

112TH CONGRESS
1ST SESSION

H. R. 3145

To amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 11, 2011

Mr. BISHOP of New York (for himself, Mr. RAHALL, Mr. LATOURETTE, and Mr. PETRI) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Federal Water Pollution Control Act to authorize appropriations for State water pollution control revolving funds, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) IN GENERAL.—This Act may be cited as the
5 “Water Quality Protection and Job Creation Act of
6 2011”.

7 (b) TABLE OF CONTENTS.—

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendment of Federal Water Pollution Control Act.

TITLE I—WATER QUALITY FINANCING

Subtitle A—Technical and Management Assistance

- Sec. 1101. Technical assistance.
- Sec. 1102. State management assistance.
- Sec. 1103. Watershed pilot projects.

Subtitle B—Construction of Treatment Works

- Sec. 1201. Sewage collection systems.
- Sec. 1202. Treatment works defined.

Subtitle C—State Water Pollution Control Revolving Funds

- Sec. 1301. General authority for capitalization grants.
- Sec. 1302. Capitalization grant agreements.
- Sec. 1303. Water pollution control revolving loan funds.
- Sec. 1304. Allotment of funds.
- Sec. 1305. Intended use plan.
- Sec. 1306. Annual Reports.
- Sec. 1307. Technical assistance; requirements for use of American materials.
- Sec. 1308. Economic hardship waiver.
- Sec. 1309. Authorization of appropriations.

Subtitle D—General Provisions

- Sec. 1401. Definition of treatment works.
- Sec. 1402. Funding for Indian programs.

Subtitle E—Tonnage Duties

- Sec. 1501. Tonnage duties.

TITLE II—ALTERNATIVE WATER SOURCE PROJECTS

- Sec. 2001. Pilot program for alternative water source projects.

TITLE III—SEWER OVERFLOW CONTROL GRANTS

- Sec. 3001. Sewer overflow control grants.

TITLE IV—CLEAN WATER TRUST FUND

- Sec. 4001. Establishment of Clean Water Trust Fund.
- Sec. 4002. Allocation of funds.
- Sec. 4003. Revenues for Clean Water Trust Fund.

TITLE V—WATER POLLUTION CONTROL INVESTMENT

- Sec. 5001. Short title.
- Sec. 5002. Definitions.
- Sec. 5003. Direct loans.
- Sec. 5004. Guarantees.
- Sec. 5005. Funding.

1 **SEC. 2. AMENDMENT OF FEDERAL WATER POLLUTION CON-**
2 **TROL ACT.**

3 Except as otherwise expressly provided, whenever in
4 this Act an amendment or repeal is expressed in terms
5 of an amendment to, or repeal of, a section or other provi-
6 sion, the reference shall be considered to be made to a
7 section or other provision of the Federal Water Pollution
8 Control Act (33 U.S.C. 1251 et seq.).

9 **TITLE I—WATER QUALITY**
10 **FINANCING**
11 **Subtitle A—Technical and**
12 **Management Assistance**

13 **SEC. 1101. TECHNICAL ASSISTANCE.**

14 (a) TECHNICAL ASSISTANCE FOR RURAL AND SMALL
15 TREATMENT WORKS.—Section 104(b) (33 U.S.C.
16 1254(b)) is amended—

17 (1) by striking “and” at the end of paragraph
18 (6);

19 (2) by striking the period at the end of para-
20 graph (7) and inserting “; and”; and

21 (3) by adding at the end the following:

22 “(8) make grants to nonprofit organizations—

23 “(A) to provide technical assistance to
24 rural and small municipalities and tribal gov-
25 ernments for the purpose of assisting, in con-
26 sultation with the State in which the assistance

1 is provided, such municipalities and tribal gov-
2 ernments in the planning, developing, and ac-
3 quisition of financing for eligible projects de-
4 scribed in section 603(c);

5 “(B) to provide technical assistance and
6 training for rural, small, and tribal publicly
7 owned treatment works and decentralized
8 wastewater treatment systems to enable such
9 treatment works and systems to protect water
10 quality and achieve and maintain compliance
11 with the requirements of this Act; and

12 “(C) to disseminate information to rural,
13 small, and tribal municipalities and municipali-
14 ties that meet the affordability criteria estab-
15 lished under section 603(i)(2) by the State in
16 which the municipality is located with respect to
17 planning, design, construction, and operation of
18 publicly owned treatment works and decentral-
19 ized wastewater treatment systems.”.

20 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
21 104(u) (33 U.S.C. 1254(u)) is amended—

22 (1) by striking “and (6)” and inserting “(6)”;
23 and

24 (2) by inserting before the period at the end the
25 following: “; and (7) not to exceed \$100,000,000 for

1 each of fiscal years 2012 through 2016 for carrying
2 out subsections (b)(3), (b)(8), and (g), except that
3 not less than 20 percent of the amounts appro-
4 priated pursuant to this paragraph in a fiscal year
5 shall be used for carrying out subsection (b)(8)”.

6 (c) SMALL FLOWS CLEARINGHOUSE.—Section
7 104(q)(4) (33 U.S.C. 1254(q)(4)) is amended—

8 (1) in the first sentence by striking
9 “\$1,000,000” and inserting “\$3,000,000”; and

10 (2) in the second sentence by striking “1986”
11 and inserting “2016”.

12 **SEC. 1102. STATE MANAGEMENT ASSISTANCE.**

13 (a) AUTHORIZATION OF APPROPRIATIONS.—Section
14 106(a) (33 U.S.C. 1256(a)) is amended—

15 (1) by striking “and” at the end of paragraph
16 (1);

17 (2) by striking the semicolon at the end of
18 paragraph (2) and inserting “; and”; and

19 (3) by inserting after paragraph (2) the fol-
20 lowing:

21 “(3) such sums as may be necessary for each
22 of fiscal years 1991 through 2011, and
23 \$300,000,000 for each of fiscal years 2012 through
24 2016;”.

1 (b) TECHNICAL AMENDMENT.—Section 106(e) (33
2 U.S.C. 1256(e)) is amended by striking “Beginning in fis-
3 cal year 1974 the” and inserting “The”.

4 **SEC. 1103. WATERSHED PILOT PROJECTS.**

5 (a) PILOT PROJECTS.—Section 122 (33 U.S.C.
6 1274) is amended—

7 (1) in the section heading by striking “**WET**
8 **WEATHER**”; and

9 (2) in subsection (a)—

10 (A) in the matter preceding paragraph

11 (1)—

12 (i) by striking “for treatment works”
13 and inserting “to a municipality or munic-
14 ipal entity”; and

15 (ii) by striking “wet weather dis-
16 charge”;

17 (B) in paragraph (2) by striking “in reduc-
18 ing such pollutants” and all that follows before
19 the period at the end and inserting “to manage,
20 reduce, treat, or reuse municipal stormwater,
21 including low-impact development technologies
22 and other techniques that utilize infiltration,
23 evapotranspiration, and reuse of storm water on
24 site”; and

25 (C) by adding at the end the following:

1 “(3) WATERSHED PARTNERSHIPS.—Efforts of
2 municipalities and property owners to demonstrate
3 cooperative ways to address nonpoint sources of pol-
4 lution to reduce adverse impacts on water quality.

5 “(4) INTEGRATED WATER RESOURCE PLAN.—
6 The development of an integrated water resource
7 plan for the coordinated management and protection
8 of surface water, ground water, and stormwater re-
9 sources on a watershed or subwatershed basis to
10 meet the objectives, goals, and policies of this Act.

11 “(5) MUNICIPALITY-WIDE STORM WATER MAN-
12 AGEMENT PLANNING.—The development of a mu-
13 nicipality-wide plan that identifies the most effective
14 placement of storm water technologies and manage-
15 ment approaches, including green infrastructure, to
16 reduce water quality impairments from storm water
17 on a municipality-wide basis.”.

18 (b) AUTHORIZATION OF APPROPRIATIONS.—The first
19 sentence of section 122(c)(1) is amended—

20 (1) by striking “and”; and

21 (2) by striking the period and inserting “, such
22 sums as may be necessary for each of fiscal years
23 2005 through 2011, and \$120,000,000 for each of
24 fiscal years 2012 through 2016”.

1 (c) REPORT TO CONGRESS.—Section 122(d) is
2 amended by striking “5 years after the date of enactment
3 of this section,” and inserting “October 1, 2013,”.

