the type described in subsection (a)(3)(C),

in which one or more specific waste management facilities are identified as the requisite facility or facilities for receipt of municipal solid waste or recyclable materials generated within the jurisdictional boundaries of that State or political subdivision.

“(4) ELIGIBLE BOND.—The term ‘eligible bond’ means—

“(A) a revenue bond or similar instrument of indebtedness pledging payment to the bondholder or holder of the debt of identified revenues; or

“(B) a general obligation bond, the proceeds of which are used to finance one or more designated waste management facilities, facilities for recyclable materials, or specifically and directly related assets, development costs, or finance costs, as evidenced by the bond documents.

“(5) FLOW CONTROL AUTHORITY.—The term ‘flow control authority’ means the regulatory authority to control the movement of municipal solid waste or voluntarily relinquished recyclable materials and direct such solid waste or recyclable materials to one or more designated waste management facilities within the boundaries of a State or political subdivision.

“(6) MUNICIPAL SOLID WASTE.—The term ‘municipal solid waste’ has the meaning given that term in section 4011, except that such term—

“(A) includes waste material removed from a septic tank, seepage pit, or cesspool (other than from portable toilets); and

“(B) does not include—

“(i) any substance the treatment and disposal of which is regulated under the Toxic Substances Control Act;

“(ii) waste generated during scrap processing and scrap recycling; or

“(iii) construction and demolition debris, except where the State or political subdivision had on or before January 1, 1989, issued eligible bonds secured pursuant to State or local law requiring the delivery of construction and demolition debris to a waste management facility designated by such State or political subdivision.

“(7) POLITICAL SUBDIVISION.—The term ‘political subdivision’ means a city, town, borough, county, parish, district, or public service authority or other public body created by or pursuant to State law with authority to present for sale an eligible bond or to exercise flow control authority.

“(8) RECYCLABLE MATERIALS.—The term ‘recyclable materials’ means any materials that have been separated from waste otherwise destined for disposal (either at the source of the waste or at processing facilities) or that have been managed separately from waste destined for disposal, for the purpose of recycling, reclamation, composting of organic materials such as food and yard waste, or reuse (other than for the purpose of incineration). Such term includes scrap tires to be used in resource recovery.

“(9) SUSPENSION DATE.—The term ‘suspension date’ means, with respect to a State or political subdivision—

“(A) May 16, 1994;

“(B) the date of an injunction or other court order described in subsection (a)(2)(B) that was issued with respect to that State or political subdivision; or

“(C) the date of a suspension or partial suspension described in subsection (a)(2)(C) with respect to that State or political subdivision.

“(10) WASTE MANAGEMENT FACILITY.—The term ‘waste management facility’ means any facility for separating, storing, transferring, treating, processing, combusting, or disposing of municipal solid waste.”

(b) TABLE OF CONTENTS.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) (as amended by section 4(b)), is amended by adding at the end of the items relating to subtitle D the following:

“Sec. 4014. Congressional authorization of State and local government control over movement of municipal solid waste and recyclable materials.”

#### SEC. 6. EFFECT ON INTERSTATE COMMERCE.

No action by a State or affected local government under an amendment made by this Act shall be considered to impose an undue burden on interstate commerce or to otherwise impair, restrain, or discriminate against interstate commerce.

By Mr. CRAIG:

S. 432. A bill to authorize the Secretary of the Interior and the Secretary of Agriculture to conduct and support research into alternative treatments for timber produced from public lands and lands withdrawn from the public domain for the National Forest System, and for other purposes; to the Committee on Energy and Natural Resources.

#### SUBMITTED RESOLUTIONS

Mr. CRAIG. Mr. President, today I am introducing the Wood Preservation Safety Act of 2003 with my Idaho colleague Senator CRAPO and our friend from Nevada, Mr. ENSIGN. If enacted, this legislation would authorize the Forest Products Laboratory of the US Forest Service to study the effectiveness of silver-based biocides as a wood preservative treatment. This legislation was also introduced in the 107th Congress.