4 **Subtitle B—Construction of**
5 **Treatment Works**

6 **SEC. 1201. SEWAGE COLLECTION SYSTEMS.**

7 Section 211 (33 U.S.C. 1291) is amended—

8 (1) by striking the section heading and all that
9 follows through “(a) No” and inserting the fol-
10 lowing:

11 **“SEC. 211. SEWAGE COLLECTION SYSTEMS.**

12 **“(a) IN GENERAL.—No”;**

13 (2) in subsection (b) by inserting “POPULATION
14 DENSITY.—” after “(b)”; and

15 (3) by striking subsection (c) and inserting the
16 following:

17 **“(c) EXCEPTIONS.—**

18 **“(1) REPLACEMENT AND MAJOR REHABILITA-**
19 **TION.—**Notwithstanding the requirement of sub-
20 section (a)(1) concerning the existence of a collection
21 system as a condition of eligibility, a project for re-
22 placement or major rehabilitation of a collection sys-
23 tem existing on January 1, 2007, shall be eligible for
24 a grant under this title if the project otherwise

1 meets the requirements of subsection (a)(1) and
2 meets the requirement of paragraph (3).

3 “(2) NEW SYSTEMS.—Notwithstanding the re-
4 quirement of subsection (a)(2) concerning the exist-
5 ence of a community as a condition of eligibility, a
6 project for a new collection system to serve a com-
7 munity existing on January 1, 2007, shall be eligible
8 for a grant under this title if the project otherwise
9 meets the requirements of subsection (a)(2) and
10 meets the requirement of paragraph (3).

11 “(3) REQUIREMENT.—A project meets the re-
12 quirement of this paragraph if the purpose of the
13 project is to accomplish the objectives, goals, and
14 policies of this Act by addressing an adverse envi-
15 ronmental condition existing on the date of enact-
16 ment of this paragraph.”.

17 **SEC. 1202. TREATMENT WORKS DEFINED.**

18 Section 212(2)(A) (33 U.S.C. 1292(2)(A)) is amend-
19 ed—

20 (1) by striking “any works, including site”;

21 (2) by striking “is used for ultimate” and in-
22 serting “will be used for ultimate”; and

23 (3) by inserting before the period at the end the
24 following: “and acquisition of other lands, and inter-
25 ests in lands, which are necessary for construction”.

1 **Subtitle C—State Water Pollution**
2 **Control Revolving Funds**

3 **SEC. 1301. GENERAL AUTHORITY FOR CAPITALIZATION**
4 **GRANTS.**

5 Section 601(a) (33 U.S.C. 1381(a)) is amended by
6 striking “for providing assistance” and all that follows
7 through the period at the end and inserting the following:
8 “to accomplish the objectives, goals, and policies of this
9 Act by providing assistance for projects and activities
10 identified in section 603(c).”.

11 **SEC. 1302. CAPITALIZATION GRANT AGREEMENTS.**

12 (a) REPORTING INFRASTRUCTURE ASSETS.—Section
13 602(b)(9) (33 U.S.C. 1382(b)(9)) is amended by striking
14 “standards” and inserting “standards, including stand-
15 ards relating to the reporting of infrastructure assets”.

16 (b) ADDITIONAL REQUIREMENTS.—Section 602(b)
17 (33 U.S.C. 1382(b)) is amended—

18 (1) in paragraph (6)—

19 (A) by striking “before fiscal year 1995”;

20 (B) by striking “funds directly made avail-
21 able by capitalization grants under this title
22 and section 205(m) of this Act” and inserting
23 “assistance made available by a State water
24 pollution control revolving fund as authorized

1 under this title, or with assistance made avail-
2 able under section 205(m), or both,”; and

3 (C) by striking “201(b)” and all that fol-
4 lows through “513” and inserting “211 and
5 511(c)(1)”;

6 (2) by striking “and” at the end of paragraph
7 (9);

8 (3) by striking the period at the end of para-
9 graph (10) and inserting a semicolon; and

10 (4) by adding at the end the following:

11 “(11) the State will establish, maintain, invest,
12 and credit the fund with repayments, such that the
13 fund balance will be available in perpetuity for pro-
14 viding financial assistance in accordance with this
15 title;

16 “(12) any fees charged by the State to recipi-
17 ents of assistance that are considered program in-
18 come will be used for the purpose of financing the
19 cost of administering the fund or financing projects
20 or activities eligible for assistance from the fund;

21 “(13) beginning in fiscal year 2013, the State
22 will include as a condition of providing assistance to
23 a municipality or intermunicipal, interstate, or State
24 agency that the recipient of such assistance certify,

1 in a manner determined by the Governor of the
2 State, that the recipient—

3 “(A) has studied and evaluated the cost
4 and effectiveness of the processes, materials,
5 techniques, and technologies for carrying out
6 the proposed project or activity for which assist-
7 ance is sought under this title, and has selected,
8 to the extent practicable, a project or activity
9 that maximizes the potential for efficient water
10 use, reuse, and conservation, and energy con-
11 servation, taking into account the cost of con-
12 structing the project or activity, the cost of op-
13 erating and maintaining the project or activity
14 over its life, and the cost of replacing the
15 project or activity; and

16 “(B) has considered, to the maximum ex-
17 tent practicable and as determined appropriate
18 by the recipient, the costs and effectiveness of
19 other design, management, and financing ap-
20 proaches for carrying out a project or activity
21 for which assistance is sought under this title,
22 taking into account the cost of constructing the
23 project or activity, the cost of operating and
24 maintaining the project or activity over its life,
25 and the cost of replacing the project or activity;

1 “(14) the State will use at least 15 percent of
2 the amount of each capitalization grant received by
3 the State under this title after September 30, 2010,
4 to provide assistance to municipalities of fewer than
5 10,000 individuals that meet the affordability cri-
6 teria established by the State under section
7 603(i)(2) for projects or activities included on the
8 State’s priority list established under section 603(g),
9 to the extent that there are sufficient applications
10 for such assistance;

11 “(15) a contract to be carried out using funds
12 directly made available by a capitalization grant
13 under this title for program management, construc-
14 tion management, feasibility studies, preliminary en-
15 gineering, design, engineering, surveying, mapping,
16 or architectural related services shall be negotiated
17 in the same manner as a contract for architectural
18 and engineering services is negotiated under chapter
19 11 of title 40, United States Code, or an equivalent
20 State qualifications-based requirement (as deter-
21 mined by the Governor of the State); and

22 “(16) the requirements of section 513 will apply
23 to the construction of treatment works carried out in
24 whole or in part with assistance made available by
25 a State water pollution control revolving fund as au-

1 thorized under this title, or with assistance made
2 available under section 205(m), or both, in the same
3 manner as treatment works for which grants are
4 made under this Act.”.

5 **SEC. 1303. WATER POLLUTION CONTROL REVOLVING LOAN**
6 **FUNDS.**

7 (a) PROJECTS AND ACTIVITIES ELIGIBLE FOR AS-
8 SISTANCE.—Section 603(c) (33 U.S.C. 1383(c)) is amend-
9 ed to read as follows:

10 “(c) PROJECTS AND ACTIVITIES ELIGIBLE FOR AS-
11 SISTANCE.—The amounts of funds available to each State
12 water pollution control revolving fund shall be used only
13 for providing financial assistance—

14 “(1) to any municipality or intermunicipal,
15 interstate, or State agency for construction of pub-
16 licly owned treatment works;

17 “(2) for the implementation of a management
18 program established under section 319;

19 “(3) for development and implementation of a
20 conservation and management plan under section
21 320;

22 “(4) for repair or replacement of decentralized
23 wastewater treatment systems that treat domestic
24 sewage;

1 “(5) for measures to manage, reduce, treat, or
2 reuse municipal stormwater;

3 “(6) to any municipality or intermunicipal,
4 interstate, or State agency for measures to reduce
5 the demand for publicly owned treatment works ca-
6 pacity through water conservation, efficiency, or
7 reuse;

8 “(7) for the development and implementation of
9 watershed projects meeting the criteria set forth in
10 section 122; and

11 “(8) to any municipality or intermunicipal,
12 interstate, or State agency for measures to reduce
13 the energy consumption needs for publicly owned
14 treatment works, including the implementation of
15 energy-efficient or renewable-energy generation tech-
16 nologies.”.

17 (b) EXTENDED REPAYMENT PERIOD.—Section
18 603(d)(1) (33 U.S.C. 1383(d)(1)) is amended—

19 (1) in subparagraph (A) by striking “20 years”
20 and inserting “the lesser of 30 years or the design
21 life of the project to be financed with the proceeds
22 of the loan”; and

23 (2) in subparagraph (B) by striking “not later
24 than 20 years after project completion” and insert-
25 ing “upon the expiration of the term of the loan”.

1 (c) FISCAL SUSTAINABILITY PLAN.—Section
2 603(d)(1) (33 U.S.C. 1383(d)(1)) is further amended—

3 (1) by striking “and” at the end of subpara-
4 graph (C);

5 (2) by inserting “and” at the end of subpara-
6 graph (D); and

7 (3) by adding at the end the following:

8 “(E) for any portion of a treatment works
9 proposed for repair, replacement, or expansion,
10 and eligible for assistance under section
11 603(c)(1), the recipient of a loan will develop
12 and implement a fiscal sustainability plan that
13 includes—

14 “(i) an inventory of critical assets
15 that are a part of that portion of the treat-
16 ment works;

17 “(ii) an evaluation of the condition
18 and performance of inventoried assets or
19 asset groupings;

20 “(iii) a certification that the recipient
21 has evaluated and will be implementing
22 water and energy conservation efforts as
23 part of the plan; and

24 “(iv) a plan for maintaining, repair-
25 ing, and, as necessary, replacing that por-

1 tion of the treatment works and a plan for
2 funding such activities;”.

3 (d) ADMINISTRATIVE EXPENSES.—Section 603(d)(7)
4 (33 U.S.C. 1383(d)(7)) is amended by inserting before the
5 period at the end the following: “, \$400,000 per year, or
6 $\frac{1}{5}$ percent per year of the current valuation of the fund,
7 whichever amount is greatest, plus the amount of any fees
8 collected by the State for such purpose regardless of the
9 source”.

10 (e) TECHNICAL AND PLANNING ASSISTANCE FOR
11 SMALL SYSTEMS.—Section 603(d) (33 U.S.C. 1383(d)) is
12 amended—

13 (1) by striking “and” at the end of paragraph
14 (6);

15 (2) by striking the period at the end of para-
16 graph (7) and inserting a semicolon; and

17 (3) by adding at the end the following:

18 “(8) to provide grants to owners and operators
19 of treatment works that serve a population of
20 10,000 or fewer for obtaining technical and planning
21 assistance and assistance in financial management,
22 user fee analysis, budgeting, capital improvement
23 planning, facility operation and maintenance, equip-
24 ment replacement, repair schedules, and other activi-
25 ties to improve wastewater treatment plant manage-

1 ment and operations, except that the total amount
2 provided by the State in grants under this para-
3 graph for a fiscal year may not exceed one percent
4 of the total amount of assistance provided by the
5 State from the fund in the preceding fiscal year, or
6 2 percent of the total amount received by the State
7 in capitalization grants under this title in the pre-
8 ceding fiscal year, whichever amount is greatest; and

9 “(9) to provide grants to owners and operators
10 of treatment works for conducting an assessment of
11 the energy and water consumption of the treatment
12 works, and evaluating potential opportunities for en-
13 ergy and water conservation through facility oper-
14 ation and maintenance, equipment replacement, and
15 projects or activities that promote the efficient use
16 of energy and water by the treatment works, except
17 that the total amount provided by the State in
18 grants under this paragraph for a fiscal year may
19 not exceed one percent of the total amount of assist-
20 ance provided by the State from the fund in the pre-
21 ceding fiscal year, or 2 percent of the total amount
22 received by the State in capitalization grants under
23 this title in the preceding fiscal year, whichever
24 amount is greatest.”.

1 (f) ADDITIONAL SUBSIDIZATION.—Section 603 (33
2 U.S.C. 1383) is amended by adding at the end the fol-
3 lowing:

4 “(i) ADDITIONAL SUBSIDIZATION.—

5 “(1) IN GENERAL.—In any case in which a
6 State provides assistance to a municipality or inter-
7 municipal, interstate, or State agency under sub-
8 section (d), the State may provide additional sub-
9 sidization, including forgiveness of principal and
10 negative interest loans—

11 “(A) to benefit a municipality that—

12 “(i) meets the State’s affordability
13 criteria established under paragraph (2);
14 or

15 “(ii) does not meet the State’s afford-
16 ability criteria if the recipient—

17 “(I) seeks additional subsidiza-
18 tion to benefit individual ratepayers in
19 the residential user rate class;

20 “(II) demonstrates to the State
21 that such ratepayers will experience a
22 significant hardship from the increase
23 in rates necessary to finance the
24 project or activity for which assistance
25 is sought; and

1 “(III) ensures, as part of an as-
2 sistance agreement between the State
3 and the recipient, that the additional
4 subsidization provided under this
5 paragraph is directed through a user
6 charge rate system (or other appro-
7 priate method) to such ratepayers; or

8 “(B) to implement a process, material,
9 technique, or technology to address water-effi-
10 ciency goals, address energy-efficiency goals,
11 mitigate stormwater runoff, or encourage envi-
12 ronmentally sensitive project planning, design,
13 and construction.

14 “(2) AFFORDABILITY CRITERIA.—

15 “(A) ESTABLISHMENT.—On or before Sep-
16 tember 30, 2012, and after providing notice
17 and an opportunity for public comment, a State
18 shall establish affordability criteria to assist in
19 identifying municipalities that would experience
20 a significant hardship raising the revenue nec-
21 essary to finance a project or activity eligible
22 for assistance under section 603(c)(1) if addi-
23 tional subsidization is not provided. Such cri-
24 teria shall be based on income data, population
25 trends, and other data determined relevant by

1 the State, including whether the project or ac-
2 tivity is to be carried out in an economically
3 distressed area, as described in section 301 of
4 the Public Works and Economic Development
5 Act of 1965 (42 U.S.C. 3161).

6 “(B) EXISTING CRITERIA.—If a State has
7 previously established, after providing notice
8 and an opportunity for public comment, afford-
9 ability criteria that meet the requirements of
10 subparagraph (A), the State may use the cri-
11 teria for the purposes of this subsection. For
12 purposes of this Act, any such criteria shall be
13 treated as affordability criteria established
14 under this paragraph.

15 “(C) INFORMATION TO ASSIST STATES.—
16 The Administrator may publish information to
17 assist States in establishing affordability cri-
18 teria under subparagraph (A).

19 “(3) PRIORITY.—A State may give priority to a
20 recipient for a project or activity eligible for funding
21 under section 603(c)(1) if the recipient meets the
22 State’s affordability criteria.

23 “(4) SET-ASIDE.—

24 “(A) IN GENERAL.—In any fiscal year in
25 which the Administrator has available for obli-

1 gation more than \$1,000,000,000 for the pur-
2 poses of this title, a State shall provide addi-
3 tional subsidization under this subsection in the
4 amount specified in subparagraph (B) to eligi-
5 ble entities described in paragraph (1) for
6 projects and activities identified in the State’s
7 intended use plan prepared under section
8 606(c) to the extent that there are sufficient
9 applications for such assistance.

10 “(B) AMOUNT.—In a fiscal year described
11 in subparagraph (A), a State shall set aside for
12 purposes of subparagraph (A) an amount not
13 less than 25 percent of the difference be-
14 tween—

15 “(i) the total amount that would have
16 been allotted to the State under section
17 604 for such fiscal year if the amount
18 available to the Administrator for obliga-
19 tion under this title for such fiscal year
20 had been equal to \$1,000,000,000; and

21 “(ii) the total amount allotted to the
22 State under section 604 for such fiscal
23 year.

24 “(5) LIMITATION.—The total amount of addi-
25 tional subsidization provided under this subsection

1 by a State may not exceed 30 percent of the total
2 amount of capitalization grants received by the State
3 under this title in fiscal years beginning after Sep-
4 tember 30, 2011.”.

5 **SEC. 1304. ALLOTMENT OF FUNDS.**

6 (a) IN GENERAL.—Section 604(a) (33 U.S.C.
7 1384(a)) is amended to read as follows:

8 “(a) ALLOTMENTS.—

9 “(1) FISCAL YEARS 2012 AND 2013.—Sums ap-
10 propriated to carry out this title for each of fiscal
11 years 2012 and 2013 shall be allotted by the Admin-
12 istrator in accordance with the formula used to allot
13 sums appropriated to carry out this title for fiscal
14 year 2011.

15 “(2) FISCAL YEAR 2014 AND THEREAFTER.—
16 Sums appropriated to carry out this title for fiscal
17 year 2014 and each fiscal year thereafter shall be al-
18 lotted by the Administrator as follows:

19 “(A) Amounts that do not exceed
20 \$1,350,000,000 shall be allotted in accordance
21 with the formula described in paragraph (1).

22 “(B) Amounts that exceed \$1,350,000,000
23 shall be allotted in accordance with the formula
24 developed by the Administrator under sub-
25 section (d).”.

1 (b) PLANNING ASSISTANCE.—Section 604(b) (33
2 U.S.C. 1384(b)) is amended by striking “1 percent” and
3 inserting “2 percent”.

4 (c) FORMULA.—Section 604 (33 U.S.C. 1384) is
5 amended by adding at the end the following:

6 “(d) FORMULA BASED ON WATER QUALITY
7 NEEDS.—Not later than September 30, 2013, and after
8 providing notice and an opportunity for public comment,
9 the Administrator shall publish an allotment formula
10 based on water quality needs in accordance with the most
11 recent survey of needs developed by the Administrator
12 under section 516(b) and any other information the Ad-
13 ministrator considers appropriate.”.