According to silver experts and academics, silver biocides could serve as a viable, safe and cost effective alternative wood preservative. Given silver's long-standing role as an effective biocide, testing should be undertaken to determine silver's suitability as a wood preservative. Thus, I feel it is important to study and fully explore the potential of silver as a wood preservative.

Mining has been an important part of Idaho's history since the late 1800s. It became Idaho's first industry and remains a critical part of Idaho and the nation's economy. Mining in Idaho has supplied the nation with minerals necessary for today's modern lifestyle which many of us take for granted. In 1985, the mines of Idaho's Coeur

d'Alene mining district produced their one billionth ounce of silver. The Sunshine Mine was America's richest silver mine, producing over 300 million ounces of silver, more than the entire output of Nevada's famous Comstock Lode. Silver contributes to our quality of life in many ways, and its use as a biocide in wood products is an important application that must be explored.

I look forward to working with my colleagues to pass legislation that would create a comprehensive research program to test the viability of silver-based biocides for the treatment of wood products.

#### SENATE RESOLUTION 61—AUTHORIZING EXPENDITURES BY THE COMMITTEE IN FINANCE

Mr. GRASSLEY submitted the following resolution; from the Committee on Finance; which was referred to the Committee on Rules and Administration:

S. RES. 61

*Resolved*, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under title XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rules XXVI of the Standing Rules of the Senate, the Committee on Finance is authorized from March 1, 2003, through September 30, 2003; October 1, 2003, through September 30, 2004; and October 1, 2004, through February 28, 2005, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2(a). The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this resolution shall not exceed \$3,511,241, of which amount (1) not to exceed \$17,500 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(j) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed \$5,833 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2003, through September 30, 2004, expenses of the committee under this resolution shall not exceed \$6,179,693, of which amount (1) not to exceed \$30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed \$10,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2004, through February 28, 2005, expenses of the committee under this resolution shall not exceed \$2,634,121, of which amount (1) not to exceed \$12,500 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by 202(i) of the Legislative Reorganization Act of 1946,

as amended), and (2) not to exceed \$4,167 may be expended for the training of the professional staff of such committee (under procedures specified by 202(j) of the Legislative Reorganization Act of 1946.)

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2005, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There authorized such sums as may be necessary for agency contributions related to the compensation of the committee from March 1, 2003, through September 30, 2003; October 1, 2003 through September 30, 2004; and October 1, 2004 through February 28, 2005, to be paid from the Appropriations account for “Expenses of Inquiries and Investigations.”

#### SENATE RESOLUTION 62—CALLING UPON THE ORGANIZATION OF AMERICAN STATES (OAS) INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS, THE EUROPEAN UNION, AND HUMAN RIGHTS ACTIVISTS THROUGHOUT THE WORLD TO TAKE CERTAIN ACTIONS IN REGARD TO THE HUMAN RIGHTS SITUATION IN CUBA

Mr. ENSIGN (for himself, Mr. GRAHAM of Florida, Mr. FRIST, Mr. LIEBERMAN, Mr. BROWNBACK, Mr. NELSON of Florida, Mr. KYL, Mr. ALLEN, Mr. SESSIONS, Mr. REID, and Mr. SANTORUM) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 62

Whereas the democracies of the Western Hemisphere have approved an Inter-American Democratic Charter that sets a regional standard regarding respect for human rights and fundamental freedoms;

Whereas the government of the Republic of Cuba approved and is bound to respect the Charter of the Organization of American States (OAS) and the American Declaration of the Rights and Duties of Man;

Whereas in 2001, 2000, 1999, 1998, and previous years, the government of the Republic of Cuba declined to reply to the OAS Inter-American Commission on Human Rights when it sought the government's views on human rights violations in the Republic of Cuba;

Whereas all countries have an obligation to promote and protect human rights and