14 **SEC. 1305. INTENDED USE PLAN.**

15 (a) INTEGRATED PRIORITY LIST.—Section 603(g)
16 (33 U.S.C. 1383(g)) is amended to read as follows:

17 “(g) PRIORITY LIST.—

18 “(1) IN GENERAL.—For fiscal year 2013 and
19 each fiscal year thereafter, a State shall establish or
20 update a list of projects and activities for which as-
21 sistance is sought from the State’s water pollution
22 control revolving fund. Such projects and activities
23 shall be listed in priority order based on the method-
24 ology established under paragraph (2). The State
25 may provide financial assistance from the State’s

1 water pollution control revolving fund only with re-
2 spect to a project or activity included on such list.
3 In the case of projects and activities eligible for as-
4 sistance under section 603(c)(2), the State may in-
5 clude a category or subcategory of nonpoint sources
6 of pollution on such list in lieu of a specific project
7 or activity.

8 “(2) METHODOLOGY.—

9 “(A) IN GENERAL.—Not later than 1 year
10 after the date of enactment of this paragraph,
11 and after providing notice and opportunity for
12 public comment, each State (acting through the
13 State’s water quality management agency and
14 other appropriate agencies of the State) shall
15 establish a methodology for developing a pri-
16 ority list under paragraph (1).

17 “(B) PRIORITY FOR PROJECTS AND AC-
18 TIVITIES THAT ACHIEVE GREATEST WATER
19 QUALITY IMPROVEMENT.—In developing the
20 methodology, the State shall seek to achieve the
21 greatest degree of water quality improvement,
22 taking into consideration the requirements of
23 section 602(b)(5) and section 603(i)(3), wheth-
24 er such water quality improvements would be
25 realized without assistance under this title, and

1 whether the proposed projects and activities
2 would address water quality impairments asso-
3 ciated with existing treatment works.

4 “(C) CONSIDERATIONS IN SELECTING
5 PROJECTS AND ACTIVITIES.—In determining
6 which projects and activities will achieve the
7 greatest degree of water quality improvement,
8 the State shall consider—

9 “(i) information developed by the
10 State under sections 303(d) and 305(b);

11 “(ii) the State’s continuing planning
12 process developed under section 303(e);

13 “(iii) the State’s management pro-
14 gram developed under section 319; and

15 “(iv) conservation and management
16 plans developed under section 320.

17 “(D) NONPOINT SOURCES.—For categories
18 or subcategories of nonpoint sources of pollu-
19 tion that a State may include on its priority list
20 under paragraph (1), the State shall consider
21 the cumulative water quality improvements as-
22 sociated with projects or activities in such cat-
23 egories or subcategories.

24 “(E) EXISTING METHODOLOGIES.—If a
25 State has previously developed, after providing

1 notice and an opportunity for public comment,
2 a methodology that meets the requirements of
3 this paragraph, the State may use the method-
4 ology for the purposes of this subsection.”.

5 (b) INTENDED USE PLAN.—Section 606(c) (33
6 U.S.C. 1386(c)) is amended—

7 (1) in the matter preceding paragraph (1) by
8 striking “each State shall annually prepare” and in-
9 serting “each State (acting through the State’s
10 water quality management agency and other appro-
11 priate agencies of the State) shall annually prepare
12 and publish”;

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

15 “(1) the State’s priority list developed under
16 section 603(g);”;

17 (3) in paragraph (4)—

18 (A) by striking “and (6)” and inserting
19 “(6), (15), and (17)”;

20 (B) by striking “and” at the end;

21 (4) by striking the period at the end of para-
22 graph (5) and inserting “; and”; and

23 (5) by adding at the end the following:

24 “(6) if the State does not fund projects and ac-
25 tivities in the order of the priority established under

1 section 603(g), an explanation of why such a change
2 in order is appropriate.”.

3 (c) **TRANSITIONAL PROVISION.**—Before completion
4 of a priority list based on a methodology established under
5 section 603(g) of the Federal Water Pollution Control Act
6 (as amended by this section), a State shall continue to
7 comply with the requirements of sections 603(g) and
8 606(c) of such Act, as in effect on the day before the date
9 of enactment of this Act.

10 **SEC. 1306. ANNUAL REPORTS.**

11 Section 606(d) (33 U.S.C. 1386(d)) is amended—

12 (1) by striking “(d) **ANNUAL REPORT.**—Begin-
13 ning” and inserting the following:

14 “(d) **ANNUAL REPORTS.**—

15 “(1) **STATE REPORT.**—Beginning”;

16 (2) in paragraph (1) (as so designated) by
17 striking “loan amounts,” and inserting “loan
18 amounts, the eligible purposes under section 603(c)
19 for which the assistance has been provided,”; and

20 (3) by adding at the end the following:

21 “(2) **FEDERAL REPORT.**—The Administrator
22 shall annually prepare, and make publicly available,
23 a report on the performance of the projects and ac-
24 tivities carried out in whole or in part with assist-
25 ance made available by a State water pollution con-

1 trol revolving fund as authorized under this title
2 during the previous fiscal year, including—

3 “(A) the annual and cumulative financial
4 assistance provided to States under this title;

5 “(B) the categories and types of such
6 projects and activities;

7 “(C) an estimate of the number of jobs
8 created through carrying out such projects and
9 activities;

10 “(D) an assessment of the progress made
11 toward meeting the goals and purposes of this
12 Act through such projects and activities; and

13 “(E) any additional information that the
14 Administrator considers appropriate.”.

15 **SEC. 1307. TECHNICAL ASSISTANCE; REQUIREMENTS FOR**
16 **USE OF AMERICAN MATERIALS.**

17 Title VI (33 U.S.C. 1381 et seq.) is amended—

18 (1) by redesignating section 607 as section 610;

19 and

20 (2) by inserting after section 606 the following:

21 **“SEC. 607. TECHNICAL ASSISTANCE.**

22 “(a) SIMPLIFIED PROCEDURES.—Not later than 1
23 year after the date of enactment of this section, the Ad-
24 ministrator shall assist the States in establishing sim-

1 plified procedures for treatment works to obtain assistance
2 under this title.

3 “(b) PUBLICATION OF MANUAL.—Not later than 2
4 years after the date of the enactment of this section, and
5 after providing notice and opportunity for public comment,
6 the Administrator shall publish a manual to assist treat-
7 ment works in obtaining assistance under this title and
8 publish in the Federal Register notice of the availability
9 of the manual.

10 “(c) COMPLIANCE CRITERIA.—At the request of any
11 State, the Administrator, after providing notice and an op-
12 portunity for public comment, shall assist in the develop-
13 ment of criteria for a State to determine compliance with
14 the conditions of funding assistance established under sec-
15 tions 602(b)(13) and 603(d)(1)(E).

16 **“SEC. 608. BUY AMERICA.**

17 “(a) IN GENERAL.—Notwithstanding any other pro-
18 vision of law, funds made available from a State water
19 pollution control revolving fund established under this title
20 may not be used for a project for the construction of a
21 publicly owned treatment works unless the steel, iron, and
22 manufactured goods used for the project are produced in
23 the United States.

24 “(b) EXCEPTIONS.—Subsection (a) shall not apply to
25 a project for the construction of a treatment works if the

1 Administrator (in consultation with the Governor of the
2 State in which the treatment works will be constructed)
3 makes a finding that—

4 “(1) the steel, iron, or manufactured goods re-
5 quired for the project are a de minimis component
6 of the project, as determined in accordance with reg-
7 ulations to be issued by the Administrator;

8 “(2) the steel, iron, or manufactured goods re-
9 quired for the project are not produced in the
10 United States—

11 “(A) in sufficient and reasonably available
12 quantities; or

13 “(B) to a satisfactory quality; or

14 “(3) the use of steel, iron, and manufactured
15 goods produced in the United States for the project
16 will increase the total cost of the project by more
17 than 25 percent.

18 “(c) WAIVER REQUIREMENTS.—

19 “(1) PUBLIC NOTIFICATION AND OPPORTUNITY
20 FOR COMMENT.—

21 “(A) IN GENERAL.—At least 30 days be-
22 fore making a finding under subsection (b), the
23 Administrator shall provide notice of and an op-
24 portunity for public comment on the finding.

1 “(B) NOTICE REQUIREMENTS.—Any notice
2 provided under this subparagraph shall—

3 “(i) include a justification for the pro-
4 posed finding; and

5 “(ii) be provided by electronic means,
6 including on the Internet.

7 “(2) DETAILED JUSTIFICATION IN FEDERAL
8 REGISTER.—If the Administrator makes a finding
9 under subsection (b), the Administrator shall—

10 “(A) publish in the Federal Register a de-
11 tailed justification for the finding; and

12 “(B) provide notice of and an opportunity
13 for public comment on the detailed justification
14 at least 30 days before the finding takes effect.

15 “(3) ANNUAL REPORT.—Not later than Feb-
16 ruary 1 of each year beginning after the date of en-
17 actment of this section, the Administrator shall sub-
18 mit to the Committee on Transportation and Infra-
19 structure of the House of Representatives and the
20 Committee on Environment and Public Works of the
21 Senate a report that—

22 “(A) specifies each project with respect to
23 which the Administrator made a finding under
24 subsection (b) during the preceding calendar
25 year; and

1 “(B) describes the justification for each
2 such finding.

3 “(d) STATE REQUIREMENTS.—The Administrator
4 may not impose a limitation or condition on assistance
5 provided under this title that restricts—

6 “(1) a State from imposing requirements that
7 are more stringent than those imposed under this
8 section with respect to limiting the use of articles,
9 materials, or supplies mined, produced, or manufac-
10 tured in foreign countries for projects carried out
11 with such assistance; or

12 “(2) any recipient of assistance from a State
13 water pollution control revolving fund established
14 under this title from complying with such State re-
15 quirements.

16 “(e) INTENTIONAL VIOLATIONS.—Pursuant to proce-
17 dures established under subpart 9.4 of chapter 1 of title
18 48, Code of Federal Regulations, a person shall be ineli-
19 gible to receive a contract or subcontract funded with
20 amounts made available from a State water pollution con-
21 trol revolving fund established under this title if the Ad-
22 ministrators or a court determines that such person inten-
23 tionally—

24 “(1) affixed a label bearing a ‘Made in Amer-
25 ica’ inscription, or any inscription with the same

1 meaning, to any steel, iron, or manufactured goods
2 that—

3 “(A) were used in a project to which this
4 section applies; and

5 “(B) were not produced in the United
6 States; or

7 “(2) represented that any steel, iron, or manu-
8 factured goods were produced in the United States
9 that—

10 “(A) were used in projects to which this
11 section applies; and

12 “(B) were not produced in the United
13 States.

14 “(f) CONSISTENCY WITH INTERNATIONAL AGREE-
15 MENTS.—

16 “(1) IN GENERAL.—This section shall be ap-
17 plied in a manner that is consistent with United
18 States obligations under international agreements.

19 “(2) TREATMENT OF FOREIGN COUNTRIES IN
20 VIOLATION OF INTERNATIONAL AGREEMENTS.—The
21 Administrator shall prohibit the use of steel, iron,
22 and manufactured goods produced in a foreign coun-
23 try in a project funded with amounts made available
24 from a State water pollution control revolving fund
25 established under this title, including any project for

1 which the Administrator has made a finding under
2 subsection (b), if the Administrator, in consultation
3 with the United States Trade Representative, deter-
4 mines that the foreign country is in violation of the
5 terms of an agreement with the United States by
6 discriminating against steel, iron, or manufactured
7 goods that are produced in the United States and
8 covered by the agreement.”.

9 **SEC. 1308. ECONOMIC HARDSHIP WAIVER.**

10 Notwithstanding the requirements of section
11 602(b)(2) of the Federal Water Pollution Control Act (33
12 U.S.C. 1382(b)(2)), for fiscal years 2012 and 2013, the
13 Administrator of the Environmental Protection Agency
14 may waive the requirement that a State deposit an amount
15 equal to 20 percent of the State’s annual capitalization
16 grant into the State’s water pollution control revolving
17 fund established under title VI of that Act if the Adminis-
18 trator determines that the State is currently experiencing
19 a local, statewide, or regional economic hardship and that
20 providing such a deposit would adversely impact the
21 State’s ability to restore and maintain the chemical, phys-
22 ical, and biological integrity of waters located within the
23 State.

1 **SEC. 1309. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 610 (as redesignated by section 1307 of this
3 Act) is amended by striking paragraphs (1) through (5)
4 and inserting the following:

5 “(1) \$2,400,000,000 for fiscal year 2012;

6 “(2) \$2,700,000,000 for fiscal year 2013;

7 “(3) \$2,800,000,000 for fiscal year 2014;

8 “(4) \$2,900,000,000 for fiscal year 2015; and

9 “(5) \$3,000,000,000 for fiscal year 2016.”.

10 **Subtitle D—General Provisions**

11 **SEC. 1401. DEFINITION OF TREATMENT WORKS.**

12 Section 502 (33 U.S.C. 1362) is amended by adding
13 at the end the following:

14 “(26) TREATMENT WORKS.—The term ‘treat-
15 ment works’ has the meaning given that term in sec-
16 tion 212.”.

17 **SEC. 1402. FUNDING FOR INDIAN PROGRAMS.**

18 Section 518(c) (33 U.S.C. 1377) is amended—

19 (1) by striking “The Administrator” and insert-
20 ing the following:

21 “(1) FISCAL YEARS 1987–2011.—The Adminis-
22 trator”;

23 (2) in paragraph (1) (as so designated)—

24 (A) by inserting “and ending before Octo-
25 ber 1, 2011,” after “1986,”; and

26 (B) by striking the second sentence; and

1 (3) by adding at the end the following:

2 “(2) FISCAL YEAR 2012 AND THEREAFTER.—

3 For fiscal year 2012 and each fiscal year thereafter,
4 the Administrator shall reserve, before allotments to
5 the States under section 604(a), not less than 0.5
6 percent and not more than 2.0 percent of the funds
7 made available to carry out title VI.

8 “(3) USE OF FUNDS.—Funds reserved under
9 this subsection shall be available only for grants for
10 projects and activities eligible for assistance under
11 section 603(c) to serve—

12 “(A) Indian tribes (as defined in section
13 518(h));

14 “(B) former Indian reservations in Okla-
15 homa (as determined by the Secretary of the
16 Interior); and

17 “(C) Native villages (as defined in section
18 3 of the Alaska Native Claims Settlement Act
19 (43 U.S.C. 1602)).”.

20 **Subtitle E—Tonnage Duties**

21 **SEC. 1501. TONNAGE DUTIES.**

22 (a) IN GENERAL.—Section 60301 of title 46, United
23 States Code, is amended by striking subsections (a) and
24 (b) and inserting the following:

25 “(a) LOWER RATE.—

1 “(1) IMPOSITION OF DUTY.—A duty is imposed
2 at the rate described in paragraph (2) at each entry
3 in a port of the United States of—

4 “(A) a vessel entering from a foreign port
5 or place in North America, Central America,
6 the West Indies Islands, the Bahama Islands,
7 the Bermuda Islands, or the coast of South
8 America bordering the Caribbean Sea; or

9 “(B) a vessel returning to the same port or
10 place in the United States from which it de-
11 parted, and not entering the United States
12 from another port or place, except—

13 “(i) a vessel of the United States;

14 “(ii) a recreational vessel (as defined
15 in section 2101 of this title); or

16 “(iii) a barge.

17 “(2) RATE.—The rate referred to in paragraph
18 (1) shall be—

19 “(A) 4.5 cents per ton (but not more than
20 a total of 22.5 cents per ton per year) for fiscal
21 years 2006 through 2011;

22 “(B) 9.0 cents per ton (but not more than
23 a total of 45 cents per ton per year) for fiscal
24 years 2012 through 2021; and

1 “(C) 2 cents per ton (but not more than
2 a total of 10 cents per ton per year) for each
3 fiscal year thereafter.

4 “(b) HIGHER RATE.—

5 “(1) IMPOSITION OF DUTY.—A duty is imposed
6 at the rate described in paragraph (2) on a vessel
7 at each entry in a port of the United States from
8 a foreign port or place not named in subsection
9 (a)(1).

10 “(2) RATE.—The rate referred to in paragraph
11 (1) shall be—

12 “(A) 13.5 cents per ton (but not more
13 than a total of 67.5 cents per ton per year) for
14 fiscal years 2006 through 2011;

15 “(B) 27 cents per ton (but not more than
16 a total of \$1.35 per ton per year) for fiscal
17 years 2012 through 2021, and

18 “(C) 6 cents per ton (but not more than
19 a total of 30 cents per ton per year) for each
20 fiscal year thereafter.”.

21 (b) CONFORMING AMENDMENTS.—Such title is fur-
22 ther amended—

23 (1) by striking the heading for subtitle VI and
24 inserting the following:

1 **“Subtitle VI—Clearance and**
 2 **Tonnage Duties”;**

3 (2) in the heading for chapter 603, by striking
 4 **“TAXES”** and inserting **“DUTIES”**;

5 (3) in the headings of sections in chapter 603,
 6 by striking **“taxes”** each place it appears and in-
 7 serting **“duties”**;

8 (4) in the heading for subsection (a) of section
 9 60303, by striking **“TAX”** and inserting **“DUTY”**;

10 (5) in the text of sections in chapter 603, by
 11 striking **“taxes”** each place it appears and inserting
 12 **“duties”**; and

13 (6) in the text of sections in chapter 603, by
 14 striking **“tax”** each place it appears and inserting
 15 **“duty”**.

16 (c) CLERICAL AMENDMENTS.—Such title is further
 17 amended—

18 (1) in the title analysis by striking the item re-
 19 lating to subtitle VI and inserting the following:

“VI. CLEARANCE AND TONNAGE DUTIES60101”;

20 (2) in the analysis for subtitle VI by striking
 21 the item relating to chapter 603 and inserting the
 22 following:

“603. Tonnage Duties and Light Money 60301”;

23 and

24 (3) in the analysis for chapter 603—

1 (A) by striking the items relating to sec-
 2 tions 60301 and 60302 and inserting the fol-
 3 lowing:

“60301. Regular tonnage duties.
 “60302. Special tonnage duties.”;

4 and

5 (B) by striking the item relating to section
 6 60304 and inserting the following:

“60304. Presidential suspension of tonnage duties and light money.”.

7 **TITLE II—ALTERNATIVE WATER**
 8 **SOURCE PROJECTS**

9 **SEC. 2001. PILOT PROGRAM FOR ALTERNATIVE WATER**
 10 **SOURCE PROJECTS.**

11 (a) SELECTION OF PROJECTS.—Section 220(d)(2)
 12 (33 U.S.C. 1300(d)(2)) is amended by inserting before the
 13 period at the end the following: “or whether the project
 14 is located in an area which is served by a public water
 15 system serving 10,000 individuals or fewer”.

16 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
 17 220(j) (33 U.S.C. 1300(j)) is amended by striking
 18 “\$75,000,000 for fiscal years 2002 through 2004” and
 19 inserting “\$50,000,000 for each of fiscal years 2012
 20 through 2016”.

1 **TITLE III—SEWER OVERFLOW**
2 **CONTROL GRANTS**

3 **SEC. 3001. SEWER OVERFLOW CONTROL GRANTS.**

4 (a) ADMINISTRATIVE REQUIREMENTS.—Section
5 221(e) (33 U.S.C. 1301(e)) is amended to read as follows:

6 “(e) ADMINISTRATIVE REQUIREMENTS.—A project
7 that receives assistance under this section shall be carried
8 out subject to the same requirements as a project that
9 receives assistance from a State water pollution control
10 revolving fund under title VI, except to the extent that
11 the Governor of the State in which the project is located
12 determines that a requirement of title VI is inconsistent
13 with the purposes of this section. For the purposes of this
14 subsection, a Governor may not determine that the re-
15 quirements of title VI relating to the application of section
16 513 are inconsistent with the purposes of this section.”.

17 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
18 221(f) (33 U.S.C. 1301(f)) is amended to read as follows:

19 “(f) AUTHORIZATION OF APPROPRIATIONS.—

20 “(1) IN GENERAL.—There is authorized to be
21 appropriated to carry out this section \$500,000,000
22 for each of fiscal years 2012 through 2016.

23 “(2) MINIMUM ALLOCATIONS.—To the extent
24 there are sufficient eligible project applications, the
25 Administrator shall ensure that a State uses not less

1 than 20 percent of the amount of the grants made
2 to the State under subsection (a) in a fiscal year to
3 carry out projects to control municipal combined
4 sewer overflows and sanitary sewer overflows
5 through the use of green infrastructure, water and
6 energy efficiency improvements, and other environ-
7 mentally innovative activities.”.

8 (c) ALLOCATION OF FUNDS.—Section 221(g) of such
9 Act (33 U.S.C. 1301(g)) is amended to read as follows:

10 “(g) ALLOCATION OF FUNDS.—

11 “(1) FISCAL YEAR 2012.—Subject to subsection
12 (h), the Administrator shall use the amounts appro-
13 priated to carry out this section for fiscal year 2012
14 for making grants to municipalities and municipal
15 entities under subsection (a)(2) in accordance with
16 the criteria set forth in subsection (b).

17 “(2) FISCAL YEAR 2013 AND THEREAFTER.—

18 Subject to subsection (h), the Administrator shall
19 use the amounts appropriated to carry out this sec-
20 tion for fiscal year 2013 and each fiscal year there-
21 after for making grants to States under subsection
22 (a)(1) in accordance with a formula to be established
23 by the Administrator, after providing notice and an
24 opportunity for public comment, that allocates to
25 each State a proportional share of such amounts

1 based on the total needs of the State for municipal
 2 combined sewer overflow controls and sanitary sewer
 3 overflow controls identified in the most recent survey
 4 conducted pursuant to section 516 and any other in-
 5 formation the Administrator considers appropriate.”.

6 (d) REPORTS.—The first sentence of section 221(i)
 7 (33 U.S.C. 1301(i)) is amended by striking “2003” and
 8 inserting “2013”.

9 **TITLE IV—CLEAN WATER TRUST**
 10 **FUND**

11 **SEC. 4001. ESTABLISHMENT OF CLEAN WATER TRUST**
 12 **FUND.**

13 Subchapter A of chapter 98 of the Internal Revenue
 14 Code of 1986 (relating to the establishment of trust funds)
 15 is amended by adding at the end the following new section:

16 **“SEC. 9512. CLEAN WATER TRUST FUND.**

17 “(a) CREATION OF TRUST FUND.—There is estab-
 18 lished in the Treasury of the United States a trust fund
 19 to be known as the ‘Clean Water Trust Fund’, consisting
 20 of such amounts as may be appropriated or credited to
 21 the Fund as provided in this section or section 9602(b).

22 “(b) TRANSFERS TO TRUST FUND.—There are here-
 23 by appropriated to the Clean Water Trust Fund amounts
 24 equivalent to—

1 “(1) fees, taxes, or other sources of revenue
2 specifically collected and deposited in the Fund or
3 received in the Treasury for the purposes provided
4 in this section; and

5 “(2) any penalty paid pursuant to section 309
6 of the Federal Water Pollution Control Act (33
7 U.S.C. 1319) (other than those that result of viola-
8 tions of section 311 of such Act).

9 “(c) APPROPRIATION OF ADDITIONAL SUMS.—There
10 are hereby authorized to be appropriated to the Clean
11 Water Trust Fund such additional sums as may be re-
12 quired to make the expenditures referred to in subsection
13 (d).

14 “(d) EXPENDITURES.—Amounts in the Clean Water
15 Trust Fund shall be available, as provided in appropria-
16 tions Acts, for the following purposes:

17 “(1) Capitalization grants under section 601 of
18 the Federal Water Pollution Control Act (33 U.S.C.
19 1381).

20 “(2) Grants to States and interstate agencies
21 under section 106(a) of that Act (33 U.S.C.
22 1256(a)).

23 “(3) Grants under sections 104(b) and 104(g)
24 of that Act (33 U.S.C. 1254(b) and 1254(g)).

1 “(4) To cover the cost of making direct loans
2 or guaranteeing obligations authorized under the
3 Water Pollution Control Investment Act.”.

4 **SEC. 4002. ALLOCATION OF FUNDS.**

5 Title VI (as amended by section 1307 of this Act)
6 is further amended by inserting after section 608 the fol-
7 lowing:

8 **“SEC. 609. CLEAN WATER TRUST FUND.**

9 “(a) ALLOCATION OF FUNDS.—The Administrator
10 shall allocate funds made available for a fiscal year out
11 of the Clean Water Trust Fund established by section
12 9512 of the Internal Revenue Code of 1986 among eligible
13 programs and activities as follows:

14 “(1) 80 percent for capitalization grants under
15 section 604.

16 “(2) 10 percent to cover the cost of making di-
17 rect loans or guaranteeing obligations authorized
18 under the Water Pollution Control Investment Act.

19 “(3) 7.5 percent for grants to States and inter-
20 state agencies under section 106(a).

21 “(4) 2.5 percent for grants under sections
22 104(b) and 104(g).

23 “(b) AMOUNTS MADE AVAILABLE FOR CAPITALIZA-
24 TION GRANTS.—To the extent there are sufficient applica-
25 tions, not less than 30 percent of the amounts allocated

1 for capitalization grants under subsection (a)(1) shall be
2 used for one or more of the following purposes:

3 “(1) Projects or activities to address green in-
4 frastructure.

5 “(2) Water or energy efficiency improvements
6 or other environmentally innovative activities.

7 “(3) The implementation of best management
8 practices or measures identified in an approved
9 nonpoint source management program under section
10 319.”.

11 **SEC. 4003. REVENUES FOR CLEAN WATER TRUST FUND.**

12 (a) STUDY ON IDENTIFICATION OF REVENUES.—Not
13 later than 45 days after the date of enactment of this Act,
14 the Director of the Congressional Budget Office, in con-
15 sultation with the Administrator of the Environmental
16 Protection Agency and the Secretary of the Treasury,
17 shall undertake a study of potential funding mechanisms
18 and revenue sources for the Clean Water Trust Fund es-
19 tablished by section 9512(d) of the Internal Revenue Code
20 of 1986 (as added by this Act) that are sufficient to sup-
21 port annual funding levels of at least \$10,000,000,000 for
22 the purposes identified in section 9512(d) of that Act.

23 (b) CONDUCT OF STUDY.—In carrying out the study,
24 the Director shall—

1 (1) take into consideration whether potential
2 funding mechanisms and revenue sources—

3 (A) are broad based;

4 (B) are equitably allocated; and

5 (C) can be efficiently collected;

6 (2) review and, to the extent practicable, utilize
7 existing studies and reports on potential sources of
8 revenue for a clean water trust fund, including—

9 (A) the report of the Government Account-
10 ability Office entitled “Clean Water Infrastruc-
11 ture: A Variety of Issues Need to Be Consid-
12 ered When Designing a Clean Water Trust
13 Fund” (GAO–09–037, May 2009); and

14 (B) the report of the Environmental Pro-
15 tection Agency entitled “Alternative Funding
16 Study: Water Quality Fees and Debt Financing
17 Issues” (EPA 832–R–96–001, June 1996);

18 (3) consult with Federal, State, tribal, and local
19 agencies, representatives of business and industry,
20 representatives of entities operating publicly owned
21 treatment works, representatives of conservation and
22 environmental organizations, representatives of rate-
23 payer organizations, and other interested persons;
24 and

25 (4) provide the opportunity for public hearings.

1 (c) REPORT TO CONGRESS.—Not later than 1 year
2 after the date of enactment of this Act, the Director shall
3 submit a report on the results of the study to—

4 (1) the Committee on Transportation and In-
5 frastructure, the Committee on Ways and Means,
6 and the Committee on the Budget of the House of
7 Representatives; and

8 (2) the Committee on Environment and Public
9 Works, the Committee on Finance, and the Com-
10 mittee on the Budget of the Senate.

11 **TITLE V—WATER POLLUTION** 12 **CONTROL INVESTMENT**

13 **SEC. 5001. SHORT TITLE.**

14 This title may be cited as the “Water Pollution Con-
15 trol Investment Act”.

16 **SEC. 5002. DEFINITIONS.**

17 In this title, the following definitions apply:

18 (1) ADMINISTRATOR.—The term “Adminis-
19 trator” means the Administrator of the Environ-
20 mental Protection Agency.

21 (2) BORROWER.—The term “borrower” means
22 a person who owes payments of interest or principal
23 on an obligation guaranteed under this title.

24 (3) COST OF A DIRECT LOAN.—The term “cost
25 of a direct loan” means the “cost of a direct loan”

1 as that term is used in section 502(5) of the Federal
2 Credit Reform Act of 1990 (2 U.S.C. 661a(5)).

3 (4) COST OF A GUARANTEE.—The term “cost
4 of a guarantee” means the “cost of a loan guar-
5 antee” as that term is used in section 502(5) of the
6 Federal Credit Reform Act of 1990 (2 U.S.C.
7 661a(5)).

8 (5) DIRECT LOAN.—The term “direct loan” has
9 the meaning given that term in section 502 of the
10 Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

11 (6) GUARANTEE.—

12 (A) IN GENERAL.—The term “guarantee”
13 has the meaning given the term “loan guar-
14 antee” in section 502 of the Federal Credit Re-
15 form Act of 1990 (2 U.S.C. 661a).

16 (B) INCLUSION.—The term “guarantee”
17 includes a loan guarantee commitment (as that
18 term is defined in section 502 of the Federal
19 Credit Reform Act of 1990 (2 U.S.C. 661a)).

20 (7) LARGE WATER INFRASTRUCTURE
21 PROJECT.—

22 (A) IN GENERAL.—The term “large water
23 infrastructure project” means a project for con-
24 struction of a publicly owned treatment works
25 that qualifies for assistance under section

1 603(c) of the Federal Water Pollution Control
2 Act (33 U.S.C. 1383(c)), but because of its sig-
3 nificant scope and cost is not likely to receive
4 assistance under that Act, as determined by the
5 Administrator.

6 (B) GUIDELINES.—The Administrator
7 shall issue guidelines for determining whether a
8 project qualifies as a large water infrastructure
9 project.

10 (8) OBLIGATION.—The term “obligation”
11 means a loan or other debt obligation.

12 (9) STATE INFRASTRUCTURE FINANCING AU-
13 THORITY.—The term “State infrastructure financing
14 authority” means the State entity established or des-
15 ignated by the Governor of a State to receive a cap-
16 italization grant provided by, or otherwise carry out
17 the requirements of, title VI of the Federal Water
18 Pollution Control Act (33 U.S.C. 1381 et. seq.).

19 **SEC. 5003. DIRECT LOANS.**

20 (a) IN GENERAL.—

21 (1) USE OF LOANS.—The Administrator may
22 make a direct loan to a State infrastructure financ-
23 ing authority for use in the same manner, and sub-
24 ject to the same terms and conditions (unless other-
25 wise specified in this section), as a capitalization

1 grant made under section 601 of the Federal Water
2 Pollution Control Act (33 U.S.C. 1831).

3 (2) TERMS AND CONDITIONS.—The Adminis-
4 trator may make a loan under this section on such
5 terms and conditions (including requirements for au-
6 dits) as the Administrator determines appropriate.

7 (b) LOAN REQUIREMENTS.—

8 (1) MAXIMUM AMOUNT.—The amount of a loan
9 made under this section to a State infrastructure fi-
10 nancing authority shall not exceed the applicable
11 percentage for the State establishing such authority
12 of the total amount available under this title for dis-
13 bursement, based on the allotment for the State in
14 accordance with section 604 of the Federal Water
15 Pollution Control Act (33 U.S.C. 1384).

16 (2) TERM OF LOAN.—The final maturity date
17 of a loan made under this section shall not be later
18 than 35 years after the date on which funds are dis-
19 bursed to a State infrastructure financing authority.

20 (3) INTEREST RATE.—The Administrator may
21 make a loan under this section only if the Adminis-
22 trator determines that the interest rate on the loan
23 is appropriate, taking into account the prevailing
24 rate of interest in the private sector for similar
25 loans.

1 (4) SECURITY.—The Administrator shall re-
2 quire a State infrastructure financing authority re-
3 ceiving a loan under this section to use a rate cov-
4 enant, coverage requirement, or similar security fea-
5 ture adequate to ensure loan repayment.

6 (5) REPAYMENT.—

7 (A) SCHEDULE.—The Administrator shall
8 set a repayment schedule for each loan made
9 under this section based on the projected cash
10 flow to the State infrastructure financing au-
11 thority, including consideration of the effect on
12 such cash flow of the security features de-
13 scribed in paragraph (4).

14 (B) COMMENCEMENT.—Scheduled loan re-
15 payments of principal or interest on a loan
16 made under this section shall commence not
17 later than 5 years after the date on which the
18 loan is made.

19 (C) DEFERRAL OF PAYMENTS.—

20 (i) IN GENERAL.—If the Adminis-
21 trator determines that a State infrastruc-
22 ture financing authority lacks the re-
23 sources to make scheduled payments on a
24 loan made under this section based on cir-
25 cumstances not foreseeable at the time the

1 loan is made, the Administrator may allow
2 for the deferral of such payments.

3 (ii) INTEREST.—Any payment de-
4 ferred under clause (i) shall—

5 (I) continue to accrue interest
6 until fully repaid; and

7 (II) be amortized over the re-
8 maining term of the loan.

9 (D) PREPAYMENT.—Payments on the loan
10 may be made in advance with no penalty.

11 (c) SALE OF LOANS.—After notifying the State infra-
12 structure financing authority, the Administrator, in con-
13 sultation with the Secretary of the Treasury, may sell a
14 loan made under this section, if the Administrator deter-
15 mines that the sale can be made on favorable terms.

16 (d) CONFORMING REQUIREMENTS.—The require-
17 ments of sections 211, 511(c)(1), and 513 of the Federal
18 Water Pollution Control Act (33 U.S.C. 1291, 1371(c)(2),
19 and 1372) apply to the construction of a project carried
20 out in whole or in part with assistance made available
21 through a loan under this section in the same manner as
22 treatment works for which grants are made available
23 under the Federal Water Pollution Control Act.

24 (e) FEES.—The Administrator shall charge and col-
25 lect fees from State infrastructure financing authorities

1 receiving loans under this section in amounts the Adminis-
2 trator determines are sufficient to cover the administrative
3 expenses associated with carrying out this section and, as
4 provided in advance in appropriations Acts, use such
5 amounts to cover such expenses.

6 (f) RECORDS; AUDITS.—

7 (1) IN GENERAL.—A State infrastructure fi-
8 nancing authority receiving a loan under this section
9 shall keep such records and other pertinent docu-
10 ments as the Administrator shall prescribe by regu-
11 lation, including such records as the Administrator
12 may require to facilitate an effective audit of loans
13 made under this section.

14 (2) ACCESS.—The Administrator and the
15 Comptroller General of the United States, or their
16 duly authorized representatives, shall have access,
17 for the purpose of audits, to records and other perti-
18 nent documents kept under paragraph (1).

19 **SEC. 5004. GUARANTEES.**

20 (a) IN GENERAL.—

21 (1) USE OF GUARANTEES.—The Administrator
22 may make a guarantee under this title for an obliga-
23 tion for construction of a large water infrastructure
24 project in accordance with the requirements of this
25 section.

1 (2) SELECTION CRITERIA.—

2 (A) ESTABLISHMENT.—The Administrator
3 shall establish criteria for selecting among large
4 water infrastructure projects in making guaran-
5 tees under this title.

6 (B) CRITERIA.—In establishing selection
7 criteria under this paragraph, the Adminis-
8 trator shall include consideration of the fol-
9 lowing:

10 (i) The extent to which the project is
11 nationally or regionally significant.

12 (ii) The creditworthiness of the
13 project, including a determination by the
14 Administrator that any financing has ap-
15 propriate features to ensure repayment.

16 (iii) The extent to which the project
17 uses new technologies that enhance the en-
18 vironmental benefits of the project.

19 (iv) The cost of a guarantee under
20 this title.

21 (v) The extent to which the project
22 helps restore, maintain, or protect the en-
23 vironment.

24 (3) FISCAL YEAR LIMITATION.—The Adminis-
25 trator may not utilize more than 10 percent of the

1 funds made available under this title for a fiscal
2 year to make guarantees under this section during
3 that fiscal year.

4 (4) TERMS AND CONDITIONS.—The Adminis-
5 trator may make a guarantee for a large water in-
6 frastructure project under this title on such terms
7 and conditions (including requirements for audits)
8 as the Administrator determines appropriate.

9 (5) SECURITY.—The Administrator shall re-
10 quire a borrower to use a rate covenant, coverage re-
11 quirement, or similar security feature adequate to
12 ensure repayment of the obligation.

13 (b) GUARANTEE REQUIREMENTS.—

14 (1) PROBABILITY OF REPAYMENT.—The Ad-
15 ministrator may make a guarantee under this title
16 only if the Administrator determines that there is a
17 high probability of repayment by the borrower of the
18 principal and interest on the obligation.

19 (2) AMOUNT.—

20 (A) PERCENTAGE OF TOTAL COST.—The
21 Administrator may make a guarantee under
22 this title only if the amount of the obligation
23 does not exceed 75 percent of the total cost of
24 the large water infrastructure project, as esti-

1 mated at the time at which the guarantee is
2 issued.

3 (B) SUFFICIENCY.—The Administrator
4 may make a guarantee under this title only if
5 the Administrator determines that the amount
6 of the obligation, when combined with amounts
7 available from other sources, will be sufficient
8 to carry out the project.

9 (3) NONSUBORDINATION.—The Administrator
10 may make a guarantee under this title only if the
11 guarantee is not subordinate to other financing.

12 (4) INTEREST RATE.—The Administrator may
13 make a guarantee under this title only if the Admin-
14 istrator determines that the interest rate on the obli-
15 gation is appropriate, taking into account the pre-
16 vailing rate of interest in the private sector for simi-
17 lar obligations.

18 (5) TERM.—The Administrator may make a
19 guarantee under this title only if—

20 (A) repayment of the obligation is required
21 over a period not to exceed the lesser of—

22 (i) 35 years; or

23 (ii) 90 percent of the projected useful
24 life of the large water infrastructure

1 project to be financed by the obligation (as
2 determined by the Administrator); and

3 (B) payments on the obligation are sched-
4 uled to commence not later than 5 years after
5 the date of substantial completion of the large
6 water infrastructure project.

7 (c) CONFORMING REQUIREMENTS.—

8 (1) FISCAL SUSTAINABILITY PLAN.—The Ad-
9 ministrator may make a guarantee for a large water
10 infrastructure project under this title only if the
11 owner or operator of such project commits to de-
12 velop and implement a fiscal sustainability plan that
13 meets the requirements of section 603(d)(1)(E) of
14 the Federal Water Pollution Control Act, as added
15 by this Act.

16 (2) PRIORITY LIST.—The Administrator may
17 make a guarantee for a large water infrastructure
18 project under this title only if such project is on a
19 State priority list under section 603(g) of the Fed-
20 eral Water Pollution Control Act (33 U.S.C.
21 1383(g)), as amended by this Act.

22 (3) ADDITIONAL REQUIREMENTS.—The require-
23 ments of sections 211, 511(c)(1), and 513 of the
24 Federal Water Pollution Control Act (33 U.S.C.
25 1291, 1371(c)(2), and 1372) apply to the construc-

1 tion of a large water infrastructure project carried
2 out in whole or in part with financing made available
3 through an obligation guaranteed under this title in
4 the same manner as treatment works for which
5 grants are made available under the Federal Water
6 Pollution Control Act.

7 (d) DEFAULTS.—

8 (1) PAYMENT BY ADMINISTRATOR.—

9 (A) IN GENERAL.—If a borrower defaults
10 on an obligation guaranteed under this title (as
11 defined in regulations promulgated by the Ad-
12 ministrator and specified in the guarantee con-
13 tract), the holder of the guarantee shall have
14 the right to demand payment of the unpaid
15 amount from the Administrator.

16 (B) PAYMENT REQUIRED.—Within such
17 period as may be specified in the guarantee or
18 related agreements, the Administrator shall pay
19 to the holder of a guarantee the unpaid interest
20 on, and unpaid principal of, the obligation guar-
21 anteed under this title as to which the borrower
22 has defaulted, unless the Administrator finds
23 that there was no default by the borrower in
24 the payment of interest or principal or that the
25 default has been remedied.

1 (C) FORBEARANCE.—Nothing in this sub-
2 section precludes any forbearance by the holder
3 of a guarantee for the benefit of the borrower
4 which may be agreed upon by the parties to the
5 obligation and approved by the Administrator.

6 (2) SUBROGATION.—

7 (A) IN GENERAL.—If the Administrator
8 makes a payment under paragraph (1), the Ad-
9 ministrator shall be subrogated to the rights of
10 the holder of the guarantee as specified in the
11 guarantee or related agreements.

12 (B) SUPERIORITY OF RIGHTS.—The rights
13 of the Administrator, with respect to any prop-
14 erty acquired pursuant to a guarantee or re-
15 lated agreements, shall be superior to the rights
16 of any other person with respect to the prop-
17 erty.

18 (e) PAYMENT OF PRINCIPAL AND INTEREST BY AD-
19 MINISTRATOR.—

20 (1) IN GENERAL.—With respect to any obliga-
21 tion guaranteed under this title, the Administrator
22 may enter into a contract to pay, and pay, a holder
23 of the guarantee, for and on behalf of the borrower,
24 from funds appropriated for that purpose, the prin-
25 cipal and interest payments which become due and

1 payable on the unpaid balance of the obligation if
2 the Administrator finds that—

3 (A) the borrower is unable to meet the
4 payments and is not in default;

5 (B) it is in the public interest to permit
6 the borrower to continue to pursue the purposes
7 of the project;

8 (C) the probable net benefit to the Federal
9 Government in paying the principal and interest
10 will be greater than that which would result in
11 the event of a default; and

12 (D) the State or region in which the
13 project is located is experiencing a period of
14 local or regional economic hardship that has af-
15 fected the borrower's ability to meet the pay-
16 ments.

17 (2) AMOUNT.—The amount of the payment
18 that the Administrator is authorized to pay under
19 this subsection shall be no greater than the amount
20 of principal and interest that the borrower is obli-
21 gated to pay under the obligation.

22 (3) REIMBURSEMENT.—A payment may be
23 made under this subsection only if the borrower
24 agrees to reimburse the Administrator for the pay-

1 ment (including interest) on terms and conditions
2 that are satisfactory to the Administrator.

3 (f) FEES.—The Administrator shall charge and col-
4 lect fees from borrowers for guarantees made under this
5 title in amounts the Administrator determines are suffi-
6 cient to cover the administrative expenses associated with
7 carrying out this title and, as provided in advance in ap-
8 propriations Acts, use such amounts to cover such ex-
9 penses.

10 (g) RECORDS; AUDITS.—

11 (1) IN GENERAL.—A borrower shall keep such
12 records and other pertinent documents as the Ad-
13 ministrator shall prescribe by regulation, including
14 such records as the Administrator may require to fa-
15 cilitate an effective audit of guarantees made under
16 this title.

17 (2) ACCESS.—The Administrator and the
18 Comptroller General of the United States, or their
19 duly authorized representatives, shall have access,
20 for the purpose of audits, to records and other perti-
21 nent documents kept under paragraph (1).

22 (h) FULL FAITH AND CREDIT.—The full faith and
23 credit of the United States is pledged to the payment of
24 all guarantees made under this title.

1 **SEC. 5005. FUNDING.**

2 (a) AUTHORIZATION OF APPROPRIATIONS.—There
3 are authorized to be appropriated such sums as are nec-
4 essary to provide direct loans and the costs of guarantees
5 under this title.

6 (b) ALTERNATE FUNDING MECHANISM.—With re-
7 spect to a guarantee for a large water infrastructure
8 project under this title, in lieu of funding such guarantee
9 through a separate appropriation, the borrower of the obli-
10 gation to be guaranteed may pay a one-time guarantee
11 fee to the Administrator equal to the cost of the guar-
12 antee, and the Administrator may use such fee, as pro-
13 vided in advance in appropriations Acts, to make such
14 guarantee.

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